

BANKERS' BOOKS EVIDENCE ACT, 1891

[Act, No. 18 of 1891]

[1st October, 1891]

PREAMBLE

An Act to amend the Law of Evidence with respect to Bankers' Books.

WHEREAS, it is expedient to amend the Law of Evidence with respect to Bankers' Books, it is

hereby enacted as follows: -

Section 1 - Title and extent

(1) This Act may be called The Bankers' Books Evidence Act, 1891.

(2) It extends to the whole of India 1 [except the State of Jammu and Kashmir] 2 [* * *]

1. Substituted for the words "except Part B States" by Part B States (Laws) Act, 1951 (3 of 1951).

2. The word "and" at the end of sub-section (2) and sub-section (3) were repealed by the Repealing and

Amending Act, 1914 (10 of 1914).

Section 2 - Definitions

In this Act, unless there is something repugnant in the subject or context, -

1[(1) "company" means any company as defined in Section 3 of the Companies Act, 1956,

and includes a foreign company within the meaning of Section 591 of that Act.

(1A) "corporation" means any body corporate established by any law for the time being in

force in India and includes the Reserve Bank of India, the State Bank of India and any

subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959.]

(2) "bank" and "banker", mean-

2[(a) any company or corporation carrying on the business of banking.]

(b) any partnership or individual to whose books the provisions of this Act shall have

been extended as hereinafter provided,

3[(c) any post office savings bank or money order office;]

6[(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other

records used in the ordinary business of the bank, whether these records are kept in written

form or stored in a micro film, magnetic tape or in any other form of mechanical or electronic

data retrieval mechanism, either onsite or at any offsite location including a back-up or

disaster recovery site of both;]

4[(4) "legal proceeding" means, -

(i) any proceeding or inquiry in which evidence is or may be given;

(ii) an arbitration; and

(iii) any investigation or inquiry under the Code of Criminal Procedure. 1973, or under

any other law for the time being in force for the collection of evidence, conducted by a

police officer or by any other person (not being a magistrate) authorised in this behalf by

a magistrate or by any law for the time being in force;]

(5) "the Court" means the person or persons before whom a legal proceeding is held or

taken,

(6) "Judge" means a Judge of a High Court;

(7) "trial" means any hearing before the Court at which evidence is taken; and

5[(8) "certified copy" means when the books of a bank, -

(a) are maintained in written form, a copy of any entry in such books together with a

certificate written at the foot of such copy that it is a true copy of such entry, that such

entry is contained in one of the ordinary books of the bank and was made in the usual

and ordinary course of business and that such books is still in the custody of the bank,

and where the copy was obtained by mechanical or other process which in itself ensured

the accuracy of the copy, a further certificate to that effect, but where the book from

which such copy was prepared has been destroyed in the usual course of the bank's

business after the date on which the copy has been so prepared, a further certificate to

that effect, each such certificate being dated and subscribed by the principal accountant

or manager of the bank with his name and official title; and

(b) consists of printouts of data stored in a floppy, disc, tape or any other electromagnetic

data storage device, a printout of such entry or a copy of such printout together

with such statements certified in accordance with the provisions of section 2A.]

7[(c) a printout of any entry in the books of a bank stored in a micro film, magnetic tape

or in any other form of mechanical or electronic data retrieval mechanism obtained by a

mechanical or other process which in itself ensures the accuracy of such printout as a

copy of such entry and such printout contains the certificate in accordance with the

provisions of section 2 A.]

1. Substituted for previous clause (1) by the State Associated Banks (Miscellaneous Provisions) Act. 1962 (56 of

1962) w.e.f 14.12.1962.

2. Substituted for previous sub-clause (a) the State Associated Banks (Miscellaneous Provisions) Act 1962 w.e.f

14.12.1962.

3. Inserted by the Bankers' Books Evidence Act (1 of 1893)

4. Substituted by the Banking Laws (Amendment) Act (1 of 1984) w.e.f 15.02.1984.

5. Substituted by the Information Technology Act, 2000 w.e.f 17.10. 2000. Prior to substitution sub section (8)

read as under:

"certified copy" means a copy of any entry in the books of a bank together with a certificate written at the

foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books

of the bank and was made in the usual and ordinary course of business, and that such book is still in the

custody of the bank and where the copy was obtained by a mechanical or other process which in itself

ensured the accuracy of the copy a further certificate to that effect, but where the book from which such copy

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was prepared has been destroyed in the usual course of the bank's business after the date on which the

copy had been so prepared, a further certificate to that effect, each such certificate being dated and

subscribed by the principal accountant or manager of the bank with his name and official title."

