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LAWS OF MALAYSIA

REPRINT

Act 33

BANKERS' BOOKS (EVIDENCE) ACT 1949

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BANKERS' BOOKS (EVIDENCE) ACT 1949

First enacted … … … … …	1949 (Ordinance No. 52 of 1949)
Revised … … … … … …	1971 (Act 33 w.e.f. 1 July 1971)

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Act 33

BANKERS' BOOKS (EVIDENCE) ACT 1949

ARRANGEMENT OF SECTIONS

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1. Short title
2. Interpretation
3. Mode of proof of entries in bankers' books
4. Proof that book is a banker's book
5. Verification of copy
6. Case in which officer of bank not compellable to produce books, *etc*.
7. Court or Judge may order inspection
8. Costs

Act 33

BANKERS' BOOKS (EVIDENCE) ACT 1949

An Act to provide for the law of evidence relating to bankers' books.

[*Peninsular Malaysia—1 December 1949, Ord. No. 52 of 1949; Sabah, Sarawak—1 May 1971, P.U.(A)95/1971*]

Short title

1. This Act may be cited as the Bankers' Books (Evidence) Act 1949.

Interpretation

2. In this Act, unless the context otherwise requires—

"bank" and "banker" mean any company carrying on the business of banking in Malaysia incorporated by or under any written law in force in Malaysia and any company carrying on such business in Malaysia under a licence granted under any written law in force in Malaysia relating to banking, and also any Bank Simpanan Nasional established in Malaysia;

"banker's book" includes any ledger, day book, cash book, account book and any other book used in the ordinary business of a bank;

"Court" means the High Court and in connection with any proceedings before a Sessions Court includes such Court;

"legal proceeding" means any civil or criminal proceeding or inquiry in which evidence is or may be given and includes an arbitration.

Mode of proof of entries in bankers' books

3. Subject to this Act, a copy of any entry in a banker's book shall in all legal proceedings be received as *prima facie* evidence

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of such entry and of the matters, transactions and accounts therein recorded.

Proof that book is a banker's book

4. (1) A copy of an entry in a banker's book shall not be received in evidence under this Act unless it is 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 an officer of the bank, and may be given orally or by an affidavit sworn before any magistrate or person authorized to take affidavits.

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 is 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 magistrate or person authorized to take affidavits.

Case in which officer of bank not compellable to produce books, *etc*.

6. An officer of a bank shall not, in any legal proceedings 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 or Judge may order inspection

7. (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

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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 on 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.

Costs

8. (1) The costs of any application to the Court or a Judge under this Act, and the costs of anything done or to be done under an order of the Court or a Judge made under 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 fault 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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BANKERS' BOOKS (EVIDENCE) ACT 1949

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U.(A)95/1971	Bankers' Books (Evidence) Ordinance (Extension) Order 1971	01-05-1971

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LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
	– NIL –	