

<p style="text-align: center;">Section of IEA 1872</p> <p style="text-align: center;">[Deletions/Modifications made highlighted in yellow]</p>	<p style="text-align: center;">Proposed Change in the Bill</p> <p style="text-align: center;">[Additions/Modifications highlighted in green]</p>	<p style="text-align: center;">Nature of Change</p>	<p style="text-align: center;">Analysis</p>
<p>1. Short title. --This Act may be called the Indian Evidence Act, 1872.</p> <p>Extent. --It extends to the whole of India and applies to all judicial proceedings in or before any Court, including Courts-martial, other than Courts-martial convened under the Army Act (44 & 45 Vict., c. 58) the Naval Discipline Act [29 & 30 Vict., 109]; or the Indian Navy (Discipline) Act, 1934 (34 of 1934), or the Air Force Act (7 Geo. 5, c. 51) but not to affidavits presented to any Court or officer, nor to proceedings before an arbitrator;</p> <p>Commencement of Act. -- And it shall come into force on the first day of September, 1872.</p>	<p>1. Short title, application and commencement.</p> <p>(1) This Act may be called the Bharatiya Sakshya Adhiniyam, 2023.</p> <p>(2) It shall applies to all judicial proceedings in or before any Court, including Courts-martial, but not to affidavits presented to any Court or officer, nor to proceedings before an arbitrator.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification, appoint.</p>	<p>Minor</p>	<p>Change in title; date of commencement; streamlining references to all different kinds of courts-martial as just "Courts-martial". Grammar error in Section 1(2) - "shall applies" (sic.).</p>
<p>2</p>	<p>Deleted</p>	<p>Minor</p>	<p>Deletion of 'Repeal of Enactments' provision under the IEA.</p>
<p>3. Interpretation-clause. -- In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context: -- "Court". --"Court" includes all Judges and Magistrates, and all persons, except arbitrators,</p>	<p>2. Definitions</p> <p>2. (1) In this Adhiniyam, unless the context otherwise requires, --</p> <p>(a) "Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence;</p>	<p>Major</p>	<p>1. Omission of illustration (e) from the definition of 'fact' - '<i>that a man has a certain reputation, is a fact</i>'. 2. Addition to the definition of documents, '<i>and includes electronic and digital records</i>'. Further, new illustration (vi) added to the</p>

<p>legally authorised to take evidence.</p> <p>“Fact”. --“Fact” means and includes--</p> <ol style="list-style-type: none"> (1) anything, state of things, or relation of things, capable of being perceived by the senses; (2) any mental condition of which any person is conscious. <p>Illustrations</p> <ol style="list-style-type: none"> (a) That there are certain objects arranged in a certain order in a certain place, is a fact. (b) That a man heard or saw something, is a fact. (c) That a man said certain words, is a fact. (d) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact. (e) That a man has a certain reputation, is a fact. <p>“Relevant”. -- One fact is said to be relevant to another when the one is connected with the other in any of the ways referred to in the provisions of this Act</p>	<ol style="list-style-type: none"> (b) "conclusive proof" means when one fact is declared by this Adhiniyam to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it; (c) "document" means any matter expressed or described or otherwise recorded upon any substance by means of letters, figures or marks or any other means or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter and includes electronic and digital records. <p>Illustrations.</p> <ol style="list-style-type: none"> i. A writing is a document. ii. Words painted, lithographed or photographed are documents. iii. A map or plan is a document. iv. An inscription on a metal plate or stone is a document. 		<p>definition of documents to account for electronic records – ‘An electronic record on emails, server logs, documents on computers, laptop, or smartphone, messages, websites, locational evidence and voice mail messages stored on digital devices are documents.’</p> <ol style="list-style-type: none"> 3. Addition to the definition of evidence to include ‘information given electronically’ within oral evidence and ‘or digital records’ within documentary evidence. 4. Omission of “India” which was earlier defined to exclude J&K. 5. Omission of the definition of the expressions “Certifying Authority”. “electronic signature” etc. which are already defined in the Information Technology Act, 2000 (21 of 2000). 6. Addition of sub-section (2) [with definitions placed under (1)] – ‘Words and expressions used herein and not defined but defined in the Information Technology Act, 2000, Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Nyaya Sanhita, 2023 shall have the same meanings as assigned to them in the said Act and Sanhita’ <p>This apart, definitions arranged in alphabetical order with serial numbering. This doesn’t necessarily make sense in all cases since even though, for example, ‘not proved’ / ‘disproved’ / ‘proved’</p>
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<p>relating to the relevancy of facts.</p> <p>“Facts in issue”.-- The expression “facts in issue” means and includes-- any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability, or disability, asserted or denied in any suit or proceeding, necessarily follows.</p> <p>Explanation. --Whenever, under the provisions of the law for the time being in force relating to Civil Procedure,¹ any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue is a fact in issue.</p> <p>Illustrations</p> <p>A is accused of the murder of B.</p> <p>At his trial the following facts may be in issue: --</p> <p>That A caused B’s death;</p> <p>That A intended to cause B’s death;</p> <p>That A had received grave and sudden provocation from B;</p> <p>That A, at the time of doing the act which caused B’s death, was, by reason of unsoundness of mind, incapable of knowing its nature.</p> <p>“Document”. --</p> <p>“Document” means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one</p>	<p>v. A caricature is a document.</p> <p>vi. An electronic record on emails, server logs, documents on computers, laptop or smartphone, messages, websites, locational evidence and voice mail messages stored on digital devices are documents;</p> <p>(d) "disproved" in relation to a fact, means when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist;</p> <p>(e) "evidence" means and includes –</p> <p>i. statements or any information given electronically which the Court permits or requires to be made before it by witnesses in relation to matters of fact under inquiry and such statements or information are called oral evidence;</p>		<p>are similar concepts to be placed together, they now occur in a different order because of an alphabetical arrangement. The same applies to the definitions of “may presume”/“shall presume”/“conclusive proof”. Further, there is a serial numbering error as clause (i) follows clause (g).</p>
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<p>of those means, intended to be used, or which may be used, for the purpose of recording that matter.</p> <p>Illustrations A writing is a document; Words printed lithographed or photographed are documents; A map or plan is a document; An inscription on a metal plate or stone is a document; A caricature is a document.</p> <p>“Evidence”. --“Evidence” means and includes --</p> <p>(1) all statements which the Court permits or requires to be made before it by witnesses, in relation to matters of fact under inquiry; such statements are called oral evidence;</p> <p>(2) all documents including electronic records produced for the inspection of the Court; such documents are called documentary evidence.</p> <p>“Proved”. --A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists.</p>	<p>ii. documents including electronic or digital records produced for the inspection of the Court and such documents are called documentary evidence;</p> <p>(f) "fact" means and includes –</p> <p>i. anything, state of things, or relation of things, capable of being perceived by the senses;</p> <p>ii. any mental condition of which any person is conscious.</p> <p>Illustrations.</p> <p>(a) That there are certain objects arranged in a certain order in a certain place, is a fact.</p> <p>(b) That a person heard or saw something, is a fact.</p> <p>(c) That a person said certain words, is a fact.</p> <p>d) That a person holds a certain opinion, has a certain intention, acts in good faith, or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact;</p> <p>(g) "facts in issue" means and includes any fact from which, either by itself or in</p>		
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<p>“Disproved”. --A fact is said to be disproved when, after considering the matters before it, the Court either believes that it does not exist, or considers its non-existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist.</p> <p>“Not proved”. -- A fact is said not to be proved when it is neither proved nor disproved.</p> <p>“India”. -- “India” means the territory of India excluding the State of Jammu and Kashmir.</p> <p>the expressions “Certifying Authority”, “electronic signature”, Electronic Signature Certificate, “electronic form”, “electronic records”, “information”, “secure electronic record”, “secure digital signature” and “subscriber” shall have the meanings respectively assigned to them in the Information Technology Act, 2000 (21 of 2000).</p> <p>“May presume”.-- Whenever it is provided by this Act that the Court may presume a fact, it may either regard such fact as proved, unless and until it is disproved, or may call for proof of it.</p> <p>“Shall presume”. -- Whenever it is directed by this Act that the Court shall</p>	<p>connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows.</p> <p>Explanation. – Whenever, under the provisions of the law for the time being in force relating to Civil Procedure, any Court records an issue of fact, the fact to be asserted or denied in the answer to such issue is a fact in issue.</p> <p>Illustrations.</p> <ol style="list-style-type: none"> i. A is accused of the murder of B. ii. At his trial, the following facts may be in issue. iii. That A caused B's death. iv. That A intended to cause B's death. v. That A had received grave and sudden provocation from B. vi. That A, at the time of doing the act which caused B's death, was, by reason of mental illness, incapable of knowing its nature; vii. <ol style="list-style-type: none"> (i) "may presume". – Whenever it is provided by this Adhinyam that the Court may 		
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<p>presume a fact, it shall regard such fact as proved, unless and until it is disproved.</p> <p>“Conclusive proof”. -- When one fact is declared by this Act to be conclusive proof of another, the Court shall, on proof of the one fact, regard the other as proved, and shall not allow evidence to be given for the purpose of disproving it.</p>	<p>presume a fact, it may either regard such fact as proved, unless and until it is disproved or may call for proof of it;</p> <p>(j) “not proved”. – A fact is said to be not proved when it is neither proved nor disproved;</p> <p>(k) "proved". – A fact is said to be proved when, after considering the matters before it, the Court either believes it to exist, or considers its existence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it exists;</p> <p>(l) "relevant". – A fact is said to be relevant to another when it is connected with the other in any of the ways referred to in the provisions of this Adhiniyam relating to the relevancy of facts;</p> <p>(m) "shall presume". – Whenever it is directed by this Adhiniyam that the Court shall presume a fact, it shall regard such fact as proved, unless and until it is disproved</p>		
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	(2) Words and expressions used herein and not defined but defined in the Information Technology Act, 2000, Bharatiya Nagarik Suraksha Sanhita, 2023 and Bharatiya Nyaya Sanhita, 2023 shall have the same meanings as assigned to them in the said Act and Sanhita.		
4	Now a part of 2 above; No Change	Re-numbering	NO CHANGE
5. Evidence may be given of facts in issue and relevant facts. --Evidence may be given in any suit or proceeding of the existence of non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others. Explanation. --This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure. Illustrations (a) A is tried for the murder of B by beating him with a club with the intention of causing his death. At A's trial the following facts are in issue: --	3. Evidence may be given in any suit or proceeding of the existence or non-existence of every fact in issue and of such other facts as are hereinafter declared to be relevant, and of no others. Explanation. -- This section shall not enable any person to give evidence of a fact which he is disentitled to prove by any provision of the law for the time being in force relating to Civil Procedure. Illustrations. (a) A is tried for the murder of B by beating him with a club with the intention of causing his death. At A's trial the following facts are in issue: --	Re-numbering; drafting error	Illustration (b) mistakenly refers to CPC by the Hindi name of CrPC, i.e. the Bharatiya Nagarik Suraksha Sanhita 2023.

