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RIGHTS AND DUTIES OF A BANKER AND CUSTOMER RIGHTS

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DUTY OF SECRECY & CONFIDENTIALITY

Banks have a **legal and contractual duty** to maintain the **secrecy and confidentiality** of customer accounts. This **debtor-creditor relationship** is based on an **implied contract**, making it a **legal obligation** for banks to protect customer information.

However, this **duty of secrecy is not absolute** and can be **overridden** under certain **legally permitted situations**:

- ✓ When disclosure is **required under law** 
- ✓ When disclosure is in **public interest** 
- ✓ When the **bank's own interest** requires disclosure 
- ✓ When the **customer gives consent** for disclosure 

Disclosure under Compulsion of Law

Banks are required to **disclose customer information** if mandated by **legal provisions**.

 Legal Provision





When Disclosure


 Key Points

Required?

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 Banker's Books Evidence Act, 1891	When required for legal proceedings	✓ Banks must provide certified copies of transactions when ordered by the court.
 Summons by Civil/ Criminal Courts	If ordered by a court of law	✓ Banks must comply with court-issued summons & provide specific records .
 Income Tax Act, 1961 (Sec. 133)	When required by Income Tax Officers	✓ The bank must share account details upon specific request by an authorized officer .
 Other Acts	As per various financial laws	✓ Banks may have to disclose information under Companies Act, RBI Act, FEMA, Gift Tax Act .

 **Real-Life Example:** A bank receives a **court summons** in a **fraud investigation** and is required to **submit account statements** of the accused party as evidence. ✓ ⚖️

Duty to Disclose in Public Interest


✓ **Public interest disclosures** occur when a bank **suspects illegal activities** such as:

- ◆ **Terrorism financing** 💣
- ◆ **Illegal drug trade** 💊
- ◆ **Money laundering & smuggling** 💰
- ◆ **Serious crimes affecting national security** ⚠️

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✓ Banks must carefully **evaluate** whether an activity is in **public interest** before disclosure.

 **Real-Life Example:** A bank detects **suspicious transactions linked to a known criminal organization** and reports the activity to **financial intelligence authorities** for investigation. ✓ 🚓

Disclosure in the Interest of the Bank Itself

✓ Banks may **disclose customer information** in situations where it is necessary for **protecting the bank's own interests**.


 Situation	<input checked="" type="checkbox"/> When Disclosure is Permitted?
 Recovering Dues	When sharing borrower details with guarantors or legal representatives .
 Sharing Credit Information	When exchanging loan details with other banks to avoid bad loans .
 Credit Information Reports	Banks must report borrower data to Credit Information Companies (CICs) (as per the Credit Information Companies (Regulation) Act, 2005).


 **Real-Life Example:** A customer **defaults on a loan**, and the bank shares **account details** with a **Credit Bureau (CIBIL)**, affecting the borrower's **credit score**. ✓ 📉

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Disclosure with Customer's Consent

- ✓ A bank can **legally disclose account details** if:
 - ◆ The **customer gives written consent** 
 - ◆ The customer **requests information sharing** for a **specific purpose**
 - ◆ There is an **implied agreement** for disclosure

 **Real-Life Example:** A business owner **authorizes the bank to share account details with a financial institution for loan approval purposes.**



Summary Table: Duty of Secrecy & When Disclosure is Allowed

 Type of Disclosure	 When is Disclosure Allowed?	 Legal Basis
 Under Compulsion of Law	If required by courts, tax authorities, or financial regulations.	Banker's Books Evidence Act, Income Tax Act, RBI Act.
 Public Interest	If a customer is engaged in terrorism, smuggling, or illegal activities.	Law enforcement agencies.
 Bank's Own Interest	If required for recovering dues or sharing credit data.	CIC Act, Banking Practices.
 Customer Consent	If the customer authorizes disclosure.	Written or implied consent.

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DUTY OF REASONABLE CARE

✓ **Banks have a duty to exercise reasonable care & diligence in handling customer transactions.**

✓ If a customer **suffers financial loss** due to a bank's **negligence**, they have the **right to claim compensation**.