6. Substituted by The Negotiable Instruments (Amendment And Miscellaneous Provisions) Act, 2002 (55 of 2002)

w.e.f. 06.02.2003. Prior to substitution it read as under :

“(3) "bankers' books " include ledgers, day-books, cash-books, account-books and all other books used in the

ordinary business of a bank whether kept in the written form or as printouts of data stored in a floppy, disc,

tape or any other form of electro-magnetic data storage device.”

7. Inserted by The Negotiable Instruments (Amendment And Miscellaneous Provisions) Act, 2002 (55 of 2002)

w.e.f. 06.02.2003

Section 2A - Conditions in the printout

1[2A - Conditions in the printout

A printout of entry or a copy of printout referred to in sub-section (8) of section 2 shall be

accompanied by the following, namely: -

(a) a certificate to the effect that it is a printout of such entry or a copy of such printout

by the principal accountant or branch manager ; and

(b) a certificate by a person in-charge of computer system containing a brief descriptions

of the computer system and the particulars of-

(A) the safeguards adopted by the system to ensure that data is entered or any other

operation performed only by authorised persons;

(B) the safeguards adopted to prevent and detect unauthorised change of data;

(C) the safeguards available to retrieve data that is lost due to systemic failure or any

other reasons;

(D) the manner in which data is transferred from the system to removable media like

floppies, discs, tapes or other electro-magnetic data storage devices;

(E) the mode of verification in order to ensure that data has been accurately

transferred to such removable media;

(F) the mode of identification of such data storage devices;

(G) the arrangements for the storage and custody of such storage devices;

(H) the safeguards to prevent and detect any tampering with the system; and any

other factor which will vouch for the integrity and accuracy of the system.

(c) a further certificate from the person in-charge of the computer system to the effect

that to the best of his knowledge and behalf, such computer system operated properly at

the material time, he was provided with all the relevant data and the printout in question

represents correctly, or is appropriately derived from, the relevant data.]

1. Inserted by the Information Technology Act, 2000 w.e.f. 17.10. 2000.

Section 3 - Powers to extend provisions of Act

The State Government may from time to time, by notification in the Official Gazette, extend

the provisions of this Act to the books of any partnership or individual carrying on business

of bankers within the territories under its administration, and keeping a set of not less than

three ordinary account-books namely, a cash-book, a day-book or journal, and a ledger, and

may in like manner rescind any such notification.

Section 4 - Mode of proof of entries in bankers' books

Subject to the provisions of this Act, a certified copy of any entry in a banker's book shall in

all legal proceedings be received as prima facie evidence of the existence of such entry, and

shall be admitted as evidence of the matters, transactions and accounts therein recorded in

every case where, and to the same extent as, the original entry itself is now by law

admissible, but not further or otherwise.

Section 5 - Case in which officer of bank not compellable to produce books

No officer of a bank shall in any legal proceeding to which the bank is not a party be

compellable to produce any banker's book the contents of which can be proved under this

Act, or to appear as a witness to prove the matters, transactions and accounts therein

recorded, unless by order of the Court or a Judge made for special cause.

Section 6 - Inspection of books by order of Court or Judge

(1) On the application of any party to a legal proceeding the Court or a Judge may order that

such party be at liberty to inspect and take copies of any entries in a banker's book for any of

the purposes of such proceeding, or may order the bank to prepare and produce, within a

time to be specified in the order, certified copies of all such entries, accompanied by a further

certificate that no other entries are to be found in the books of the bank relevant to the

matters in issue in such proceeding, and such further certificate shall be dated and

subscribed in manner hereinbefore directed in reference to certified copies.

(2) An order under this or the preceding section may be made either with or without

summoning the bank and shall be served on the bank three clear days (exclusive of bank

holidays) before the same is to be obeyed, unless the Court or judge shall otherwise direct.

(3) The bank may at any time before the time limited for obedience to any such order as

aforesaid either offer to produce their books at the trial or give notice of their intention to

show cause against such order, and thereupon the same shall not be enforced without

further order.