<p>A's beating B with the club; A's causing B's death by such beating; A's intention to cause B's death.</p> <p>(b) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Code of Civil Procedure.</p>	<p>A's beating B with the club; A's causing B's death by such beating; A's intention to cause B's death.</p> <p>(b) A suitor does not bring with him, and have in readiness for production at the first hearing of the case, a bond on which he relies. This section does not enable him to produce the bond or prove its contents at a subsequent stage of the proceedings, otherwise than in accordance with the conditions prescribed by the Bharatiya Nagarik Suraksha Sanhita 2023</p>		
6	Now as 4	Re-numbering; given the title ' <i>closely connected facts</i> '	No change in the content.
7	Now as 5	Re-numbering	No change in the content.
8	Now as 6	Re-numbering; doesn't change references to other sections as per new numbering.	No change in the content.
9	Now as 7	Re-numbering	No change in the content.
10	Now as 8	Re-numbering	No change in the content.
11	Now as 9	Re-numbering; Minor	References to Calcutta and Lahore changed to Chennai and Ladakh

12	Now as 10	Re-numbering	No change in the content.
13	Now as 11	Re-numbering	No change in the content.
14	Now as 12	Re-numbering	No change in the content.
15	Now as 13	Re-numbering	No change in the content.
16	Now as 14	Re-numbering	No change in the content.
17	Now as 15	Re-numbering	No change in the content.
18	Now as 16	Re-numbering	Clubbing the different paragraphs into different clauses of one sub-section.
19	Now as 17	Re-numbering	No change in the content.
20	Now as 18	Re-numbering	No change in the content.
21. Proof of admissions against persons making them, and by or on their behalf. --Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases: -- (1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section 32. (2) An admission may be proved by or on	19. Proof of admissions against persons making them, and by or on their behalf. Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases, namely: -- (1) An admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under sub-	Re-numbering; drafting errors	1. Mistakenly changes 32 IEA to 23(2). Unmeaning in reference because the preceding words refer to statements made by those who are dead and should correspond to dying declarations as they did under IEA by speaking of s. 32 [now should speak of 26 of the Bill]. 23(2) of the Bill is about confessions in police custody. 2. The error in 1. above is repeated in illustration (b) where instead of 26(2) it says 23(2) [IEA said 32(2)]. 3. Illustration (e) is intended to make a reference to the last preceding illustration, which is illustration (d). However, it mistakenly says 'for reasons specified

<p>behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable.</p> <p>(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.</p> <p>Illustrations</p> <p>(a) The question between A and B is whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged. A may prove a statement by B that the deed is genuine, and B may prove a statement by A that deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.</p> <p>(b) A, the captain of a ship, is tried for casting her away. Evidence is given to show that the ship</p>	<p>section (2) of section 23;</p> <p>(2) An admission may be proved by or on behalf of the person making it, when it consists of a statement of the existence of any state of mind or body, relevant or in issue, made at or about the time when such state of mind or body existed, and is accompanied by conduct rendering its falsehood improbable;</p> <p>(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.</p> <p>Illustrations</p> <p>(a) The question between A and B is whether a certain deed is or is not forged. A affirms that it is genuine, B that it is forged. A may prove a statement by B that the deed is genuine, and B may prove a statement by A that deed is forged; but A cannot prove a statement by himself that the deed is genuine, nor can B prove a statement by himself that the deed is forged.</p>		<p><i>in illustration (e)</i>' instead of 'for reasons specified in illustration (d)'</p> <p>4. Reference to Calcutta and Lahore in Illustration (c) changed to Kolkata and Chennai, respectively.</p>
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<p>was taken out of her proper course. A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under section 32, clause (2).</p> <p>(c) A is accused of a crime committed by him at Calcutta. He produces a letter written by himself and dated at Lahore on that day, and bearing the Lahore post-mark of that day. The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under section 32, clause (2).</p> <p>(d) A is accused of receiving stolen goods knowing them to be stolen. He offers to prove that he refused to sell them below their value. A may prove these statements, though</p>	<p>(b) A, the captain of a ship, is tried for casting her away. Evidence is given to show that the ship was taken out of her proper course. A produces a book kept by him in the ordinary course of his business showing observations alleged to have been taken by him from day to day, and indicating that the ship was not taken out of her proper course. A may prove these statements, because they would be admissible between third parties, if he were dead, under sub-section (2) of section 23.</p> <p>(c) A is accused of a crime committed by him at Kolkata. He produces a letter written by himself and dated at Chennai on that day, and bearing the Chennai post-mark of that day. The statement in the date of the letter is admissible, because, if A were dead, it would be admissible under sub-section (2) of section 23.</p> <p>(d) A is accused of receiving stolen</p>		
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<p>they are admissions, because they are explanatory of conduct influenced by facts in issue.</p> <p>(e) A is accused of fraudulently having in his possession counterfeit coin which he knew to be counterfeit. He offers to prove that he asked a skilful person to examine the coin as he doubted whether it was counterfeit or not, and that that person did examine it and told him it was genuine. A may prove these facts for the reasons stated in the last preceding illustration.</p>	<p>goods knowing them to be stolen. He offers to prove that he refused to sell them below their value. A may prove these statements, though they are admissions, because they are explanatory of conduct influenced by facts in issue.</p> <p>(e) A is accused of fraudulently having in his possession counterfeit currency which he knew to be counterfeit. He offers to prove that he asked a skilful person to examine the currency as he doubted whether it was counterfeit or not, and that person did examine it and told him it was genuine. A may prove these facts for the reasons specified in Illustration (e).</p>		
22	Now as 20	Re-numbering	No change in the content.
22A	Omitted.	Omitted.	Omitted as electronic records already included in the definition of documents hence case covered by section 20 above.
23	Now as 21	Re-numbering; references to 126 IEA changed as per new	No change in the content.

		numbering i.e. 132 of the Bill.	
<p>24. Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding. -- A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.</p> <p>28. Confession made after removal of impression caused by inducement, threat or promise, relevant. --If such a confession as is referred to in section 24 is made after the impression caused by any such inducement, threat or promise has, in the opinion of the Court, been fully removed, it is relevant.</p> <p>29. Confession otherwise relevant not to become irrelevant because of</p>	<p>22. Confession caused by inducement, threat, coercion or promise, when irrelevant in criminal proceeding.</p> <p>A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat, coercion or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him:</p> <p>Provided that if the confession is made after the impression caused by any such inducement, threat, coercion or promise has, in the opinion of the Court, been fully removed, it is relevant:</p> <p>Provided further that if such a confession is otherwise relevant, it does not become irrelevant merely because it was</p>	Re-numbering; Clubbing three sections into one.	Section 24 IEA is now Section 22 Para 1 of the Bill. Sections 28 and 29 of IEA are added as two provisos to this paragraph respectively. This was also the original effect of Sections 28 and 29 and this change just arranges them more sequentially.

<p>promise of secrecy, etc.--If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.</p>	<p>made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.</p>		
<p>25. Confession to police-officer not to be proved. -- No confession made to a police-officer, shall be proved as against a person accused of any offence.</p> <p>26. Confession by accused while in custody of police not to be proved against him. --No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.</p> <p>Explanation.--In this section "Magistrate" does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or elsewhere, unless such headman is a</p>	<p>23. Confession to police officer.</p> <p>(1) No confession made to a police officer shall be proved as against a person accused of any offence.</p> <p>(2) No confession made by any person while he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate shall be proved against him.</p> <p>Provided that when any fact is deposed to as discovered in consequence of information</p>	<p>Re-numbering; Clubbing three sections into one; And possible drafting error.</p>	<p>It is unclear if the rule earlier contained in section 27 for exceptions in favour of discovery statement is now made a proviso only to the rule earlier contained in section 26, or continues to be a proviso to the rules contained in both sections 25 and 26. The proviso is placed only to 23(2) [26 IEA] and not 23(1) [25 IEA] - It follows an indented space after a colon attached to 23(2), whereas there is a full-stop after 23(1). This may be a drafting error but has substantive implications as till now SC has repeatedly said that the exception of discovery statements is a proviso to both the rule under 25 and 26, and not just 26.</p> <p>The Explanation found in section 26 IEA has been omitted.</p>

<p>Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 18827 (10 of 1882).</p> <p>27. How much of information received from accused may be proved. -- Provided that, when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police-officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved.</p>	<p>received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact discovered, may be proved.</p>		
<p>30</p>	<p>Now as 24</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>31</p>	<p>Now as 25</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant. --</p> <p>Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves relevant facts in the following cases: --</p>	<p>26. Cases in which statement of facts in issue or relevant fact by person who is dead or cannot be found, etc., is relevant.</p> <p>Statements, written or verbal, of relevant facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence, or whose attendance cannot be procured without an amount of delay or expense which under the circumstances of the case appears to the Court unreasonable, are themselves facts in issue</p>	<p>Minor</p>	<p>It is clarified that statements contained in this provision including dying declarations, for instance, are facts in issue apart from being relevant facts. Clause (g) of Section 2 of the Bill defines "facts in issue" as '<i>any fact from which, either by itself or in connection with other facts, the existence, non-existence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows.</i>' To take the example of Section 32(1) IEA [26(1) of the Bill] encompassing cases of dying declarations, and applying the definition of "facts in issue", the declaration could either by itself (where the court is satisfied about its voluntariness etc.) or in connection with other</p>

<p>(1) When it relates to cause of death. -- When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.</p> <p>(2) or is made in course of business.--When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgement written or signed by</p>	<p>or relevant facts in the following cases, namely:--</p> <p>(1) When the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are relevant whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question.</p> <p>(2) When the statement was made by such person in the ordinary course of business, and in particular when it consists of any entry or memorandum made by him in books kept in the ordinary course of business, or in the discharge of professional duty; or of an acknowledgement written or signed</p>		<p>circumstances of the case, be the basis for a conviction. There is no change in the illustrations to Section 32 IEA, which are supplanted and attached to Section 26 of the Bill.</p>
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<p>him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.</p> <p>(3) or against interest of maker.--When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.</p> <p>(4) or gives opinion as to public right or custom, or matters of general interest.--When the statement gives the opinion of any such person, as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom</p>	<p>by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce written or signed by him; or of the date of a letter or other document usually dated, written or signed by him.</p> <p>(3) When the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages.</p> <p>(4) When the statement gives the opinion of any such person, as to the existence of any public right or custom or matters of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter had arisen.</p> <p>(5) When the statement relates to the existence of</p>		
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<p>or matter had arisen.</p> <p>(5) or relates to existence of relationship. -- When the statement relates to the existence of any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.</p> <p>(6) or is made in will or deed relating to family affairs.-- When the statement relates to the existence of any relationship 1[by blood, marriage or adoption] between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the</p>	<p>any relationship by blood, marriage or adoption between persons as to whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised.</p> <p>(6) When the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree, or upon any tombstone, family portrait or other thing on which such statements are usually made, and when such statement was made before the question in dispute was raised.</p> <p>(7) When the statement is contained in any deed, will or other document which relates to any such transaction as is</p>		
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<p>question in dispute was raised.</p> <p>(7) or in document relating to transaction mentioned in section 13, clause (a).--When the statement is contained in any deed, will or other document which relates to any such transaction as is mentioned in section 13, clause (a).</p> <p>(8) or is made by several persons and expresses feelings relevant to matter in question. --When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.</p>	<p>specified in clause (a) of section 11.</p> <p>(8) When the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.</p>		
33	Now as 27	Re-numbering	No change in the content.
34	Now as 28	Re-numbering	No change in the content.
35	Now as 29	Re-numbering	No change in the content.
36	Now as 30	Re-numbering	No change in the content.
<p>37. Relevancy of statement as to fact of public nature contained in certain Acts or Notifications.</p> <p>When the Court has to form an opinion as to the existence of any fact of a public nature, any statement of it, made in a recital contained in any</p>	<p>31. Relevancy of statement as to fact of public nature contained in certain Acts or notifications.</p> <p>When the Court has to form an opinion as to the existence of any fact of a public</p>	Minor	Omission of colonial references and accounting for official gazettes published in electronic or digital forms.

<p>Act of Parliament of the United Kingdom or in any Central Act, Provincial Act or a State Act or in a Government notification or notification by the Crown Representative appearing in the Official Gazette or in any printed paper purporting to be the London Gazette or the Government Gazette of any Dominion, colony or possession of his Majesty is a relevant fact.</p>	<p>nature, any statement of it, made in a recital contained in any Central Act or State Act or in a Central Government or State Government notification appearing in the respective Official Gazette or in any printed paper or in electronic or digital form purporting to be such Gazette, is a relevant fact.</p>		
<p>38. Relevancy of statements as to any law contained in law-books. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book purporting to be a report of such rulings, is relevant.</p>	<p>32. Relevancy of statements as to any law contained in law books including electronic or digital form. When the Court has to form an opinion as to a law of any country, any statement of such law contained in a book purporting to be printed or published including in electronic or digital form under the authority of the Government of such country and to contain any such law, and any report of a ruling of the Courts of such country contained in a book including in electronic or digital form purporting to be a report of such rulings, is relevant.</p>	<p>Minor</p>	<p>Addition of law books in electronic or digital form.</p>
<p>39</p>	<p>Now as 33</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>40</p>	<p>Now as 34</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>41</p>	<p>Now as 35</p>	<p>Re-numbering and addition of serial numbers in sub-sections.</p>	<p>No change in the content.</p>

42	Now as 36	Re-numbering	No change in the content.
43	Now as 37	Re-numbering	No change in the content.
44	Now as 38	Re-numbering and change in references to Sections 40, 41, and 42 to Sections 34, 35, and 36, respectively.	No change in the content.
45 and 45-A	Now as sub-sections (1) and (2) of Section 39, respectively.	Re-numbering and clubbing into one section.	No change in the content.
46	Now as 40	Re-numbering	No change in the content.
47 and 47-A	Now as sub-sections (1) and (2) of Section 41, respectively.	Re-numbering and clubbing into one section.	No change in the content.
48	Now as 42	Re-numbering	No change in the content.
49	Now as 43	Re-numbering; serial-numbering added for sub-sections.	No change in the content.
50. Opinion on relationship, when relevant. When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be sufficient to	44. Opinion on relationship, when relevant. When the Court has to form an opinion as to the relationship of one person to another, the opinion, expressed by conduct, as to the existence of such relationship, of any person who, as a member of the family or otherwise, has special means of knowledge on the subject, is a relevant fact: Provided that such opinion shall not be	Re-numbering; drafting error	References to Indian Penal Code, 1860 changed to Bharatiya Nyaya Sanhita, 2023, but references to corresponding sections to 494, 495, 497 or 498 of the Code, as in the new Sanhita, not added.

