|  |
| --- |
| **APPLICATION FOR ORDER TO INSPECT AND COPY BANK RECORDS***(Criminal Procedure Rules, rule 17.3; s.7, Bankers’ Books Evidence Act 1879)* |

|  |
| --- |
| **CASE DETAILS**Name of defendant(s): ………………………………………………………………………………………………...Court: ……………………………………………………………………………………………………………………Case reference number / URN: ……………………………………………………………………………………… |
| **THIS IS AN APPLICATION TO THE COURT FOR AN ORDER THAT**………………………………………………….…………………………………………………………………(Bank)**must allow** ……………………………….…………………………………………………………………(applicant)**to inspect and take copies of specified entries in the books of that bank for the purposes of these proceedings.** |
| **HOW TO USE THIS FORM**This form includes notes to help you complete it. See also the notes at the end of the form.**1. Give the information required above and in the boxes below.** If you use an electronic version of this form, the boxes will expand. If you use a paper version and need more space, you may attach extra sheets.2. Include draft terms of the order that you are asking the court to make, in the box for that purpose below.3. Sign and date the completed form.4. Send the completed form to the court.Unless the court otherwise directs, you do not need to send a copy of this application to the bank or to any other party. |

|  |
| --- |
| **INFORMATION ABOUT THE APPLICANT**The applicant is: the prosecutor [ ]  the defendant [ ] Name: ………………………………………………………………………………………………………………….Address: ……………………………………………………………………………………………………………….Email address: ………………………………………………………………………………………………………...Contact telephone number(s): ……………………………………………………………………………………..… |

|  |
| --- |
| **INFORMATION ABOUT THE APPLICATION****Details of bank book entries required**Specify the entry or entries required. Include the name(s) of the account holder(s) (and date(s) of birth if applicable), the sort code(s) and account number(s) and the date(s), date range and / or description(s) of the transactions:**Purpose for which entries required**Explain the purpose(s) for which each entry specified above is required:**Time to comply with the court order**How long should the court give the bank to allow inspection and copying of the entry or entries required?*Under section 7 of the Bankers’ Books Evidence Act 1879 the bank must comply with the order not more than 3 days after it is delivered, unless the court otherwise directs. If you want the order to specify a different period, explain what you want and why.* |

|  |
| --- |
| **SUPPORTING MATERIAL****Have you included with this application any witness statement or other material?** [ ]  Yes [ ]  NoIf yes, list that material here: |

|  |
| --- |
| **DRAFT ORDER**Set out here the terms of the order that you are asking the court to make:*[Insert court name]* Crown Court*[Insert court name]* Magistrates’ CourtORDER TO INSPECT AND TAKE COPIES OF BANKER’S BOOK ENTRYCourt office address: *[insert]*Telephone number: *[insert]*The court orders *[bank]* to allow *[applicant]* to inspect and take copies of the following entries in the 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:*[specify the entry or entries required]*The bank must comply with this order by *[date]*. |

|  |
| --- |
| **DECLARATION****The statements of fact contained in this application are true to the best of my knowledge and belief. I make them knowing that if I have wilfully stated anything which I know to be false or do not believe to be true I may be liable to prosecution.****Signed:** …………………………………….……………………………………………………….... ([for] prosecutor) (defendant / defendant’s representative)Date: ……………………………………………………………………………….. |

**Notes**

Under section 3 of the the Bankers’ Books Evidence Act 1879, copies of entries in bankers’ books “shall in all legal proceedings be received as prima facie evidence of such entry and of the matters, transactions, and accounts therein recorded”. Under sections 4 and 5 of the Act it must be proved that the banker’s book concerned was, at the time the material entry was made, one of the ordinary books of the bank; that the material entry was made in the usual and ordinary course of business; that the book is in the custody or control of the bank; and that the copy of the material entry to be received in evidence is an accurate copy of that entry.

Section 9(2) of that Act provides:

“Expressions in this Act 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.”

In the case of *Meng v HSBC Bank Plc & Ors* [[2021] EWHC 342 (QB)](https://caselaw.nationalarchives.gov.uk/ewhc/qb/2021/342) the High Court decided that “the phrase“other records used in the ordinary business of the bank”in section 9(2), read with section 7, means transactional records. It does not include non-transactional records maintained for regulatory compliance.” (paragraph 28 of the judgment).

Section 7 of the Bankers’ Books Evidence Act 1879 provides:

“On the application of any party to a legal proceeding a court or judge 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. 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 or judge otherwise directs.”

Rule 17.3 of the Criminal Procedure Rules requires the applicant for a section 7 order to identify the entry required; explain the purpose for which the entry is required; and propose the terms of the order, and the period within which the order should take effect, if 3 days from the date of service of the order would not be appropriate. Under rule 17.4 the application must be in this form and include the same declaration of truth as a witness statement.

Under rule 17.7 of the Criminal Procedure Rules the applicant for an order and the bank to which an order is directed may apply to the court for the order to be withdrawn.