Section 7 - Costs

(1) The costs of any application to the Court or a Judge under or for the purposes of this Act

and the costs of anything done or to be done under an order of the Court or a Judge made

under or for the purposes of this Act shall be in the discretion of the Court or Judge, who

may further order such costs or any part thereof to be paid to any party by the bank if they

have been incurred in consequence of any fault or improper delay on the part of the bank.

(2) Any order made under this section for the payment of costs to or by a bank may be

enforced as if the bank were a party to the proceeding.

(3) Any order under this section awarding costs may, on application to any Court of Civil

Judicature designated in the order, be executed by such Court as if the order were a decree

for money passed by itself:

PROVIDED that nothing in this sub-section shall be construed to derogate from any power

which the Court or Judge making the order may possess for the enforcement of its or his

directions with respect to the payment of costs.

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Section 8 - Order of court to be construed to be order made by specified officer

1 [8. Order of court to be construed to be order made by specified officer

In the application of sections 5, 6 and 7 to any investigation or inquiry referred

to in sub-clause (iii) of clause (4) of section 2, the order of a court or a Judge

referred to in the said sections shall be construed as referring to an order made

by an officer of a rank not lower than the rank of a Superintendent of Police as

may be specified in this behalf by the appropriate Government.

Explanation. - In this section, "appropriate Government" means the

Government by which the police officer or any other person conducting the

investigation or inquiry is employed.]

1. Inserted by the Banking Laws (Amendment) Act (1 of 1984) w.e.f 15.02.1984.

Amending Act - Negotiable Instruments (Amendment And
Miscellaneous Provisions) Act,

2002 (55 Of 2002)

STATEMENT OF OBJECTS AND REASONS

The Negotiable Instruments Act, 1881 was amended by the Banking,
Public Financial

Institutions and Negotiable Instruments Laws (Amendment) Act,
1988 wherein a new

Chapter XVII was incorporated for penalties in case of dishonour of
cheques due to

insufficiency of funds in the account of the drawer of the cheque.
These provisions were

incorporated with a view to encouraging the culture of use of
cheques and enhancing the

credibility of the instrument. The existing provisions in the
Negotiable Instruments Act,

namely sections 138 to 142 in Chapter XVII have been found
deficient in dealing with

dishonour of cheques. Not only the punishment provided in the Act
has proved to be

inadequate, the procedure prescribed for the Courts to deal with
such matters has been

found to be cumbersome. The courts are unable to dispose of such
cases expeditiously in a

time bound manner in view of the procedure contained in the Act.

2. A large number of cases are reported to be pending under sections
138 to 142 of the

Negotiable Instruments Act, 1881 in various courts in the country.
Keeping in view the large

number of complaints under the said Act pending in various courts, a
Working Group was

constituted to review section 138 of the Negotiable Instruments Act,
1881 and make

recommendations as to what changes were needed to effectively achieve the purpose of that

section.

3. The recommendations of the Working Group along with other representations from

various institutions and organisations were examined by the Government in consultation

with the Reserve Bank of India and other legal experts, it has been decided to bring out,

inter alia, the following amendments in the Negotiable Instruments Act, 1881, namely:--

(i) increasing the punishment as prescribed under the Act from one year to two years;

(ii) increasing the period for issue of notice by the payee to the drawer from 15 days to

30 days;

(iii) to provide discretion to the court to waive the period of one month, which has been

prescribed for taking

cognizance of the case under the Act;

(iv) to prescribe procedure for dispensing with preliminary evidence of the complainant;

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(v) to prescribe procedure for servicing of summons by the Court through speed post or

empanelled private

couriers;

(vi) to provide for summary trial of the cases under the Act with a view to speeding up

disposal of cases; and

(vii) make the offences under the Act compoundable.

4. The amendments in the Act are expected to result in early disposal of cases relating to

dishonour of cheques by the Courts and are also aimed at enhancing punishment for

offenders.

5. The Bill seeks to achieve the above objects.

An Act further to amend the Negotiable Instruments Act, 1881, the Bankers' Books Evidence

Act, 1891 and the Information Technology Act, 2000.

be it enacted by Parliament in the Fifty-third Year of the Republic of India as follows:--

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