<p>prove a marriage in proceedings under the Indian Divorce Act, 1869 (4 of 1869), or in prosecutions under section 494, 495, 497 or 498 of the Indian Penal Code (45 of 1860).</p>	<p>sufficient to prove a marriage in proceedings under the Divorce Act, 1869, or in prosecutions under section of the Bharatiya Nyaya Sanhita, 2023.</p>		
51	Now as 45	Re-numbering	No change in the content.
52	Now as 46	Re-numbering	No change in the content.
53	Now as 47	Re-numbering	No change in the content.
<p>53A. Evidence of character or previous sexual experience not relevant in certain cases. In a prosecution for an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860) or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.</p>	<p>48. Evidence of character or previous sexual experience not relevant in certain cases. In a prosecution for an offence under section 64, section 65, section 67, section 68, section 70, section 71, section 73, section 74, section 75, section 76 or section 77 of the Bharatiya Nagarik Suraksha Sanhita, 2023 or for attempt to commit any such offence, where the question of consent is in issue, evidence of the character of the victim or of such person's previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.</p>	Re-numbering; drafting error	Mistakenly substitutes IPC for the Hindi name of CrPC (Bharatiya Nagarik Suraksha Sanhita) instead of the Bharatiya Nyaya Sanhita.
54	Now as 49	Re-numbering	No change in the content.
<p>55. Character as affecting damages. In civil cases, the fact that the character of any person is such as to affect the amount of damages which</p>	<p>50. Character as affecting damages. In civil cases, the fact that the character of any person is such as to affect the amount of amages</p>	Re-numbering; changes in references to sections as appearing in the	Incomplete sentence - ' <i>In this and sections 46, 47 and 49, the word...</i> '

<p>he ought to receive, is relevant.</p> <p>Explanation. -- In sections 52, 53, 54 and 55, the word "character" includes both reputation and disposition; but, except as provided in section 54, evidence may be given only of general reputation and general disposition, and not of articular acts by which reputation or disposition were shown.</p>	<p>which he ought to receive, is relevant.</p> <p>Explanation. -- In this and sections 46, 47 and 49, the word "character" includes both reputation and disposition; but, except as provided in section 59, evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition has been shown.</p>	<p>new Bill; drafting error</p>	
<p>56</p>	<p>Now as 51</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>57. Facts of which Court must take judicial notice. The Court shall take judicial notice of the following facts:</p> <ol style="list-style-type: none"> (1) All laws in force in the territory of India; (2) All public Acts passed or hereafter to be passed by Parliament of the United Kingdom, and all local and personal Acts directed by Parliament of the United Kingdom to be judicially noticed; (3) Articles of War for the Indian Army, Navy or Air Force (4) The course of proceeding of Parliament of the United Kingdom, of the Constituent Assembly of India, of Parliament and of the legislatures established under 	<p>52. Facts of which Court shall take judicial notice.</p> <p>(1) The Court shall take judicial notice of the following facts, namely:-</p> <ol style="list-style-type: none"> a) All laws in force in the territory of India including laws having extra-territorial operation; b) international treaty, agreement or convention with country or countries by India, or decisions made by India at the international associations or other bodies; c) the course of proceedings of the Constituent Assembly of India, of Parliament of India and of the State Legislatures; d) the seals of all Courts and Tribunals 	<p>Major</p>	<p>As is evident, multiple colonial references have been removed in the provision on judicial notice. Further, new facts have been added of which the Court "shall" take judicial notice. These are: laws having extra-territorial operation; international treaty, agreement or convention with country or countries by India, or decisions made by India at the international associations or other bodies; and seals of Tribunals in addition to seals of courts</p> <p>Furthermore, serial numbering added to divide the section into sub-sections (1) and (2).</p>

<p>any laws for the time being in force in a Province or in the States;</p> <p>(5) The accession and the sign manual of the Sovereign for the time being of the United Kingdom of Great Britain and Ireland;</p> <p>(6) All seals of which English Courts take judicial notice: the seals of all the Courts in India and of all Courts out of India established by the authority of the Central Government or the Crown Representative; the seals of Courts of Admiralty and Maritime Jurisdiction and of Notaries Public, and all seals which any person is authorised to use by the Constitution or an Act of Parliament of the United Kingdom or an Act or Regulation having the force of law in India;</p> <p>(7) The accession to office, names, titles, functions, and signatures of the persons filling for the time being any public office in any State, if the fact of their appointment to such office is notified in any Official Gazette;</p>	<p>e) the seals of Courts of Admiralty and Maritime Jurisdiction, Notaries Public, and all seals which any person is authorised to use by the Constitution, or by an Act of Parliament or State Legislatures, or Regulations having the force of law in India;</p> <p>f) the accession to office, names, titles, functions, and signatures of the persons filling for the time being any public office in any State, if the fact of their appointment to such office is notified in any Official Gazette;</p> <p>g) the existence, title and national flag of every country or sovereign recognised by the Government of India;</p> <p>h) the divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the Official Gazette;</p> <p>i) the territory of India;</p> <p>j) the commencement, continuance and</p>		
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<p>(8) The existence, title and national flag of every State or Sovereign recognised by Government of India;</p> <p>(9) The divisions of time, the geographical divisions of the world, and public festivals, fasts and holidays notified in the Official Gazette;</p> <p>(10) The territories under the dominion of the Government of India;</p> <p>(11) The commencement, continuance and termination of hostilities between the Government of India and any other State or body of persons;</p> <p>(12) The names of the members and officers of the Court, and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and all advocates, attorneys, proctors, vakils, pleaders and other persons authorised by law to appear or act before it;</p> <p>(13) The rule of the road on land or at sea.</p>	<p>termination of hostilities between the Government of India and any other country or body of persons;</p> <p>k) the names of the members and officers of the Court, and of their deputies and subordinate officers and assistants, and also of all officers acting in execution of its process, and of advocates and other persons authorised by law to appear or act before it;</p> <p>1) the rule of the road or land or at the sea.</p> <p>(2) In the cases referred to in sub-section (1) and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference and if the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.</p>		
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<p>In all these cases and also on all matters of public history, literature, science or art, the Court may resort for its aid to appropriate books or documents of reference.</p> <p>If the Court is called upon by any person to take judicial notice of any fact, it may refuse to do so unless and until such person produces any such book or document as it may consider necessary to enable it to do so.</p>			
58	Now as 53	Re-numbering	No change in the content.
59	Now as 54	Re-numbering	No change in the content.
60	Now as 55	Re-numbering; serial numbers added within the section.	No change in the content.
61	Now as 56	Re-numbering	No change in the content.
<p>62. Primary evidence. -- Primary evidence means the document itself produced for the inspection of the Court.</p> <p>Explanation 1. --Where a document is executed in several parts, each part is primary evidence of the document.</p> <p>Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.</p> <p>Explanation 2. -- Where a number of documents are</p>	<p>57. Primary evidence means the document itself produced for the inspection of the Court.</p> <p>Explanation 1. -- Where a document is executed in several parts, each part is primary evidence of the document.</p> <p>Explanation 2. -- Where a document is executed in counterpart, each counterpart being executed by one or some of the parties only, each counterpart is primary evidence as against the parties executing it.</p> <p>Explanation 3. -- Where a number of documents are</p>	Major	<p>Explanation 1, Para 2 has now been labelled as Explanation 2 in the Bill. Other additions (additional Explanations) are in green. These reflect new provisions on electronic evidence and the cases in which electronic records are treated as primary evidence.</p>

<p>all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.</p> <p>Illustration</p> <p>A person is shown to have been in possession of a number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.</p>	<p>all made by one uniform process, as in the case of printing, lithography or photography, each is primary evidence of the contents of the rest; but, where they are all copies of a common original, they are not primary evidence of the contents of the original.</p> <p>Explanation 4. — Where an electronic or digital record is created or stored, and such storage occurs simultaneously or sequentially in multiple files, each such file is primary evidence.</p> <p>Explanation 5. — Where an electronic or digital record is produced from proper custody, such electronic and digital record is primary evidence unless it is disputed.</p> <p>Explanation 6. — Where a video recording is simultaneously stored in electronic form and transmitted or broadcast or transferred to another, each of the stored recordings is primary evidence.</p> <p>Explanation 7. — Where an electronic or digital record is stored in multiple storage spaces in a computer resource, each such automated storage, including temporary files, is primary evidence.</p> <p>Illustration.</p> <p>A person is shown to have been in possession of a</p>		
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	<p>number of placards, all printed at one time from one original. Any one of the placards is primary evidence of the contents of any other, but no one of them is primary evidence of the contents of the original.</p>		
<p>63. Secondary evidence means and includes –</p> <ol style="list-style-type: none"> 1) certified copies given under the provisions hereinafter contained; 2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy; and copies compared with such copies; 3) copies made from or compared with the original; 4) counterparts of documents as against the parties who did not execute them; 5) oral accounts of the contents of a document given by some person who has himself seen it. <p>[Illustrations here not changed in the Bill]</p>	<p>58. Secondary evidence includes –</p> <ol style="list-style-type: none"> 1) certified copies given under the provisions hereinafter contained; 2) copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy; and copies compared with such copies; 3) copies made from or compared with the original; 4) counterparts of documents as against the parties who did not execute them; 5) oral accounts of the contents of a document given by some person who has himself seen it; 6) oral admissions; 7) written admissions 8) evidence of a person who has examined a document, the original of which consists of numerous accounts or other documents which 	<p>Major</p>	<p>The deletions from the Act are in yellow and additions in the Bill in green.</p> <p>The Bill expands the scope of secondary evidence significantly. The change in the definition from '<i>means and includes</i>' to '<i>includes</i>' makes the definition non-exhaustive. Further, new categories of secondary evidence are added in sub-sections (6)-(8). Two of these, i.e. written admissions and evidence by person examining a document, are added to address an existing anomaly of the IEA – these two were permitted to be used in Section 65 IEA (60 of the Bill) without an inclusion in the exhaustive definition of secondary evidence in 63 IEA. The Bill includes them in the definition of secondary evidence but goes a step ahead to make the entire definition non-exhaustive.</p>

	<p>cannot conveniently be examined in Court, and who is skilled in the examination of such documents.</p> <p>[Illustrations here don't change those in the Act]</p>		
64	Now as 59	Re-numbering	No change in the content.
<p>65. Cases in which secondary evidence relating to documents may be given. Secondary evidence may be given of the existence, condition, or contents of a document in the following cases:</p> <p>(a) when the original is shown or appears to be in the possession or power – of the person against whom the document is sought to be proved, or of any person out of reach of, or not subject to, the process of the Court, or of any person legally bound to produce it, and when after the notice mentioned in section 66, such person does not produce it;</p> <p>(b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person</p>	<p>60. Cases in which secondary evidence relating to documents may be given. Secondary evidence may be given of the existence, condition, or contents of a document in the following cases, namely:-</p> <p>(a) when the original is shown or appears to be in the possession or power –</p> <ol style="list-style-type: none"> i. of the person against whom the document is sought to be proved; or ii. of any person out of reach of, or not subject to, the process of the Court; or iii. of any person legally bound to produce it, <p>and when after the notice mentioned in section 64, such person does not produce it;</p> <p>(b) when the existence, condition or contents of the original have been proved to be</p>	<p>Major; incomplete drafting/ drafting error</p>	<p>The new section streamlines the serial numbering of the sub-clauses under (a); replaces references to sections as per their new numbering in the Bill; and terms para 2 as an 'Explanation' which speaks of what secondary evidence is to be given in the cases mentioned in this section. However, apart from these minor changes, the section inserts an additional case/scenario in which secondary evidence may be given – i.e. <i>(h) where the genuineness of the document itself in question.</i> However, it does not add a corresponding provision in the Explanation to explain what secondary evidence is to be given for this case.</p>

