

CONSOLIDATED TO 1 DECEMBER 2014

LAWS OF SEYCHELLES

CHAPTER 75

EVIDENCE (BANKERS' BOOKS) ACT

[10th December, 1968]

Act 18/1968.
S.I. 95/1975.
Act 23/1976.

ARRANGEMENT OF SECTIONS

EVIDENCE (BANKERS' BOOKS) ACT

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NO SUBSIDIARY LEGISLATION

Short title

1. This Act may be cited as the Evidence (Bankers' Books) Act.

Interpretation

2. In this Act

"bank" or "banker" means any person carrying on the business of banking in Seychelles and includes the Seychelles Savings Bank constituted under Savings Bank Act and any branch thereof;

"banker's book" includes ledgers, day books, cash books, account books and all other books used in the ordinary business of the bank;

"court" means the court, judge, magistrate, arbitrator or person or persons before whom a legal proceeding is held or taken;

"legal proceeding" means any civil or criminal proceeding or inquiry (including an arbitrator) in which evidence is or may be given in Seychelles.

Mode of proof of entries in bankers' books

3. Subject to the provisions of this Act, a copy of an 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.

Proof that book is a bankers' book

4.(1) 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.

(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 under section 170 of the Seychelles Code of Civil Procedure.

Verification of copy

5.(1) 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.

(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 under section 170 of the Seychelles Code of Civil Procedure.

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

6. 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, 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.

Court may order inspection, etc.

7.(1) On the application of any party to a legal proceeding a 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) An order under this section 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.

Warrant to investigate and inspect

8.(1) Where it is proved on oath to a judge that in fact, or according to reasonable suspicion, the inspection of any banker's book or of any document or article in the custody or control of a bank is necessary or desirable for the purpose of any investigation into the commission of an offence, the judge may by warrant authorise a police officer or other person named therein to investigate and inspect the account of any specified person in such banker's book, or the document or article, and such warrant shall be sufficient authority for the production of any such banker's book, document or article as may be required for scrutiny by the officer or person named in the warrant, and such officer or person may take copies of any relevant entry or matter in such banker's book or document.

(2) Any person who fails to produce any such banker's book, document or article to the police officer or other person executing a warrant issued under this section or to permit such police officer or other person to scrutinise the same or to take copies of any relevant entry or matter therein shall be guilty of an offence and liable to imprisonment for one year and to a fine of one thousand rupees.

(3) The provisions of this section shall be construed to be in addition to and not in derogation of the provisions of section 95 of the Criminal Procedure Code.

Costs

9.(1) The cost 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.

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

Certificate to be sufficient proof of certain matters

10.(1) In any case where it shall be necessary to prove that a person is a bank or a banker within the meaning and for the purposes of this Act a certificate to that effect purporting to be signed by the Minister responsible for Finance or the Attorney General shall be sufficient proof of the matters stated therein.

(2) The provisions of this section shall not be construed to exclude other evidence which is admissible to prove that a person is a bank or a banker within the meaning and for the purposes of this Act.

Regulations

11. The Minister responsible for Finance may make regulations

(a) to declare any person or class of persons to be a "bank" or "banker" within the meaning and for the purposes of this Act.

(b) to amend, add to or alter interpretation of the expression "bank" or "banker" in section 2;

(c) to apply all or any provisions of this Act, with such adaptations, modifications and exceptions, to such person or class of persons, as may be specified in such regulations.

NO SUBSIDIARY LEGISLATION