Examples of Negligence

 Situation	 Negligence by Bank	 Expected Action
Wrongful debit from account	Bank wrongly debits customer's account without reason.	Amount must be immediately refunded with compensation.
Loss of customer documents	Bank misplaces FD receipts or loan documents .	Duplicate documents must be issued , with compensation for inconvenience.
Delay in cheque clearance	Bank takes excessive time to clear a valid cheque.	Compensate for financial loss due to delay.

 **Real-Life Example:** A customer deposits a cheque, but the bank forgets to process it for **10 days**, leading to a **missed loan payment**. The bank must **compensate the customer** for any penalties incurred. ✓ 📄

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GARNISHEE OR ATTACHMENT ORDER






- ✓ Garnishee = Debtor who owes money
- ✓ A bank is a debtor when holding customer deposits.


When a court issues a garnishee order, the bank must freeze the customer's account and stop all payments, including cheques.

Key Actions When a Garnishee Order is Received

 Action Required	<input checked="" type="checkbox"/> Bank's Responsibility
 Stop Account Transactions	Immediately freeze debit transactions in the attached account.
 Inform the Customer	Notify the customer about the order and account restriction.
 Follow Court Instructions	If order is for a specific amount, transfer only that amount to a holding account.
 Open a New Account (if needed)	A new account can be opened for fresh transactions until further orders.

Special Cases

 Type of Account	 Application of Garnishee Order
 Single Account	<input checked="" type="checkbox"/> Garnishee Order applies.
 Joint Account (Different Debtors)	<input checked="" type="checkbox"/> Order does not apply.
 Joint Account (Same Debtors)	<input checked="" type="checkbox"/> Order applies to all accounts.

 **Real-Life Example:** A court issues a Garnishee Order against a businessman's account due to unpaid taxes. The bank freezes the

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account and informs the customer, ensuring compliance with legal requirements. ✓ ⚖️

BANK'S RIGHTS

Banks have certain **legal rights** that protect them in the **bank-customer relationship**.


Bank's Lien (Right to Hold Customer's Assets)

✓ If a customer **owes money**, the bank can **hold funds/assets** until the loan is repaid.

 **Example:** A customer **fails to repay a loan**. The bank can **hold the fixed deposit as security** until repayment. ✓ 🏦

Right of Set-Off

✓ Banks can **adjust a customer's deposits** against **outstanding loans**.

 **Example:** A borrower has ₹50,000 in savings but ₹60,000 due on a **personal loan**. The bank can **use the savings to reduce the loan balance**.






Right of Appropriation of Accounts

✓ When a customer **makes a payment without specifying** where it should be adjusted, the bank can **decide** how to apply the amount.

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 **Example:** A businessman repays ₹10,000 but doesn't specify whether it's for **overdraft or term loan**. The bank can **allocate it towards the overdue account** first.  

Right to Charge Interest & Commission




✓ Banks have the right to **charge interest on loans** and **collect service fees**.

✓ If there's **no prior agreement**, the bank can charge interest as per **market rates**.

 Charge Type	<input checked="" type="checkbox"/> Bank's Right
 Loan Interest	Charged as per loan agreement or prevailing market rate .
 Commission on Services	Applicable for drafts, cheque collections, & transfers .






 **Real-Life Example:** A customer **avails a personal loan**. The bank **charges processing fees & interest** as per the agreement.  

Summary Table: Duty of Care, Garnishee Orders & Bank Rights

 Aspect	<input checked="" type="checkbox"/> Key Guidelines	 Real-Life Example
 Duty of Care	Banks must act diligently & compensate customers for negligence.	A bank wrongfully debits an account and refunds the amount with interest.

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 Garnishee Order	Banks must freeze accounts as per court orders.	A businessman's bank account is frozen for pending tax dues.
 Bank's Lien	Banks can hold customer assets for unpaid debts.	A bank holds a customer's FD until a loan is repaid .
 Right of Set-Off	Banks can adjust balances across accounts .	A savings account balance is used to cover an overdue loan .
 Right of Appropriation	If a customer doesn't specify , the bank decides where to credit payments .	A ₹10,000 payment is applied to overdue dues first .
 Right to Charge Interest	Banks can charge interest & commissions on services.	A bank charges interest on an overdraft facility .

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