<p>against whom it is proved or by his representative in interest;</p> <p>(c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any reason not arising from his own default or neglect, produce it in reasonable time;</p> <p>(d) when the original is of such a nature as not to be easily movable;</p> <p>(e) when the original is a public document within the meaning of section 74;</p> <p>(f) when the original is a document of which a certified copy is permitted by this Act, or by any other law in force in India to be given in evidence;</p> <p>(g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection.</p> <p>In cases (a), (c) and (d), any secondary evidence of the contents of the document is admissible.</p> <p>In case (b), the written admission is admissible.</p> <p>In case (e) or (f), a certified copy of the document, but</p>	<p>admitted in writing by the person against whom it is proved or by his representative in interest;</p> <p>(c) when the original has been destroyed or lost, or when the party offering evidence of its contents cannot, for any reason not arising from his own default or neglect, produce it in reasonable time;</p> <p>(d) when the original is of such a nature as not to be easily movable;</p> <p>(e) when the original is a public document within the meaning of section 74;</p> <p>(f) when the original is a document of which a certified copy is permitted by this Adhiniyam, or by any other law in force in India to be given in evidence;</p> <p>(g) when the originals consist of numerous accounts or other documents which cannot conveniently be examined in Court, and the fact to be proved is the general result of the whole collection;</p>		
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<p>no other kind of secondary evidence, is admissible. In case (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents.</p>	<p>(h) when the genuineness of the document itself is in question.</p> <p><i>Explanation.</i> - For the purposes of, -</p> <ul style="list-style-type: none"> (i) clause (a), (c) and (d), any secondary evidence of the contents of the document is admissible. (j) clause (b), the written admission is admissible; (k) clauses (e) or (f), a certified copy of the document, but no other kind of secondary evidence, is admissible; (l) clause (g), evidence may be given as to the general result of the documents by any person who has examined them, and who is skilled in the examination of such documents. 		
<p>N/A</p>	<p>61. Admissibility of electronic record or digital signature. Nothing in the Adhiniyam shall apply to deny the admissibility of an electronic or digital record in the evidence on the ground that it is an electronic or digital record and such record shall have the same legal effect, validity and enforceability as paper records.</p>	<p>Major</p>	<p>New insertion. This new section is in the nature of additional emphasis to treat electronic records at par with documentary evidence, even though the Indian Evidence Act, 1872 as amended by the Information Technology Act, 2000 had made that clarification under Section 65B - treating electronic records as deemed documents.</p>

65A	Now as 61	Re-numbering	No change in the content.
<p>65B. Admissibility of electronic records.</p> <p>(1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.</p> <p>(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely: --</p>	<p>63. Admissibility of electronic records.</p> <p>(1) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or any communication device or otherwise stored, recorded or copied in any electronic form (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein</p>	Major	<p>Electronic evidence is an area where apart from primary/secondary evidence, substantive changes have been brought by the Sakshya Bill. The green highlights refer to the additions made in the Bill and the yellow highlights refer to the deletions made in the IEA. The new provision applies to electronic records contained in semiconductor memories in addition to those printed on paper, stored/recorded/copied in optical or magnetic media. The new provision also extends its applicability to 'any communication device' in addition to electronic records. Sub-section (3) further streamlines and nuances the definition of a computer or a communication device by giving it a broader scope. It should also be noted that the new provision retains the mandatory requirement of the certificate, but it clarifies that the certificate has to be submitted along with the electronic record at each instance where it electronic evidence is being submitted before a court. Furthermore, earlier the certificate had to be given by a person 'occupying a responsible official position', now it is clarified that any person 'in charge of the computer or communication device and an expert (whichever is appropriate)' can give the certificate. While IEA did not specify the form of the certificate which in practice was often given as an</p>

<p>(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;</p> <p>(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;</p> <p>(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which</p>	<p>of which direct evidence would be admissible.</p> <p>(2) The conditions referred to in subsection (1) in respect of a computer output shall be the following, namely:</p> <p>--</p> <p>(a) the computer output containing the information was produced by the computer or communication device during the period over which the computer was used regularly to create, store or process information for the purposes of any activity regularly carried on over that period by the person having lawful control over the use of the computer or communication device;</p> <p>(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is</p>		<p>affidavit, the Bill provides for the certificate to take the form of the new Schedule. Part A of the Schedule is to be furnished by the party while Part B by the expert. Part B asks for additional information to be furnished such as Hash Value, Hashing Algorithm, along with the Hash report to be enclosed with the certificate.</p>
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<p>it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and</p> <p>(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.</p> <p>(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether--</p> <p>(a) by a combination of computers operating over that period; or</p> <p>(b) by different computers operating in succession over that period; or</p>	<p>derived was regularly fed into the computer in the ordinary course of the said activities;</p> <p>(c) throughout the material part of the said period, the computer or communication device was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and</p> <p>(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.</p> <p>(3) Where over any period, the function of creating, storing or</p>		
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- (c) by different combinations of computers operating in succession over that period; or
- (d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers,

all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

- (4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, --
 - (a) identifying the electronic record containing the statement and describing the manner in which it was produced;
 - (b) giving such particulars of any device involved in the

processing information for the purposes of any activity regularly carried on over that period as mentioned in clause (a) of subsection (2) was regularly performed by means of one or more computers or communication device, whether –

- (a) in standalone mode; or
- (b) on a computer system; or
- (c) on a computer network; or
- (d) on a computer resource enabling information-creation or providing information – processing and storage; or
- (e) through an intermediary.

Explanation. – All the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

- (4) In any proceeding where it is desired to give a statement in evidence by virtue of this section, a certificate doing

<p>production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;</p> <p>(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.</p> <p>(5) For the purposes of this section, --</p> <p>(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without</p>	<p>any of the following things shall be submitted along with the electronic record at each instance where it is being submitted for admission, namely:</p> <p>(a) identifying the electronic record containing the statement and describing the manner in which it was produced;</p> <p>(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses (a) to (e) of sub-section (3);</p> <p>(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person in</p>		
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human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation.-- For the purposes of this section any reference to information being derived from other

charge of the computer or communication device and an expert (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it in the form specified in the Schedule.

(5) For the purposes of this section, —
(a) information shall be taken to be supplied to a computer or communication device if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

<p>information shall be a reference to its being derived therefrom by calculation, comparison or any other process</p>	<p>(b) a computer output shall be taken to have been produced by a computer or communication device whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment or by other electronic means as referred to in clauses (a) to (e) of subsection (3).</p>		
<p>66. Rules as to notice to produce. - Secondary evidence of the contents of the documents referred to in section 65, clause (a), shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his attorney or pleader, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:</p> <p>Provided that such notice shall not be required in</p>	<p>64. Rules as to notice to produce. - Secondary evidence of the contents of the documents referred to in clause (a) of section 60, shall not be given unless the party proposing to give such secondary evidence has previously given to the party in whose possession or power the document is, or to his advocate or representative, such notice to produce it as is prescribed by law; and if no notice is prescribed by law, then such notice as the Court considers reasonable under the circumstances of the case:</p>	<p>Minor</p>	<p>Apart from the re-numbering corrections, out-of-date references to 'attorney or pleader' have been substituted by 'advocate or representative'.</p>

<p>order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it: --</p> <ol style="list-style-type: none"> (1) when the document to be proved is itself a notice; (2) when, from the nature of the case, the adverse party must know that he will be required to produce it; (3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force; (4) when the adverse party or his agent has the original in Court; (5) when the adverse party or his agent has admitted the loss of the document; (6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court. 	<p>Provided that such notice shall not be required in order to render secondary evidence admissible in any of the following cases, or in any other case in which the Court thinks fit to dispense with it: --</p> <ol style="list-style-type: none"> (a) when the document to be proved is itself a notice; (b) when, from the nature of the case, the adverse party must know that he will be required to produce it; (c) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force; (d) when the adverse party or his agent has the original in Court; (e) when the adverse party or his agent has admitted the loss of the document; (f) when the person in possession of the document is out of reach of, or not subject to, the process of the Court. 		
67	Now as 65	Re-numbering	No change in the content.
67-A	Now as 66	Re-numbering	No change in the content.
68	Now as 67	Re-numbering	No change in the content.

<p>69. Proof where no attesting witness found.-- If no such attesting witness can be found, or if the document purports to have been executed in the United Kingdom, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the hand writing of that person.</p>	<p>68. Proof where no attesting witness found. If no such attesting witness can be found, it must be proved that the attestation of one attesting witness at least is in his handwriting, and that the signature of the person executing the document is in the handwriting of that person.</p>	<p>Minor</p>	<p>Colonial reference to execution of document in the United Kingdom omitted.</p>
<p>70</p>	<p>Now as 69</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>71</p>	<p>Now as 70</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>72</p>	<p>Now as 71</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>73</p>	<p>Now as 72</p>	<p>Re-numbering; internal serial-numbers added for the paragraphs.</p>	<p>No change in the content.</p>
<p>73A. Proof as to verification of digital signature. -- In order to ascertain whether a digital signature is that of the person by whom it purports to have been affixed, the Court may direct -- (a) that person or the Controller or the Certifying Authority to produce the Digital Signature Certificate; (b) any other person to apply the public key listed in the Digital Signature Certificate and verify the digital signature purported to have been affixed by that person.</p>	<p>73. Proof as to verification of digital signature. In order to ascertain whether a digital signature is that of the person by whom it purports to have been affixed, the Court may direct -- (a) that person or the Controller or the Certifying Authority to produce the Digital Signature Certificate; (b) any other person to apply the public key listed in the Digital Signature Certificate and verify the digital signature purported to have been affixed by that</p>	<p>Minor; drafting error</p>	<p>The Explanation attached to Section 73A of IEA has been omitted in Section 73 of the Bill. It is not clear what is the rationale as the definition of Controller under the Information Technology Act, 2000 continues to be relevant – which Act having inserted Section 73A originally in the IEA. This could be an oversight in the drafting.</p>

<p>Explanation. -- For the purposes of this section, "Controller" means the Controller appointed under sub-section (1) of section 17 of the Information Technology Act, 2000 (21 of 2000).</p>	<p>person.</p>		
<p>74. Public documents.-- The following documents are public documents: --</p> <p>(1) Documents forming the acts, or records of the acts --</p> <p>(i) of the sovereign authority,</p> <p>(ii) of official bodies and tribunals, and</p> <p>(iii) of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country;</p> <p>(2) Public records kept [in any State of private documents.</p> <p>75. Private documents. -- All other documents are private.</p>	<p>74. Public and private documents.</p> <p>(1) The following documents are public documents:-</p> <p>(a) documents forming the acts, or records of the acts -</p> <p>(i) of the sovereign authority;</p> <p>(ii) of official bodies and tribunals; and</p> <p>(iii) of public officers, legislative, judicial and executive of India or of a foreign country;</p> <p>(b) public records kept in any State or Union Territory of private documents.</p> <p>(2) All other documents except the documents referred to in sub-section (1) are private.</p>	<p>Minor</p>	<p>The earlier sections 74 and 75 dealing with public documents and private documents, respectively, have been clubbed as different sub-sections of section 74 of the Bill; reference to the Commonwealth has been omitted; and reference to Union Territory in addition to State has been added.</p>
<p>76</p>	<p>Now as 75</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>77</p>	<p>Now as 76</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>78. Proof of other official documents.-- The</p>	<p>77. Proof of other official documents. The following</p>	<p>Minor</p>	<p>Apart from serial numbering changes, the changes here</p>

