



# Bankers' Books Evidence Act 1879

1879 CHAPTER 11 42 and 43 Vict

An Act to amend the Law of Evidence with respect to Bankers' Books. [23rd May 1879]

## Modifications etc. (not altering text)

- C1 Act extended by [Isle of Man Act 1979 \(c. 58, SIF 29:4\)](#), [s. 12\(3\)](#)
- C2 Act extended by [International Westminster Bank Act 1989 \(c. xvi\)](#), [ss. 10, 13](#)
- C3 Act applied (10.6.1991) by [Criminal Justice \(International Co-operation\) Act 1990 \(c. 5, SIF 39:1\)](#), [s. 4\(6\)](#), [Sch. 1 para. 6](#); S.I. 1991/1072, [art. 2](#), [Sch. Pt. I](#)
- C4 Act applied (19.12.1991) by [Commercial and Private Bank Act 1991 \(c. xxii\)](#), [s. 10\(1\)](#) (with [ss. 13, 15](#)).
- C5 Act applied (with modifications) (1.12.1992) by [Ulster Bank Act 1992 \(c. xiii\)](#), [ss. 3, 10](#)
- C6 Act extended (29.3.1993) by [1993 c. iii](#), [s. 9\(1\)](#).  
Act extended (E.W.N.I.) (27.7.1993) by [1993 c. xiv](#), [s. 9\(1\)](#).  
Act extended (5.11.1993) by [1993 c. xvii](#), [s. 13\(2\)](#).  
Act extended (5.11.1993) by [1993 c. xviii](#), [s. 11\(1\)](#).  
Act applied by [1996 c. ii](#), [ss. 5\(2\), 9\(2\)](#)  
Act applied by [1996 c. vii](#), [ss. 3, 9\(1\)](#) (with [s. 16](#))  
Act extended (1.4.1997) by S.I. 1997/172, [art. 31](#)  
Act applied by [1998 c. v](#), [ss. 3, 12\(2\)\(3\)](#)  
Act applied by [1999 c. iv](#), [ss. 3, 11\(2\)\(3\)](#)  
Act applied (10.2.2000) by [2000 c. iii](#), [s. 12\(1\)](#) (with [s. 16](#))  
Act applied (22.3.2001) by [2001 c. i](#), [s. 9\(1\)](#) (with [s. 13](#))  
Act applied (4.12.2001) by [2001 c. v](#), [s. 14\(2\)](#)  
Act applied (with modifications) (26.11.2001) by S.I. 2001/3755, [regs. 23\(4\)](#), [Sch. 4 para. 13\(5\)](#) (with [regs. 39, 45](#))  
Act extended (with effect as mentioned in [s. 4\(1\)](#) of the amending Act) by [2002 c. iii](#), [s. 13\(2\)](#)  
Act applied (with effect as mentioned in [s. 4\(1\)\(d\)](#) of the amending Act) by [2002 c. iv](#), [s. 12\(2\)](#)
- C7 Act applied (26.4.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), [ss. 15\(5\), 94](#), [Sch. 1 para. 7](#); S.I. 2004/786, [art. 3](#)
- C8 Act applied (with modifications) (1.7.2004) by [The Government Stock Regulations 2004 \(S.I. 2004/1611\)](#), [regs. 1, 7\(7\)](#) (with [regs. 33, 35](#))
- C9 Act applied (with effect as mentioned in [s. 9](#) of the amending Act) by [HBOS Group Reorganisation Act 2006 \(c. i\)](#), [ss. 3, 20\(2\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Bankers' Books Evidence Act 1879. (See end of Document for details)*

**C10** Act applied (31.7.2017) by [The Criminal Justice \(European Investigation Order\) Regulations 2017 \(S.I. 2017/730\)](#), [Sch. 5 para. 9](#) (with reg. 3)

## 1 Short title.

This Act may be cited as the Bankers' Books Evidence Act 1879.

2 .....<sup>F1</sup>

### Textual Amendments

**F1** [S. 2](#) repealed by [Statute Law Revision Act 1894 \(c. 56\)](#), [Sch. 1](#)

## 3 Mode of proof of entries in bankers' books.

Subject to the provisions of this Act, a copy of any entry in a banker's book shall in all legal proceedings be received as prima facie evidence of such entry, and of the matters, transactions, and accounts therein recorded.

