

Zambia

## Evidence (Bankers' Books) Act, 1964

### Chapter 44

Legislation as at 31 December 1996

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## Evidence (Bankers' Books) Act, 1964

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## Zambia

# Evidence (Bankers' Books) Act, 1964

## Chapter 44

Commenced on 31 July 1964

*[This is the version of this document at 31 December 1996.]*

*[31 of 1964; 12 of 1980; 13 of 1994; [Government Notice 497 of 1964](#)]*

**An Act to amend the law of evidence with respect to bankers' books; and to provide for matters incidental thereto.**

### 1. Short title

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

### 2. Interpretation

In this Act, unless the context otherwise requires—

"**bank**" or "**banker**" means any person carrying on the business of banking in Zambia under the provisions of the Banking and Financial Services Act

*[Cap. 387]*

"**banker's book**" includes ledgers, day books, cash books, account books and all other records used in the ordinary business of the bank, whether such records are in form or in microfilm, magnetic tape or any other form of mechanical or electronic data retrieval mechanism

*[As amended by Act [No. 12 of 1980](#)]*

"**building society**" means a building society incorporated in Zambia under the law for the time being in force relating to building societies;

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

"**Judge**" means a Judge of the Supreme Court or a Judge of the High Court;

"**legal proceeding**" means any civil or criminal proceeding or inquiry (including an arbitration) in which evidence is or may be given, in Zambia.

*[As amended by Act [No. 12 of 1980](#)]*

### 3. Mode of proof of entries in banker's 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.

### 4. 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 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 commissioner for oaths or person authorised to take affidavits.

## **5. Verification of copy**

- (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 commissioner for oaths or person authorised to take affidavits.

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

A banker or 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.

## **7. Court may order inspection, etc.**

- (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.

## **8. Warrant to investigate**

- (1) Where it is proved on oath to a Judge or a magistrate that in fact, or according to reasonable suspicion, the inspection of any banker's book is necessary or desirable for the purpose of any investigation into the commission of an offence, the Judge or magistrate may by warrant authorise a police officer or other person named therein to investigate the account of any specified person in any banker's book, and such warrant shall be sufficient authority for the production of any such banker's book 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.
- (2) Any person who fails to produce any such banker's book 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 a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

*[As amended by Act [No. 13 of 1994](#)]*

## **9. Costs**

- (1) The costs of any application to a court under or for the purposes of this Act, and the costs of anything done or to be done under an order of a court made under or for the purposes of this Act, 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 proceedings.