<p>following public documents may be proved as follows:--</p> <p>(1) Acts, orders or notifications of the Central Government in any of its departments, or of the Crown Representative or of any State Government or any department of any State Government, -</p> <p>-</p> <p>by the records of the departments, certified by the head of those departments respectively, or by any document purporting to be printed by order of any such Government or, as the case may be, of the Crown Representative;</p> <p>(2) the proceedings of the Legislatures,--</p> <p>by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government concerned;</p> <p>(3) proclamations, orders or regulations issued by Her Majesty or by the Privy Council, or by any department of Her Majesty's Government,--</p>	<p>public documents may be proved as follows:—</p> <p>(a) Acts, orders or notifications of the Central Government in any of its Ministries and Departments or of any State Government or any Department of any State Government or Union territory Administration, —</p> <p>i. by the records of the Departments, certified by the head of those Departments respectively; or</p> <p>ii. by any document purporting to be printed by order of any such Government;</p> <p>iii. the proceedings of Parliament or a State Legislative Assembly, by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government concerned;</p> <p>(b) proclamations, orders or regulations issued</p>		<p>mostly are devoted to removing colonial references. Deletions are in the yellow highlights and additions made by the Bill in green.</p>
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<p>by copies or extracts contained in the London Gazette, or purporting to be printed by the Queen's Printer;</p> <p>(4) the Acts of the Executive or the proceedings of the Legislature of a foreign country, -- by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some Central Act:</p> <p>(5) the proceedings of a municipal body in a State, -- by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body;</p> <p>(6) public documents of any other class in a foreign country, - - by the original, or by a copy certified by the legal keeper thereof, with a certificate under the seal of a Notary Public, or of an Indian Consul or diplomatic agent, that the copy is duly certified by the</p>	<p>by the President of India or the Governor of a State or the Administrator or Lieutenant Governor of a Union territory, by copies or extracts contained in the Official Gazette;</p> <p>(c) the Acts of the Executive or the proceedings of the Legislature of a foreign country, --- by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof in some Central Act;</p> <p>(d) the proceedings of a municipal or local body in a State, by a copy of such proceedings, certified by the legal keeper thereof, or by a printed book purporting to be published by the authority of such body;</p> <p>(e) public documents of any other class in a foreign country, -- by the original or by a copy certified by the legal keeper thereof, with a</p>		
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<p>officer having the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.</p>	<p>certificate under the seal of a Notary Public, or of an Indian Consul or diplomatic agent, that the copy is duly certified by the officer the legal custody of the original, and upon proof of the character of the document according to the law of the foreign country.</p>		
<p>79. Presumption as to genuineness of certified copies. -- The Court shall presume to be genuine every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact, and which purports to be duly certified by any officer of the Central Government or of a State Government, or by any officer in the State of Jammu and Kashmir who is duly authorized thereto by the Central Government Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf. The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official</p>	<p>78. Presumption as to genuineness of certified copies.</p> <p>(1) The Court shall presume to be genuine every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact, and which purports to be duly certified by any officer of the Central Government or of a State Government: Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.</p> <p>(2) The Court shall also presume that any officer by</p>	<p>Minor</p>	<p>Special reference to Jammu & Kashmir removed.</p>

character which he claims in such paper.	whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.		
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80.	Now as 79	Re-numbering	No change in the content.
81. Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents.-- The Court shall presume the genuineness of every document purporting to be the London Gazette or 1[any Official Gazette, or the Government Gazette] of any colony, dependency or possession of the British Crown, or to be a newspaper or journal, or to be a copy of a private Act of Parliament [of the United Kingdom] printed by the Queen's Printer, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.	Presumption as to Gazettes, newspapers, and other documents. 80. The Court shall presume the genuineness of every document purporting to be the Official Gazette, or to be a newspaper or journal, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody. Explanation – For the purposes of this section and section 92, document is said to be in proper custody if it is in the place in which, and looked after by the person with whom such document is required to be kept; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render that origin probable.	Minor and Re-numbering	'Private acts of Parliament' removed from the title, References to 'London, British Crown, UK' removed from the text.
[81A. Presumption as to Gazettes in electronic forms--The Court shall presume the genuineness of every electronic record purporting to be the Official Gazette, or	Presumption as to Gazettes in electronic or digital record. 81. The Court shall presume the genuineness of every electronic or digital record purporting to be the Official	Minor and Re-numbering	'or digital record' added to the title and text.

<p>purporting to be electronic record directed by any law to be kept by any person, if such electronic record is kept substantially in the form required by law and is produced from proper custody.]</p>	<p>Gazette, or purporting to be electronic or digital record directed by any law to be kept by any person, if such electronic or digital record is kept substantially in the form required by law and is produced from proper custody.</p> <p>Explanation – For the purposes of this section and section 96 electronic records are said to be in proper custody if they are in the place in which, and looked after by the person with whom such document is required to be kept; but no custody is improper if it is proved to have had a legitimate origin, or the circumstances of the particular case are such as to render that origin probable.</p>		
82	Omitted	Omitted	
83	Now as 82	Re-numbering	No change in the content.
84	Now as 83	Re-numbering	No change in the content.
85	Now as 84	Re-numbering	No change in the content.
<p>85A. Presumption as to electronic agreements. -- The Court shall presume that every electronic record purporting to be an agreement containing the [electronic signature] of the parties was so concluded by affixing the [electronic signature] of the parties.</p>	<p>Presumption as to electronic agreements.</p> <p>85. The Court shall presume that every electronic record purporting to be an agreement containing the electronic or digital signature of the parties was so concluded by affixing the electronic or digital signature of the parties.</p>	Minor and Re-numbering	'digital signature' added to the text
<p>85B. Presumption as to electronic records and [electronic signatures]. -- (1) In any proceedings involving a secure electronic record, the Court</p>	<p>Presumption as to electronic records and electronic signatures.</p> <p>86. (1) In any proceedings involving a secure electronic record, the Court shall</p>	Minor and Re-numbering	In (2), electronic signature replaced with 'digital signature'

<p>shall presume unless contrary is proved, that the secure electronic record has not been altered since the specific point of time to which the secure status relates.</p> <p>(2) In any proceedings, involving secure [electronic signature], the Court shall presume unless the contrary is proved that—</p> <p>(a) the secure [electronic signature] is affixed by subscriber with the intention of signing or approving the electronic record;</p> <p>(b) except in the case of a secure electronic record or a secure [electronic signature], nothing in this section shall create any presumption, relating to authenticity and integrity of the electronic record or any [electronic signature].</p>	<p>presume unless contrary is proved, that the secure electronic record has not been altered since the specific point of time to which the secure status relates.</p> <p>(2) In any proceedings, involving secure digital signature, the Court shall presume unless the contrary is proved that—</p> <p>(a) the secure electronic signature is affixed by subscriber with the intention of signing or approving the electronic record;</p> <p>(b) except in the case of a secure electronic record or a secure electronic signature, nothing in this section shall create any presumption, relating to authenticity and integrity of the electronic record or any electronic signature.</p>		
85C	Now as 87	Re-numbering	No change in the content.
<p>86. Presumption as to certified copies of foreign judicial records. The Court may presume that any document purporting to be a certified copy of any judicial record of [* * * any country not forming part of India or] of Her Majesty's Dominions is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of * * * the [Central Government] [in or for] [such country] to be the manner commonly in</p>	<p>Presumption as to certified copies of foreign judicial records.</p> <p>88. (1) The Court may presume that any document purporting to be a certified copy of any judicial record of any country beyond India is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the Central Government, in or for such country, to be the manner commonly in use in that country for the certification of copies of judicial records.</p>	Minor and Re-numbering	'any country not forming part of India or of Her Majesty's Dominions' in the text replaced with 'any country beyond India'

<p>use in [that country] for the certification of copies of judicial records. [An officer who, with respect to *** any territory or place not forming part of [India or] Her Majesty's Dominions, is a Political Agent there for, as defined in section 3, [clause (43)], of the General Clauses Act, 1897 (10 of 1897), shall, for the purposes of this section, be deemed to be a representative of the [Central Government] [in and for the country] comprising that territory or place.]</p>	<p>(2) An officer who, with respect to any territory or place outside India is a Political Agent therefor, as defined in clause (43) of section 3 of the General Clauses Act, 1897, shall, for the purposes of this section, be deemed to be a representative of the Central Government in and for the country comprising that territory or place.</p>		
87	Now as 89	Re-numbering	No change in the content.
88	Omitted	Omitted	
<p>[88A. Presumption as to electronic messages--The Court may presume that an electronic message, forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission; but the Court shall not make any presumption as to the person by whom such message was sent.</p> <p>Explanation--For the purposes of this section, the expressions "addressee" and "originator" shall have the same meanings respectively assigned to them in clauses (b) and (za) of sub-section (1) of</p>	<p>Presumption as to electronic messages. 90. The Court may presume that an electronic message, forwarded by the originator through an electronic mail server to the addressee to whom the message purports to be addressed corresponds with the message as fed into his computer for transmission; but the Court shall not make any presumption as to the person by whom such message was sent.</p>	<p>Minor and Re-numbering</p>	<p>Explanation deleted.</p>

<p>section 2 of the Information Technology Act, 2000 (21 of 2000).]</p>			
<p>89</p>	<p>Now as 91</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>90. Presumption as to documents thirty years old--Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.</p> <p>Explanation.--Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable. This Explanation applies also to section 81.</p> <p>Illustrations</p> <p>(a) A has been in possession of landed property for a long time. He produces from his custody deeds</p>	<p>Presumption as to documents thirty years old.</p> <p>92. Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person's handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.</p> <p>Explanation to section 83 shall also apply to this section.</p> <p>Illustration.</p> <p>(a) A has been in possession of landed property for a long time. He produces from his custody deeds relating to the land showing his titles to it. The custody shall be proper.</p> <p>(b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody shall be proper.</p> <p>(c) A, a connection of B, produces deeds relating to lands in B's possession, which were deposited with him by B for safe custody. The custody shall be proper.</p>	<p>Minor and Re-numbering but contains error</p>	<p>Explanation deleted and mentioned explanation to section 83 also applies to this section. Interestingly in the bill Section 83 does not carry any explanation.</p>

<p>relating to the land showing his titles to it. The custody is proper.</p> <p>(b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody is proper. (c) A, a connection of B, produces deeds relating to lands in B's possession, which were deposited with him by B for safe custody. The custody is proper.</p>			
<p>90A. Presumption as to electronic records five years old--Where any electronic record, purporting or proved to be five years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the [electronic signature] which purports to be the [electronic signature] of any particular person was so affixed by him or any person authorised by him in this behalf.</p> <p>Explanation--Electronic records are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they naturally be; but no custody is improper if it is proved to have had a legitimate origin, or the circumstances of the particular case are such as to render such an origin probable. This Explanation applies also to section 81A.</p>	<p>Presumption as to electronic records five years old.</p> <p>93. Where any electronic record, purporting or proved to be five years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the electronic signature which purports to be the electronic signature of any particular person was so affixed by him or any person authorised by him in this behalf.</p> <p>Explanation to section 84 shall also apply to this section.</p>	<p>Minor and Re-numbering but contains error</p>	<p>Mentioned explanation to section 84 also applies to this section. Interestingly in the bill Section 84 does not carry any explanation.</p>
<p>91</p>	<p>Now as 94</p>	<p>Re-numbering</p>	<p>No change in the content.</p>

