

BANKERS' BOOKS EVIDENCE ORDINANCE, 1911. ⁽¹⁾

No. 10 of 1911.

An Ordinance to amend the Law with Reference to Bankers' Books Evidence.

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1. This Ordinance may be cited as the *Bankers' Books Evidence Ordinance, 1911.* ⁽¹⁾ Short title.

It shall come into operation on a day to be fixed by the Lieutenant-Governor by proclamation published in the *Gazette.* ⁽¹⁾

2. *The Bankers' Books Evidence Act of 1879 (Queensland adopted) 43 Vic. No. 7* is hereby repealed. Repeal.

3. In this Ordinance—

“Bank” shall mean and include any person partnership corporation or company engaged in the ordinary business of banking by receiving deposits and issuing bills or notes payable to the bearer at sight or on demand and also any Government Savings Bank established under any law in force for the time being.

“Legal proceedings” shall include all proceedings whether preliminary or final in all Courts of Justice both Criminal and Civil and also all proceedings whether preliminary or final by way of arbitration examination of witnesses assessment of damages compensation or otherwise in which the person presiding over the same has power to administer an oath.

“The Court” shall mean the Court Judge magistrate arbitrator or other person authorised to preside over the said legal proceedings for the time being and shall include all persons Judges or officers having jurisdiction

Interpretation.
Q. 43 Vic.
No. 7, s. 2.

(1) Particulars of this Ordinance are as follows:—

Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
16.5.1911	6.12.1911	1.1.1912 (Papua Govt. Gaz. of 6.12.1911)

EVIDENCE—

and authorised to preside over or to exercise judicial control over the said legal proceedings or the procedure or any steps therein.

“A Judge” shall mean the Chief Judicial Officer⁽²⁾ and shall include any Deputy Chief Judicial Officer⁽²⁾ or Judge of the Central Court⁽³⁾ of the Territory.

Entries in books by affidavit admissible in evidence.

Q., 43 Vic. No. 7, s. 3.

4. All entries in ledgers day-books cash-books and other account-books of any bank shall be admissible in all legal proceedings as *primâ facie* evidence of the matters transactions and accounts recorded therein on proof being given by the affidavit in writing of one of the partners managers or superior officers of such bank or by other evidence that such ledgers day-books cash-books or other account-books are or have been the ordinary books of such bank and that the said entries have been made in usual and ordinary course of business and that such books are in or come immediately from the custody or control of such bank:

Provided always that in any legal proceedings to which any bank shall be a party the cheques bills promissory notes orders for payment of money and other vouchers from which the entries in the ledgers day-books cash-books or other account-books adduced in evidence on behalf of such bank in such proceedings purport to have been made shall be also produced in addition to such entries and affidavit or other evidence.

And the production of any cheques bills promissory notes orders for payment of money and other vouchers signed by or by some person duly authorised on behalf of the person firm or company whose account has been debited with the amount thereof respectively in any such book together with an entry verified by affidavit as aforesaid as to such book and as to such debit entry or with an entry proved by other evidence as aforesaid shall be *primâ facie* evidence of payment thereof respectively having been in fact made by the bank to or for the use of such person firm or company.

Originals need not be produced.

Q., *Ib.* s. 4.

5. Copies of all entries in any ledgers day-books cash-books or other account-books used by any such bank may be proved in all legal proceedings as evidence of such entries without production of the originals by the oath of a person who has examined the same stating the fact of the said examination and that the copies sought to be put in evidence are correct.

Proviso as to notice to parties in a suit.

Q., *Ib.* s. 5.

6. Provided always that no ledger day-book cash-book or other account-book of any such bank and no copies of entries therein

(2) See Section 4 of the *Central Court Ordinance*, 1925.

(3) See Section 19(2) of the *Ordinance Interpretation Ordinance*, 1911-1940.

contained shall be adduced or received in evidence under this Ordinance unless five days' notice in writing or such other notice as may be ordered by the Court containing a copy of the entries proposed to be adduced and of the intention to adduce the same in evidence shall have been given by the party proposing to adduce the same in evidence to the other party or parties or their or his attorney or agent to the said legal proceedings and that such other party or parties is or are at liberty to inspect the original entries and the accounts of which such entries form a part and where such bank is a party to the proceedings that the other party or parties thereto is or are at liberty to inspect the cheques bills promissory notes orders for payment of money and other vouchers in respect of which such entries were made.

7. In any case in which any accused person shall have been committed for trial such notice as last aforesaid may be given by or to the accused person at any time after he has been so committed notwithstanding that no information against him shall have been presented to the Court before which he is to be tried.

In criminal cases notice may be given before information is presented.
Q., 48 Vic. No. 7, s. 6.

8. On the application of any party to any legal proceedings who has received such notice a Judge may order that such party be at liberty to inspect and to take copies of any entry or entries in the ledgers day-books cash-books or other account-books of any such bank relating to the matters in question in such legal proceedings and such order may be made by such Judge at his discretion either with or without summoning before him such bank or other party or parties to such legal proceedings and shall be intimated to such bank at least three days before such inspection is required.

Power under order of Judge to inspect books and take copies.
Q., *Ib.* s. 7.

9. On the application of any party to any legal proceedings who has received such notice a Judge may order that such entries and copies mentioned in the said notice shall not be admissible as evidence of the matters transactions and accounts recorded in such ledgers day-books cash-books and other account-books.

Judge may order that copies are not admissible.
Q., *Ib.* s. 8.

10. No bank shall be compellable to produce the ledgers day-books cash-books or other account-books of such bank in any legal proceedings unless a Judge specially orders that such ledgers day-books cash-books or other account-books shall be produced at such legal proceedings.

Bank not compellable to produce books except in certain cases.
Q., *Ib.* s. 9.

11. The cost of any application to a Court or Judge under the provisions of this Ordinance and the costs of anything to be done under an order of a Court or Judge under this Ordinance shall be in the discretion of such Court or Judge as the case may be who

Costs in the discretion of the Court.
S.A., No. 162 of 1879, s. 7.

EVIDENCE—

may order the same or any part thereof to be paid to any party by the bank where the same has been occasioned by the default or delay on the part of the bank.

Any such order against a bank not a party may be enforced as if the bank was a party to the proceedings.