### Modifications etc. (not altering text)

**C11** [Ss. 3–5](#) excluded (S.) by [Civil Evidence \(Scotland\) Act 1988 \(c. 32, SIF 47\)](#), [ss. 6\(3\)](#), 9, 10(3)

## 4 Proof that book is a banker's book.

A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be first proved that the book was at the time of the making of the entry one of the ordinary books of the bank, and that the entry was made in the usual and ordinary course of business, and that the book is in the custody or control of the bank.

Such proof may be given by a partner or officer of the bank, and may be given orally or by an affidavit sworn before any commissioner or person authorised to take affidavits.

[<sup>F2</sup>Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices, this section shall have effect with the omission of the words "orally or".]

### Textual Amendments

**F2** Words in [s. 4](#) inserted (E.W.) (4.7.1996 with effect as mentioned in [Sch. 1 Pt. II para. 39](#) of the amending Act) by [1996 c. 25, s. 47](#), [Sch. 1 Pt. II para. 15](#) (with [s. 78\(1\)](#)); [S.I. 1997/683, art. 1](#)

### Modifications etc. (not altering text)

**C12** [Ss. 3–5](#) excluded (S.) by [Civil Evidence \(Scotland\) Act 1988 \(c. 32, SIF 47\)](#), [ss. 6\(3\)](#), 9, 10(3)

**C13** [S. 4](#) modified (1.12.1992) by [Ulster Bank Act 1992 \(c. xiii\)](#), [ss. 3](#), 10(2)

**C14** [S. 4](#) modified (29.3.1993) by [1993 c. iii, s. 9\(2\)](#).

[s. 4](#) modified (E.W.N.I.) (27.7.1993) by [1993 c. xiv, s. 9\(2\)](#).

[s. 4](#) modified (5.11.1993) by [1993 c. xvii, s. 13\(3\)](#).

[s. 4](#) modified (5.11.1993) by [1993 c. xviii, s. 11\(2\)](#).

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- S. 4 applied (with modifications) by 1996 c. ii, **ss. 5(2), 9(3)**
- S. 4 applied (24.7.1996) by 1996 c. vii, **s. 9(2)** (with s. 16)
- S. 4 modified (10.2.2000) by 2000 c. iii, **s. 12(3)** (with s. 16)
- S. 4 modified (22.3.2001) by 2001 c. i, **s. 9(2)** (with s. 13)
- S. 4 modified (4.12.2001) by 2001 c. V, s. 14(3)
- S. 4 modified (with effect as mentioned in s. 4(1) of the amending Act) by 2002 c. iii, **s. 13(3)**
- S. 4 modified (with effect as mentioned in s. 4(1)(d) of the amending Act) by 2002 c. iv, **s. 12(3)**
- C15** S.4 modified (with effect as mentioned in s. 9 of the amending Act) by HBOS Group Reorganisation Act 2006 (c. i), **ss. 3, 20(3)**

## 5 Verification of copy.

A copy of an entry in a banker's book shall not be received in evidence under this Act unless it be further proved that the copy has been examined with the original entry and is correct.

Such proof shall be given by some person who has examined the copy with the original entry, and may be given either orally or by an affidavit sworn before any commissioner or person authorised to take affidavits.

[<sup>F3</sup>Where the proceedings concerned are proceedings before a magistrates' court inquiring into an offence as examining justices, this section shall have effect with the omission of the words "either orally or"].

### Textual Amendments

- F3** Words in s. 5 inserted (4.7.1996 with effect as mentioned in Sch. 1 Pt. II para. 39 of the amending Act) by 1996 c. 25 s. 47, Sch. 1 Pt. II para. 16 ( with s. 78(1)); S.I. 1997/683, **art. 1(2)**

### Modifications etc. (not altering text)

- C16** Ss. 3–5 excluded (S.) by Civil Evidence (Scotland) Act 1988 (c. 32, SIF 47), **ss. 6(3), 9, 10(3)**

## 6 Case in which banker, &c. not compellable to produce book, &c.

A banker or officer of a bank shall not, 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 [<sup>F4</sup>or under the Civil Evidence (Scotland) Act 1988][<sup>F5</sup> or Schedule 8 to the Criminal Procedure (Scotland) Act 1995], or to appear as a witness to prove the matters, transactions, and accounts therein recorded, unless by order of a judge made for special cause.