<p>92. Exclusion of evidence of oral agreement--When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:</p> <p>Proviso (1).--Any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, [want or failure] of consideration, or mistake in fact or law.</p> <p>Proviso (2).--The existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document.</p> <p>Proviso (3).--The existence of any separate oral agreement, constituting a</p>	<p>Exclusion of evidence of oral agreement.</p> <p>95. When the terms of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of a document, have been proved according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such instrument or their representatives in interest, for the purpose of contradicting, varying, adding to, or subtracting from, its terms:</p> <p>Provided that any fact may be proved which would invalidate any document, or which would entitle any person to any decree or order relating thereto; such as fraud, intimidation, illegality, want of due execution, want of capacity in any contracting party, want or failure of consideration, or mistake in fact or law:</p> <p>Provided further that the existence of any separate oral agreement as to any matter on which a document is silent, and which is not inconsistent with its terms, may be proved. In considering whether or not this proviso applies, the Court shall have regard to the degree of formality of the document:</p> <p>Provided also that the existence of any separate oral agreement, constituting a condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved:</p> <p>Provided also that the existence of any distinct</p>	<p>Minor and Re-numbering</p>	<p>Proviso numbers removed and altered to "Provided that.". After each proviso instead of full stop, there is a colon now. Illustration a,b,g,h have been updated in terms of City, Date and amount respectively.</p>
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<p>condition precedent to the attaching of any obligation under any such contract, grant or disposition of property, may be proved.</p> <p>Proviso (4).--The existence of any distinct subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents.</p> <p>Proviso (5).--Any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved:</p> <p>Provided that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract.</p> <p>Proviso (6).--Any fact may be proved which shows in what manner the language of a document is related to existing facts.</p> <p>Illustrations</p> <p>(a) A policy of insurance is effected on goods "in ships from Calcutta to London". The goods are shipped in a particular ship which is lost. The fact that particular ship was orally excepted from the</p>	<p>subsequent oral agreement to rescind or modify any such contract, grant or disposition of property, may be proved, except in cases in which such contract, grant or disposition of property is by law required to be in writing, or has been registered according to the law in force for the time being as to the registration of documents:</p> <p>Provided also that any usage or custom by which incidents not expressly mentioned in any contract are usually annexed to contracts of that description, may be proved:</p> <p>Provided also that the annexing of such incident would not be repugnant to, or inconsistent with, the express terms of the contract:</p> <p>Provided also that any fact may be proved which shows in what manner the language of a document is related to existing facts.</p> <p>Illustration.</p> <p>(a) A policy of insurance is effected on goods "in ships from Kolkata to Vishakhapatnam". The goods are shipped in a particular ship which is lost. The fact that particular ship was orally excepted from the policy, cannot be proved.</p> <p>(b) A agrees absolutely in writing to pay B one thousand rupees on the 1st March, 2023. The fact that, at the same time, an oral agreement was made that the money should not be paid till the 31st March, 2023, cannot be proved.</p> <p>(c) An estate called "the Rampur tea estate" is sold by a deed which contains a map of the property sold. The fact that</p>		
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<p>policy, cannot be proved.</p> <p>(b) A agrees absolutely in writing to pay B Rs. 1,000 on the first March 1873. The fact that, at the same time, an oral agreement was made that the money should not be paid till the thirty-first March, cannot be proved.</p> <p>(c) An estate called "the Rampore tea estate" is sold by a deed which contains a map of the property sold. The fact that land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.</p> <p>(d) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.</p> <p>(e) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.</p> <p>(f) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term</p>	<p>land not included in the map had always been regarded as part of the estate and was meant to pass by the deed cannot be proved.</p> <p>(d) A enters into a written contract with B to work certain mines, the property of B, upon certain terms. A was induced to do so by a misrepresentation of B's as to their value. This fact may be proved.</p> <p>(e) A institutes a suit against B for the specific performance of a contract, and also prays that the contract may be reformed as to one of its provisions, as that provision was inserted in it by mistake. A may prove that such a mistake was made as would by law entitle him to have the contract reformed.</p> <p>(f) A orders goods of B by a letter in which nothing is said as to the time of payment, and accepts the goods on delivery. B sues A for the price. A may show that the goods were supplied on credit for a term still unexpired.</p> <p>(g) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse for thirty thousand rupees". B may prove the verbal warranty.</p> <p>(h) A hires lodgings of B, and gives B a card on which is written – "Rooms, ten thousand rupees a month." A may prove a verbal agreement that these terms were to include partial board. A hires lodging of B for a year, and a regularly stamped agreement, drawn up by an advocate, is made between them. It is silent on the subject of board. A may</p>		
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<p>still unexpired.</p> <p>(g) A sells B a horse and verbally warrants him sound. A gives B a paper in these words: "Bought of A a horse of Rs. 500". B may prove the verbal warranty.</p> <p>(h) A hires lodgings of B, and gives B a card on which is written--"Rooms, Rs. 200 a month." A may prove a verbal agreement that these terms were to include partial board. A hires lodgings of B for a year, and a regularly stamped agreement, drawn up by an attorney, is made between them. It is silent on the subject of board. A may not prove that board was included in the term verbally.</p> <p>(i) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount, A may prove this.</p> <p>(j) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B, who sues A upon it. A may show the circumstances under which it was delivered.</p>	<p>not prove that board was included in the term verbally.</p> <p>(i) A applies to B for a debt due to A by sending a receipt for the money. B keeps the receipt and does not send the money. In a suit for the amount, A may prove this.</p> <p>(j) A and B make a contract in writing to take effect upon the happening of a certain contingency. The writing is left with B who sues A upon it. A may show the circumstances under which it was delivered.</p>		
<p>93. Exclusion of evidence to explain or amend ambiguous document-- When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.</p> <p>Illustrations</p>	<p>Exclusion of evidence to explain or Amend ambiguous document.</p> <p>96. When the language used in a document is, on its face, ambiguous or defective, evidence may not be given of facts which would show its meaning or supply its defects.</p> <p>Illustrations.</p>	<p>Minor and Re-numbering</p>	<p>Illustration a. has been updated in terms of amount.</p>

<p>(a) A agrees, in writing, to sell a horse to B for "Rs. 1,000 or Rs. 1,500". Evidence cannot be given to show which price was to be given.</p> <p>(b) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.</p>	<p>(a) A agrees, in writing, to sell a horse to B for "one lakh rupees or one lakh fifty thousand rupees". Evidence cannot be given to show which price was to be given.</p> <p>(b) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled.</p>		
<p>94. Exclusion of evidence against application of document to existing facts-- -When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.</p> <p>Illustration A sells to B, by deed, "my estate at Rampur containing 100 bighas". A has an estate at Rampur containing 100 bighas. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.</p>	<p>Exclusion of evidence Against application of document to existing facts.</p> <p>97. When language used in a document is plain in itself, and when it applies accurately to existing facts, evidence may not be given to show that it was not meant to apply to such facts.</p> <p>Illustration. A sells to B, by deed, "my estate at Rampur containing one hundred bighas". A has an estate at Rampur containing one hundred bighas. Evidence may not be given of the fact that the estate meant to be sold was one situated at a different place and of a different size.</p>	<p>Minor and Re-numbering</p>	<p>Illustration now mentioned 100 as 'hundred'.</p>
<p>95. Evidence as to document unmeaning reference to existing facts-- When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.</p> <p>Illustration A sells to B, by deed, "my house in Calcutta".</p>	<p>Evidence as to document unmeaning reference to existing facts.</p> <p>98. When language used in a document is plain in itself, but is unmeaning in reference to existing facts, evidence may be given to show that it was used in a peculiar sense.</p> <p>Illustration. A sells to B, by deed, "my house in Kolkata". A had no house in Kolkata, but it appears that he had a house at Howrah, of which B had been</p>	<p>Minor and Re-numbering</p>	<p>City name updated in illustration.</p>

<p>A had no house in Calcutta, but it appears that he had a house at Howrah, of which B had been in possession since the execution of the deed. These facts may be proved to show that the deed related to the house at Howrah.</p>	<p>in possession since the execution of the deed. These facts may be proved to show that the deed related to the house at Howrah.</p>		
<p>96. Evidence as to application of language which can apply to one only of several persons--When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to. Illustrations (a) A agrees to sell to B, for Rs. 1,000, "my white horse". A has two white horses. Evidence may be given of facts which show which of them was meant. (b) A agrees to accompany B to Haidarabad. Evidence may be given of facts showing whether Haidarabad in the Dekkhan or Haiderabad in Sind was meant.</p>	<p>Evidence as to application of language which can apply to one only of several persons. 99. When the facts are such that the language used might have been meant to apply to any one, and could not have been meant to apply to more than one, of several persons or things, evidence may be given of facts which show which of those persons or things it was intended to apply to. Illustration. (a) A agrees to sell to B, for one thousand rupees, "my white horse". A has two white horses. Evidence may be given of facts which show which of them was meant. (b) A agrees to accompany B to Ramgarh. Evidence may be given of facts showing whether Ramgarh in Rajasthan or Ramgarh in Uttarakhand was meant.</p>	<p>Minor and Re-numbering</p>	<p>Illustration a now mentions 1000 as one thousand. In illustration b, city and state has been updated.</p>
<p>97</p>	<p>Now as 100</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>98</p>	<p>Now as 101</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>99</p>	<p>Now as 102</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>100</p>	<p>Now as 103</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>101. Burden of proof--Whoever desires any Court</p>	<p>Burden of proof.</p>	<p>Minor and Re-numbering</p>	<p>Full stop removed after 'facts exists' and a 'and' added to</p>

<p>to give judgment as to any legal right or liability dependent on the existence of facts which he asserts, must prove that those facts exist. When a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.</p> <p>Illustrations (a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime. (b) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true. A must prove the existence of those facts.</p>	<p>104. Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist, and when a person is bound to prove the existence of any fact, it is said that the burden of proof lies on that person.</p> <p>Illustration. (a) A desires a Court to give judgment that B shall be punished for a crime which A says B has committed. A must prove that B has committed the crime. (b) A desires a Court to give judgment that he is entitled to certain land in the possession of B, by reason of facts which he asserts, and which B denies, to be true. A must prove the existence of those facts.</p>		<p>continue the following statement which in 1872 provision was divided by a full stop.</p>
<p>102</p>	<p>Now as 105</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>103</p>	<p>Now as 106</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>104</p>	<p>Now as 107</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>105. Burden of proving that case of accused comes within exceptions--When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Indian Penal Code (45 of 1860), or within any special exception or proviso contained in any other part of the same Code, or in any law defining the offence, is upon him, and the</p>	<p>Burden of proving that case of accused comes within exceptions. 108. When a person is accused of any offence, the burden of proving the existence of circumstances bringing the case within any of the General Exceptions in the Bharatiya Nyaya Sanhita, 2023 or within any special exception or proviso contained in any other part of the said Sanhita, or in any law defining the offence, is upon him, and the Court shall presume the absence of such circumstances. Illustration.</p>	<p>Minor and Re-numbering</p>	<p>In the text, the words 'Indian Penal Code 1860' have been updated with 'Bharatiya Nyaya Sanhita, 2023' and in illustration c, section numbers have been accordingly updated as per Bharatiya Nyaya Sanhita, 2023.</p>

<p>Court shall presume the absence of such circumstances.</p> <p>Illustrations</p> <p>(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act. The burden of proof is on A.</p> <p>(b) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control. The burden of proof is on A.</p> <p>(c) Section 325 of the Indian Penal Code (45 of 1860) provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments. A is charged with voluntarily causing grievous hurt under section 325. The burden of proving the circumstances bringing the case under section 335 lies on A.</p>	<p>(a) A, accused of murder, alleges that, by reason of unsoundness of mind, he did not know the nature of the act. The burden of proof is on A.</p> <p>(b) A, accused of murder, alleges that, by grave and sudden provocation, he was deprived of the power of self-control. The burden of proof is on A.</p> <p>(c) Section 325 of the Bharatiya Nyaya Sanhita, 2023 provides that whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be subject to certain punishments. A is charged with voluntarily causing grievous hurt under section 115. The burden of proving the circumstances bringing the case under said section 120 lies on A.</p>		
106	Now as 109	Re-numbering	No change in the content.
107	Now as 110	Re-numbering	No change in the content.
108. Burden of proving that person is alive who has not been heard of for seven years--[Provided that when] the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is [shifted to] the person who affirms it.	Burden of proving that person is alive who has not been heard of for seven years. 111. When the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is	Minor and Re-numbering	'Provided that' has been deleted.

	shifted to the person who affirms it.		
109	Now as 112	Re-numbering	No change in the content.
110	Now as 113	Re-numbering	No change in the content.
111	Now as 114	Re-numbering	No change in the content.
111A. Presumption as to certain offences--(1) Where a person is accused of having committed any offence specified in sub-section (2), in (a) any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order; or (b) any area in which there has been, over a period of more than one month, extensive disturbance of the public peace, and it is shown that such person had been at a place in such area at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence. (2) The offences referred to in sub-section (1) are the following, namely:-- (a) an offence under section 121, section 121A, section	Presumption as to certain offences. 115. (1) Where a person is accused of having committed any offence specified in sub-section (2), in— (a) any area declared to be a disturbed area under any enactment for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order; or (b) any area in which there has been, over a period of more than one-month, extensive disturbance of the public peace, and it is shown that such person had been at a place in such area at a time when firearms or explosives were used at or from that place to attack or resist the members of any armed forces or the forces charged with the maintenance of public order acting in the discharge of their duties, it shall be presumed, unless the contrary is shown, that such person had committed such offence. (2) The offences referred to in sub-section (1) are the following, namely:— (a) an offence under section 145, section 146, section 147 or section 148 of the Bharatiya Nyaya Sanhita, 2023;	Minor and Re-numbering	In sub section (2), reference to the Indian Penal Code has been replaced with reference to the bill and sections have been updated accordingly.

