

Jersey Law 6/1986

BANKERS' BOOKS EVIDENCE (JERSEY) LAW, 1986.

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A LAW to amend the law of evidence with respect to bankers' books, sanctioned by Order of Her Majesty in Council of the

26th day of MARCH, 1986.

(Registered on the 2nd day of May, 1986).

STATES OF JERSEY.

The 18th day of June, 1985.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

ARTICLE 1

Interpretation

- (1) In this Law, unless the context otherwise requires –
- “bank” and “banker” mean –
- (a) person who is for the time being registered under the Depositors and Investors (Prevention of Fraud) (Jersey) Law, 1967,¹ and a person whose registration has been cancelled; and
 - (b) any person carrying on or holding himself out as carrying on in or from within the Island the business of accepting money for the purpose of investment on deposit, being a

¹ Volume 1966–1967, page 613; Volume 1970–1972, page 181; Volume 1975–1978, pages 99 and 405; and Volume 1982–1983, page 9.

person to whom the prohibition in Article 3 of the Depositors and Investors (Prevention of Fraud) (Jersey) Law, 1967² on carrying on or holding himself out as carrying on such business does not apply;

“court” means the Inferior Number of the Royal Court;

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

(2) Expressions in this Law 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.

(3) Unless the context otherwise requires, where this Law refers to any enactment, the reference is a reference to that enactment as amended, and includes a reference to that enactment as extended or applied by or under any other enactment, including any other provision of that enactment.

ARTICLE 2

Mode of proof of entries in bankers' books

Subject to the provisions of this Law, 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.

² Volume 1966–1967, page 615, and Volume 1982–1983, page 10.

ARTICLE 3

Proof that book is a banker's book

(1) A copy of an entry in a banker's book shall not be received in evidence under this Law 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.

(2) 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 person authorised to take affidavits.

ARTICLE 4

Verification of copy

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

(2) 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 person authorised to take affidavits.

ARTICLE 5

Case in which banker, etc. is not compellable to produce book, etc

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 Law, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court made for special cause.

ARTICLE 6

Court may order inspection, etc

(1) On the application of any party to a legal proceeding the court 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.

(2) In a criminal legal proceeding an order under this Article may be made 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 otherwise directs.

(3) In a civil legal proceeding an application for an order under this Article shall be made by summons, which shall be served on the bank and the other party and shall be supported by an affidavit showing the materiality of the inspection and that the application is made in good faith.

ARTICLE 7

Costs

(1) The costs of any application to the court under or for the purposes of this Law, and the costs of anything done or to be done under an order of the court made under or for the purposes of this Law shall be in the discretion of the court, which 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.

(2) Any such order against a bank may be enforced as if the bank was a party to the proceeding.

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ARTICLE 8

Computation of time

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

ARTICLE 9

Short title

This Law may be cited as the Bankers' Books Evidence (Jersey) Law, 1986.

E.J.M. POTTER

Greffier of the States.