### Textual Amendments

- F4** Words inserted (S.) by Civil Evidence (Scotland) Act 1988 (c. 32, SIF 47), **ss. 7(3), 10(3)**
- F5** Words inserted (1.4.1996) by 1995 c. 40 s. 5, Sch. 4 para 2

## 7 Court or judge may order inspection, &c.

On the application of any party to a legal proceeding a court or 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 proceedings. An order under this section may be made

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either with or without summoning the bank or any other party, and shall be served on the bank three clear days before the same is to be obeyed, unless the court or judge otherwise directs.

#### **Modifications etc. (not altering text)**

- C17** Power to extend s. 7 conferred by [Army Act 1955 \(c. 18\)](#), [s. 103\(2\)\(kk\)](#), [Air Force Act 1955 \(c. 19\)](#), [s. 103\(2\)\(kk\)](#) and [Naval Discipline Act 1957 \(c. 53\)](#), [s. 58\(3\)](#)
- C18** [S. 7](#) applied (1.1.1992) by [S.I. 1991/2737](#), [art.70](#)  
[S. 7](#) power to extend conferred (1.4.1997) by [1955 c. 18](#), [s. 103](#) (as substituted by [1996 c. 46](#), [s. 5](#), [Sch. 1 Pt. III para. 30](#); [S.I. 1997/304](#) art. 2 (subject to saving in arts. 3, 4, Sch. 2))  
[S. 7](#) power to extend conferred (1.4.1997) by [1955 c. 19](#), [s. 103](#) (as substituted by [1996 c. 46](#), [s. 5](#), [Sch. 1 Pt. III para. 46](#); [S.I. 1997/304](#) art. 2 (subject to saving in arts. 3, 4, Sch. 2))  
[S. 7](#) power to extend conferred (1.4.1997) by [1957 c. 53](#), [s. 58](#) (as substituted by [1996 c. 46](#), [s. 5](#), [Sch. 1 Pt. III para. 57](#); [S.I. 1997/304](#) art. 2 (subject to saving in arts. 3, 4, Sch. 2))  
[S. 7](#) power extended (1.4.1997) by [S.I. 1997/170](#), [rule 76](#)
- C19** [S. 7](#) power extended (1.1.2008) by [The Courts-Martial \(Army\) Rules 2007 \(S.I. 2007/3442\)](#), [rule 92](#)
- C20** [S. 7](#) power extended (1.1.2008) by [The Courts-Martial \(Royal Navy\) Rules 2007 \(S.I. 2007/3443\)](#), [rule 89\(1\)](#)
- C21** [S. 7](#) power extended (1.1.2008) by [The Courts-Martial \(Royal Air Force\) Rules 2007 \(S.I. 2007/3444\)](#), [rule 92](#)
- C22** [S. 7](#) modified (31.10.2009) by [The Armed Forces \(Court Martial\) Rules 2009 \(S.I. 2009/2041\)](#), [rule 71](#)

## **8 Costs.**

The costs of any application to a court or judge under or for the purposes of this Act, and the costs of anything done or to be done under an order of a court or judge made under or for the purposes of this Act shall be in the discretion of the court or judge, who may order the same or any part thereof to be paid to any party by the bank where the same have been occasioned by any default or delay on the part of the bank. Any such order against a bank may be enforced as if the bank was a party to the proceeding.

### **[<sup>F69</sup> Interpretation of “bank”, “banker”, and “bankers’ books”.**

(1) In this Act the expressions “ bank ”and “ banker ”mean—

- [ a deposit-taker;]  
<sup>F7</sup>(a) .....  
 (b) .....<sup>F8</sup>  
 (c) the National Savings Bank; <sup>F9</sup> . . .  
 (d) .....

[ “Deposit taker” means—

- <sup>F10</sup>(1A) (a) a person who has permission under [<sup>F11</sup>Part 4A] of the Financial Services and Markets Act 2000 to accept deposits; or  
 (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits or other repayable funds from the public.

(1B) But a person is not a deposit-taker if he has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission.