<p>122 or section 123 of the Indian Penal Code (45 of 1860); (b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 122 or section 123 of the Indian Penal Code (45 of 1860).]</p>	<p>(b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 147 or section 148 of the Bharatiya Nyaya Sanhita, 2023.</p>		
<p>112</p>	<p>Now as 116</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>113</p>	<p>Omitted</p>	<p>Omitted</p>	
<p>[113A. Presumption as to abetment of suicide by a married woman--When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband. Explanation--For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).]</p>	<p>Presumption as to abetment of suicide by a married woman. 117. When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband. Explanation--For the purposes of this section, "cruelty" shall have the same meaning as in section 84 of the Bharatiya Nyaya Sanhita, 2023.</p>	<p>Minor and Re-numbering</p>	<p>In the explanation, reference to the Indian Penal Code and provision has been updated with the Bill and re-numbered provision.</p>
<p>[113B. Presumption as to dowry death---When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman had been subjected</p>	<p>Presumption as to dowry death. 118. When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death, such woman had been subjected by</p>	<p>Minor and Re-numbering</p>	<p>In the explanation, reference to the Indian Penal Code and provision has been updated with the Bill and re-numbered provision.</p>

<p>by such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.</p> <p>Explanation.--For the purposes of this section, "dowry death" shall have the same meaning as in section 304B of the Indian Penal Code (45 of 1860).]</p>	<p>such person to cruelty or harassment for, or in connection with, any demand for dowry, the court shall presume that such person had caused the dowry death.</p> <p>Explanation. – For the purposes of this section, "dowry death" shall have the same meaning as in section 79 of the Bharatiya Nyaya Sanhita, 2023.</p>		
<p>114. Court may presume existence of certain facts. -- The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.</p> <p>Illustrations</p> <p>The Court may presume --</p> <p>(a) that a man who is in possession of stolen goods soon, after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;</p> <p>(b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars;</p> <p>(c) that a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;</p> <p>(d) that a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things</p>	<p>Court may presume existence of certain facts.</p> <p>119. (1) The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.</p> <p>Illustration.</p> <p>The Court may presume that –</p> <p>(a) a man who is in possession of stolen goods soon, after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;</p> <p>(b) an accomplice is unworthy of credit, unless he is corroborated in material particulars; (c) a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;</p> <p>(d) a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;</p>	<p>Minor and Re-numbering</p>	<p>Illustrations under sub-section (2) have been italicized.</p>

<p>usually cease to exist, is still in existence;</p> <p>(e) that judicial and official acts have been regularly performed;</p> <p>(f) that the common course of business has been followed in particular cases;</p> <p>(g) that evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;</p> <p>(h) that if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;</p> <p>(i) that when a document creating an obligation is in the hands of the obligor, the obligation has been discharged. But the Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it: --</p> <p>as to illustration (a) -- a shop-keeper has in his bill a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business;</p> <p>as to illustration (b) --A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took</p>	<p>(e) judicial and official acts have been regularly performed;</p> <p>(f) the common course of business has been followed in particular cases;</p> <p>(g) evidence which could be and is not produced would, if produced, be unfavourable to the person who withholds it;</p> <p>(h) if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;</p> <p>(i) when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.</p> <p>(2) The Court shall also have regard to such facts as the following, in considering whether such maxims do or do not apply to the particular case before it: --</p> <p><i>(i) as to Illustration.. (a) – a shop-keeper has in his bill a marked rupee soon after it was stolen, and cannot account for its possession specifically, but is continually receiving rupees in the course of his business;</i></p> <p><i>(ii) as to Illustration.. (b) – A, a person of the highest character, is tried for causing a man's death by an act of negligence in arranging certain machinery. B, a person of equally good character, who also took part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself;</i></p> <p><i>(iii) as to Illustration.. (b) – a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the</i></p>		
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<p>part in the arrangement, describes precisely what was done, and admits and explains the common carelessness of A and himself; as to illustration (b) -- a crime is committed by several persons. A, B and C, three of the criminals, are captured on the spot and kept apart from each other. Each gives an account of the crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable; as to illustration (c)--A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence; as to illustration (d)--it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course; as to illustration (e)--a judicial act, the regularity of which is in question, was performed under exceptional circumstances; as to illustration (f)--the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances; as to illustration (g)--a man refuses to produce a document which would bear on a contract of small</p>	<p><i>crime implicating D, and the accounts corroborate each other in such a manner as to render previous concert highly improbable;</i> <i>(iv) as to Illustration.. (c) – A, the drawer of a bill of exchange, was a man of business. B, the acceptor, was a young and ignorant person, completely under A's influence;</i> <i>(v) as to Illustration.. (d) – it is proved that a river ran in a certain course five years ago, but it is known that there have been floods since that time which might change its course;</i> <i>(vi) as to Illustration.. (e) – a judicial act, the regularity of which is in question, was performed under exceptional circumstances;</i> <i>(vii) as to Illustration.. (f) – the question is, whether a letter was received. It is shown to have been posted, but the usual course of the post was interrupted by disturbances;</i> <i>(viii) as to Illustration.. (g) – a man refuses to produce a document which would bear on a contract of small importance on which he is sued, but which might also injure the feelings and reputation of his family;</i> <i>(ix) as to Illustration.. (h) – a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked;</i> <i>(x) as to Illustration.. (i) – a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.</i></p>		
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<p>importance on which he is sued, but which might also injure the feelings and reputation of his family; as to illustration (h)--a man refuses to answer a question which he is not compelled by law to answer, but the answer to it might cause loss to him in matters unconnected with the matter in relation to which it is asked; as to illustration (i)--a bond is in possession of the obligor, but the circumstances of the case are such that he may have stolen it.</p>			
<p>[114A. Presumption as to absence of consent in certain prosecution for rape.--In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 376 of the Indian Penal Code (45 of 1860), where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.</p> <p>Explanation.--In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section</p>	<p>Presumption as to absence of consent in Certain prosecution for rape.</p> <p>120. In a prosecution for rape under clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), clause (h), clause (i), clause (j), clause (k), clause (l), clause (m) or clause (n) of sub-section (2) of section 64 of the Bharatiya Nyaya Sanhita, 2023, where sexual intercourse by the accused is proved and the question is whether it was without the consent of the woman alleged to have been raped and such woman states in her evidence before the court that she did not consent, the court shall presume that she did not consent.</p> <p>Explanation.--In this section, "sexual intercourse" shall mean any of the acts mentioned in clauses (a) to (d) of section 63 of the Bharatiya Nagarik Suraksha Sanhita, 2023.</p>	<p>Minor and Re-numbering</p>	<p>In the text, section number has been updated as per the bill.</p>

375 of the Indian Penal Code (45 of 1860).]			
115	Now as 121	Re-numbering	No change in the content.
116	Now as 122	Re-numbering	No change in the content.
117	Now as 123	Re-numbering	No change in the content.
118. Who may testify.--All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind. Explanation.--A lunatic is not incompetent to testify, unless he is prevented by his lunacy from understanding the questions put to him and giving rational answers to them.	Who may testify. 124. All persons shall be competent to testify unless the Court considers that they are prevented from understanding the questions put to them, or from giving rational answers to those questions, by tender years, extreme old age, disease, whether of body or mind, or any other cause of the same kind. Explanation.— A person with mental illness is not incompetent to testify, unless he is prevented by his mental illness from understanding the questions put to him and giving rational answers to them.	Minor and Re-numbering	Explanation has been amended: “Explanation.— A person with mental illness is not incompetent to testify, unless he is prevented by his mental illness from understanding the questions put to him and giving rational answers to them.” Lunatic has been replaced with mental illness.
119	Now as 125	Re-numbering	No change in the content.
120. Parties to civil suit, and their wives or husbands. Husband or wife of person under criminal trial.--In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.	Competency of husband and wife as witnesses in certain cases. 126. (1) In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. (2) In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.	Minor and Re-numbering	Section content is same but divided into sub sections. Title changed from: Parties to civil suit, and their wives or husbands. Husband or wife of person under criminal trial. To “Competency of husband and wife as witnesses in certain cases.”
121	Now as 127	Re-numbering	No change in the content.
122	Now as 128	Re-numbering	No change in the content.

123	Now as 129	Re-numbering	No change in the content.
124	Now as 130	Re-numbering	No change in the content.
125	Now as 131	Re-numbering	No change in the content.
<p>126. Professional communications.--No barrister, attorney, pleader or vakil, shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such barrister, pleader, attorney or vakil, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:</p> <p>Provided that nothing in this section shall protect from disclosure --</p> <p>(1) any such communication made in furtherance of any [illegal] purpose,</p> <p>(2) any fact observed by any barrister, pleader, attorney or vakil, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment.</p> <p>It is immaterial whether the attention of such barrister,</p>	<p>Professional communications.</p> <p>132. (1) No advocate, shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his service as such advocate, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional service, or to disclose any advice given by him to his client in the course and for the purpose of such service:</p> <p>Provided that nothing in this section shall protect from disclosure of--</p> <p>(a) any such communication made in furtherance of any illegal purpose;</p> <p>(b) any fact observed by any advocate, in the course of his service as such, showing that any crime or fraud has been committed since the commencement of his service.</p> <p>(2) It is immaterial whether the attention of such advocate referred to in the proviso to sub-section (1), was or was not directed to such fact by or on behalf of his client.</p> <p>Explanation.-- The obligation stated in this section continues after the professional service has ceased.</p>	Minor and Re-numbering	<p>Terms such as barrister, attorney, pleader or vakil have been replaced with advocate. Section has been divided into sub-clauses. A new proviso has been added to clarify the scope of the protection in terms of interpreters, clerks, employees of advocates.</p>

<p>[pleader], attorney or vakil was or was not directed to such fact by or on behalf of his client. Explanation.--The obligation stated in this section continues after the employment has ceased. Illustrations (a) A, a client, says to B, an attorney--"I have committed forgery, and I wish you to defend me." As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure. (b) A, a client, says to B, an attorney--"I wish to obtain possession of property by the use of a forged deed on which I request you to sue." This communication, being made in furtherance of a criminal purpose, is not protected from disclosure. (c) A, being charged with embezzlement, retains B, an attorney, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account book, charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his employment. This being a fact observed by B in the course of his employment, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure.</p>	<p>Illustration. (a) A, a client, says to B, an advocate--"I have committed forgery, and I wish you to defend me." As the defence of a man known to be guilty is not a criminal purpose, this communication is protected from disclosure. (b) A, a client, says to B, an advocate--"I wish to obtain possession of property by the use of a forged deed on which I request you to sue." This communication, being made in furtherance of a criminal purpose, is not protected from disclosure. (c) A, being charged with embezzlement, retains B, an advocate, to defend him. In the course of the proceedings, B observes that an entry has been made in A's account book, charging A with the sum said to have been embezzled, which entry was not in the book at the commencement of his professional service. This being a fact observed by B in the course of his service, showing that a fraud has been committed since the commencement of the proceedings, it is not protected from disclosure. (3) The provisions of this section shall apply to interpreters, and the clerks or employees of advocates.</p>		
127	Omitted	Omitted	Merged with Section 132.

<p>128. Privilege not waived by volunteering evidence.- -If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 126; and, if any party to a suit or proceeding calls any such barrister, [pleader], attorney or vakil as a witness, he shall be deemed to have consented to such disclosure only if he questions such barrister, attorney or vakil on matters which, but for such question, he would not be at liberty to disclose.</p>	<p>Privilege not waived by volunteering evidence. 133. If any party to a suit gives evidence therein at his own instance or otherwise, he shall not be deemed to have consented thereby to such disclosure as is mentioned in section 132; and, if any party to a suit or proceeding calls any such advocate, as a witness, he shall be deemed to have consented to such disclosure only if he questions such advocate, on matters which, but for such question, he would not be at liberty to disclose.</p>	<p>Minor and Re-numbering</p>	<p>Reference to section 126 has been updated as per proposed bill. Terms such as Barrister, pleader, attorney, vakil replaced with advocate.</p>
<p>129</p>	<p>Now as 134</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>130</p>	<p>Now as 135</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>131</p>	<p>Now as 136</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>132. Witness not excused from answering on ground that answer will criminate.- -A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind:</p>	<p>Witness not excused from answering on ground that answer will criminate. 137. A witness shall not be excused from answering any question as to any matter relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate, such witness, or that it will expose, or tend directly or indirectly to expose, such witness to a penalty or forfeiture of any kind:</p>	<p>Minor and Re-numbering</p>	<p>The word 'Proviso' has been removed as the sentence starts with 'Provided that'.</p>

<p>Proviso.--Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.</p>	<p>Provided that no such answer, which a witness shall be compelled to give, shall subject him to any arrest or prosecution, or be proved against him in any criminal proceeding, except a prosecution for giving false evidence by such answer.</p>		
<p>133</p>	<p>Now as 138</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>134</p>	<p>Now as 139</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>135</p>	<p>Now as 140</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>136</p>	<p>Now as 141</p>	<p>Re-numbering</p>	<p>No change in the content.</p>
<p>137. Examination-in-chief.--The examination of witness by the party who calls him shall be called his examination-in-chief. Cross-examination.--The examination of a witness by the adverse party shall be called his cross examination. Re-examination.--The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.</p>	<p>Examination of witnesses. 142. (1) The examination of witness by the party who calls him shall be called his examination-in-chief. (2) The examination of a witness by the adverse party shall be called his cross examination. (3) The examination of a witness, subsequent to the cross-examination, by the party who called him, shall be called his re-examination.</p>	<p>Minor and Re-numbering</p>	<p>A general title has been added as 'Examination of witnesses'. The section has been divided into sub-sections.</p>
<p>138. Order of examinations.--Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined. The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified</p>	<p>Order of examinations. 143. (1) Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined. (2) The examination-in-chief and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.</p>	<p>Minor and Re-numbering</p>	<p>Section re-structured with sub-sections with minor edits.</p>

on his examination-in-chief. Direction of re-examination.--The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.	(3) The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.		
139	Now as 144	Re-numbering	No change in the content.
140	Now as 145	Re-numbering	No change in the content.
141. Leading questions.-- Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question.	Leading questions. 146. (1) Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question. (2) Leading questions must not, if objected to by the adverse party, be asked in an examination-in-chief, or in a re-examination, except with the permission of the Court. (3) The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved. (4) Leading questions may be asked in cross-examination.		
142	Omitted	Omitted and shifted	Omitted and merged with section 146.
143	Omitted	Omitted and shifted	Omitted and merged with 146.
144	Now as 147	Re-numbering	No change in the content.
145	Now as 148	Re-numbering	No change in the content.
146. Questions lawful in cross-examination.--When	Questions lawful in cross-examination.	Minor and Re-numbering	Sub section numbering has been replaced with alphabets. Sections