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- (1C) Subsections (1A) and (1B) must be read with—
- (a) section 22 of the Financial Services and Markets Act 2000;
  - (b) any relevant order under that section; and
  - (c) Schedule 2 to that Act.]
- (2) Expressions in this Act relating to “bankers’ books” include ledgers, day books, cash books, account books and other records used in the ordinary business of the bank, whether those records are in written form or are kept on microfilm, magnetic tape or any other form of mechanical or electronic data retrieval mechanism. ]

#### Textual Amendments

- F6** S. 9 substituted with saving by [Banking Act 1979 \(c. 37, SIF 10\)](#), s. 51(1), [Sch. 6 paras. 1, 13](#)
- F7** S. 9(1)(a) substituted (1.12.2001) for s. 9(1)(a)(aa) by [S.I. 2001/3649](#), [arts. 1, 265\(2\)](#)
- F8** S. 9(1)(b) repealed by [Trustee Savings Banks Act 1985 \(c. 58, SIF 110\)](#), ss. 4(3), 7(3), [Sch. 4](#)
- F9** S. 9(1)(d) and the word “and” immediately preceding it repealed (26.3.2001) by [S.I. 2001/1149](#), art. 3(2), [Sch. 2](#)
- F10** S. 9(1A)-(1C) inserted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 265\(3\)](#)
- F11** Words in s. 9(1A)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 27](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [Sch.](#)

#### Modifications etc. (not altering text)

- C23** Definition of “banker” extended by instruments listed in the Chronological Table of the Statutes
- C24** S. 9(1) modified (1.1.1993) by [S.I. 1992/3218](#), reg. 82(1), [Sch. 10 Pt. 1 para. 2](#).
- C25** S. 9(2) applied (29.3.1993) by [1993 c. iii, s. 9\(3\)](#).  
s. 9(2) applied (E.W.N.I.) (27.7.1993) by [1993 c. xiv, s. 9\(3\)](#).  
s. 9(2) applied (5.11.1993) by [1993 c. xvii, s. 13\(1\)](#).  
s. 9(2) applied (5.11.1993) by [1993 c. xviii, s. 11\(3\)](#).  
S. 9(2) applied by [1996 c. ii, ss. 5\(2\), 9\(1\)](#)  
S. 9(2) applied by [1996 c. vii, ss. 3, 9\(3\)](#) (with s. 16)  
S. 9(2) applied (with effect as mentioned in s. 4(1)(d) of the amending Act) by [2002 c. iv, s. 12\(1\)](#)
- C26** S. 9(2) applied (with effect as mentioned in s. 9 of the amending Act) by [HBOS Group Reorganisation Act 2006 \(c. i\)](#), ss. 3, [20\(1\)](#)

## 10 Interpretation of “legal proceeding,” “court,” “judge.”

In this Act—

The expression “legal proceeding” means any civil or criminal proceeding or inquiry in which evidence is or may be given, and includes

- <sup>F12</sup>(a) an arbitration;
- (b) an application to, or an inquiry or other proceeding before, the Solicitors Disciplinary Tribunal or any body exercising functions in relation to solicitors in Scotland or Northern Ireland corresponding to the functions of that Tribunal; and
- <sup>F13</sup>(c) [ an investigation, consideration or determination of a complaint by a member of the panel of ombudsmen for the purposes of the ombudsman scheme within the meaning of the Financial Services and Markets Act 2000. ]]

The expression “the court” means the court, judge, arbitrator, persons or person before whom a legal proceeding is held or taken;

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The expression “a judge” means with respect to England a judge of the High Court, and with respect to Scotland a lord ordinary of the Outer House of the Court of Session, and with respect to Ireland a judge of the [<sup>F14</sup>High Court in Northern Ireland];

[<sup>F15</sup>A judge of the county court] may with respect to any action in such court exercise the powers of a judge under this Act.

#### **Textual Amendments**

- F12** S. 10(a)-(c) substituted (9.6.1997) for words in s. 10 by [1997 c. 32, s. 45\(1\)](#); [S.I. 1997/1427, art. 2](#)
- F13** S. 10: para. (c) in the definition of “legal proceedings” substituted (1.12.2001) by [S.I. 2001/3649, arts. 1, 266](#)
- F14** Words substituted by S.R. & O. 1921/1802 (Rev. XVI, p. 954: 1921, p. 1332), art. 2
- F15** Words in s. 10 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 14](#); [S.I. 2014/954, art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

#### **Modifications etc. (not altering text)**

- C27** References to Ireland to be construed as exclusive of Republic of Ireland: S.R. & O. 1923/405 (Rev. X, p. 298: 1923, p. 400), art. 2

## **11 Computation of time.**

Sunday, Christmas Day, Good Friday, and any bank holiday shall be excluded from the computation of time under this Act.

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**Changes to legislation:**

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