<p>a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend--</p> <p>(1) to test his veracity,</p> <p>(2) to discover who he is and what is his position in life, or</p> <p>(3) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him or might expose or tend directly or indirectly to expose him to a penalty or forfeiture:</p> <p>[Provided that in a prosecution for an offence under section 376, [section 376A, section 376AB section 376B, section 376C, section 376D, section 376DA, section 376DB] or section 376E of the Indian Penal Code (45 of 1860) or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.]</p>	<p>149. When a witness is cross-examined, he may, in addition to the questions hereinbefore referred to, be asked any questions which tend--</p> <p>(a) to test his veracity;</p> <p>(b) to discover who he is and what is his position in life; or</p> <p>(c) to shake his credit, by injuring his character, although the answer to such questions might tend directly or indirectly to criminate him, or might expose or tend directly or indirectly to expose him to a penalty or forfeiture:</p> <p>Provided that in a prosecution for an offence under section 64, section 65, section 67, section 68, section 70, or section 71 of the Bharatiya Nagarik Suraksha Sanhita, 2023 or for attempt to commit any such offence, where the question of consent is an issue, it shall not be permissible to adduce evidence or to put questions in the cross-examination of the victim as to the general immoral character, or previous sexual experience, of such victim with any person for proving such consent or the quality of consent.</p>		<p>within the provision have been updated as per the proposed bill.</p>
<p>147. When witness to be compelled to answer.--If any such question relates to a matter relevant to the suit or proceeding, the provisions of section 132 shall apply thereto.</p>	<p>When witness to be compelled to answer.</p> <p>150. If any such question relates to a matter relevant to the suit or proceeding, the</p>	<p>Minor and Re-numbering</p>	<p>Reference to section within the provision has been updated as per the proposed bill.</p>

	provisions of section 137 shall apply thereto.		
148	Now as 151	Re-numbering and Re-structuring	No change in the content.
149. Question not to be asked without reasonable grounds.-- No such question as is referred to in section 148 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well-founded. Illustrations (a) A barrister is instructed by an attorney or vakil that an important witness is a dakait. This is a reasonable ground for asking the witness whether he is a dakait. (b) A pleader is informed by a person in Court that an important witness is a dakait. The informant, on being questioned by the pleader, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dakait. (c) A witness, of whom nothing whatever is known is asked at random whether he is a dakait. There are here no reasonable ground for the question. (d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable	Question not to be asked without reasonable grounds. 152. No such question as is referred to in section 151 ought to be asked, unless the person asking it has reasonable grounds for thinking that the imputation which it conveys is well-founded. Illustration. (a) An advocate is instructed by another advocate that an important witness is a dacoit. This is a reasonable ground for asking the witness whether he is a dacoit. (b) An advocate is informed by a person in Court that an important witness is a dacoit. The informant, on being questioned by the advocate, gives satisfactory reasons for his statement. This is a reasonable ground for asking the witness whether he is a dacoit. (c) A witness, of whom nothing whatever is known, is asked at random whether he is a dacoit. There are here no reasonable ground for the question. (d) A witness, of whom nothing whatever is known, being questioned as to his mode of life and means of living, gives unsatisfactory answers. This may be a reasonable ground for asking him if he is a dacoit.	Minor and Re-structuring	Replacement of section with the updated number in the proposed bill. Terms such as barrister, attorney, vakil, pleader replaced with advocate.

ground for asking him if he is a dakait .			
150. Procedure of Court in case of question being asked without reasonable grounds.--If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any barrister, pleader, vakil or attorney , report the circumstances of the case to the High Court or other authority to which such barrister, pleader, vakil or attorney is subject in the exercise of his profession.	Procedure of Court in case of question being asked without reasonable grounds. 153. If the Court is of opinion that any such question was asked without reasonable grounds, it may, if it was asked by any advocate , report the circumstances of the case to the High Court or other authority to which such advocate is subject in the exercise of his profession.	Minor and Re-numbering	Terms such as barrister, attorney, vakil, pleader replaced with advocate.
151	Now as 154	Re-numbering	No change in the content.
152	Now as 155	Re-numbering	No change in the content.
153. Exclusion of evidence to contradict answers to questions testing veracity.- -When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence. Exception 1.--If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction. Exception 2.--If a witness is asked any question tending to impeach his impartiality,	Exclusion of evidence to contradict answers to questions testing veracity. 156. When a witness has been asked and has answered any question which is relevant to the inquiry only in so far as it tends to shake his credit by injuring his character, no evidence shall be given to contradict him; but, if he answers falsely, he may afterwards be charged with giving false evidence. Exception 1.--If a witness is asked whether he has been previously convicted of any crime and denies it, evidence may be given of his previous conviction. Exception 2.--If a witness is asked any question tending to impeach his impartiality, and answers it by denying the facts	Minor and Re-numbering	City names have been replaced in illustrations.

and answers it by denying the facts suggested, he may be contradicted.

Illustrations

(a) A claim against an underwriter is resisted on the ground of fraud.

The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it. Evidence is offered to show that he did make such a claim. The evidence is inadmissible.

(b) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it. Evidence is offered to show that he was dismissed for dishonesty. The evidence is not admissible.

(c) A affirms that on a certain day he saw B at Lahore. A is asked whether he himself was not on that day at Calcutta. He denies it. Evidence is offered to show that A was on that day at Calcutta. The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Lahore. In each of these cases the witness might, if his denial was false, be charged with giving false evidence.

(d) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence. He denies it. He may be contradicted on the

suggested, he may be contradicted.

Illustration.

(a) A claim against an underwriter is resisted on the ground of fraud. The claimant is asked whether, in a former transaction, he had not made a fraudulent claim. He denies it. Evidence is offered to show that he did make such a claim. The evidence is inadmissible.

(b) A witness is asked whether he was not dismissed from a situation for dishonesty. He denies it. Evidence is offered to show that he was dismissed for dishonesty. The evidence is not admissible.

(c) A affirms that on a certain day he saw B at Goa. A is asked whether he himself was not on that day at Varanasi. He denies it. Evidence is offered to show that A was on that day at Varanasi. The evidence is admissible, not as contradicting A on a fact which affects his credit, but as contradicting the alleged fact that B was seen on the day in question in Goa. In each of these cases, the witness might, if his denial was false, be charged with giving false evidence.

(d) A is asked whether his family has not had a blood feud with the family of B against whom he gives evidence. He denies it. He may be contradicted on the ground that the question tends to impeach his impartiality.

ground that the question tends to impeach his impartiality.			
154	Now as 157	Re-numbering	No change in the content.
<p>155. Impeaching credit of witness.--The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him:--</p> <p>(1) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;</p> <p>(2) by proof that the witness has been bribed, or has [accepted] the offer of a bribe, or has received any other corrupt inducement to give his evidence;</p> <p>(3) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted.</p> <p>*****</p> <p>Explanation.--A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.</p> <p>Illustrations</p>	<p>Impeaching credit of witness.</p> <p>158. The credit of a witness may be impeached in the following ways by the adverse party, or, with the consent of the Court, by the party who calls him--</p> <p>(a) by the evidence of persons who testify that they, from their knowledge of the witness, believe him to be unworthy of credit;</p> <p>(b) by proof that the witness has been bribed, or has accepted the offer of a bribe, or has received any other corrupt inducement to give his evidence;</p> <p>(c) by proof of former statements inconsistent with any part of his evidence which is liable to be contradicted;</p> <p>Explanation.--A witness declaring another witness to be unworthy of credit may not, upon his examination-in-chief, give reasons for his belief, but he may be asked his reasons in cross-examination, and the answers which he gives cannot be contradicted, though, if they are false, he may afterwards be charged with giving false evidence.</p> <p>Illustration.</p> <p>(a) A sues B for the price of goods sold and delivered to B. C says that he delivered the goods to B. Evidence is offered to show that, on a previous occasion, he said that he had not delivered goods to B. The evidence is admissible.</p>	<p>Minor and re-numbering</p>	<p>Numbers replaced with alphabet in sub-sections. 'indicted' replaced with 'accused' in illustration b. and it is now better explained.</p>

<p>(a) A sues B for the price of goods sold and delivered to B. C says that he delivered the goods to B. Evidence is offered to show that, on a previous occasion, he said that he had not delivered the goods to B. The evidence is admissible.</p> <p>(b) A is indicted for the murder of B. C says that B, when dying, declared that A had given B the wound of which he died. Evidence is offered to show that, on a previous occasion, C said that the wound was not given by A or in his presence. The evidence is admissible.</p>	<p>(b) A is accused of the murder of B. C says that B, when dying, declared that A had given B the wound of which he died. Evidence is offered to show that, on a previous occasion, C said that B, when dying, did not declare that A had given B the wound of which he died. The evidence is admissible.</p>		
156	Now as 159	Re-numbering	No change in the content.
157	Now as 160	Re-numbering	No change in the content.
<p>158. What matters may be proved in connection with proved statement relevant under section 32 or 33.--Whenever any statement, relevant under section 32 or 33, is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross - examination the truth of the matter suggested.</p>	<p>What matters may be proved in connection with proved statement relevant under section 26 or 27.</p> <p>161. Whenever any statement, relevant under section 26 or 27, is proved, all matters may be proved either in order to contradict or to corroborate it, or in order to impeach or confirm the credit of the person by whom it was made, which might have been proved if that person had been called as a witness and had denied upon cross-examination the truth of the matter suggested.</p>	Minor and Re-numbering	Reference to section numbers have been updated as per the proposed bill.
<p>159. Refreshing memory.-- A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time</p>	<p>Refreshing memory.</p> <p>162. (1) A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time of the transaction</p>	Minor and Re-numbering	Provision has been re-structured into sub-sections and without change in the content, few parts are now presented as proviso.

<p>of the transaction concerning which he is questioned, or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory.</p> <p>The witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it he knew it to be correct.</p> <p>When witness may use copy of document to refresh memory.--</p> <p>Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:</p> <p>Provided the Court be satisfied that there is sufficient reason for the non-production of the original. An expert may refresh his memory by reference to professional treatises.</p>	<p>concerning which he is questioned,</p> <p>or so soon afterwards that the Court considers it likely that the transaction was at that time fresh in his memory:</p> <p>Provided that the witness may also refer to any such writing made by any other person, and read by the witness within the time aforesaid, if when he read it, he knew it to be correct.</p> <p>(2) Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document:</p> <p>Provided that the Court be satisfied that there is sufficient reason for the non-production of the original:</p> <p>Provided further that an expert may refresh his memory by reference to professional treatises.</p>		
<p>160. Testimony to facts stated in document mentioned in section 159.--</p> <p>A witness may also testify to facts mentioned in any such document as is mentioned in section 159, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.</p> <p>Illustration</p> <p>A book-keeper may testify to facts recorded by him in</p>	<p>Testimony to facts stated in document mentioned in section 162.</p> <p>163. A witness may also testify to facts mentioned in any such document as is mentioned in section 162, although he has no specific recollection of the facts themselves, if he is sure that the facts were correctly recorded in the document.</p> <p>Illustration.</p> <p>A book-keeper may testify to facts recorded by him in books regularly kept in the course of</p>	<p>Minor and Re-numbering</p>	<p>Reference to section numbers have been updated as per the proposed bill.</p>

books regularly kept in the course of business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.	business, if he knows that the books were correctly kept, although he has forgotten the particular transactions entered.		
161	Now as 164	Re-numbering	No change in the content.
162. Production of documents.--A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. The validity of any such objection shall be decided on by the Court. The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility. Translation of documents. --If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence ; and, if the interpreter disobeys such direction, he shall be held to have committed an offence under section 166 of the Indian Penal Code (45 of 1860).	Production of documents. 165. (1) A witness summoned to produce a document shall, if it is in his possession or power, bring it to Court, notwithstanding any objection which there may be to its production or to its admissibility. Provided that the validity of any such objection shall be decided on by the Court. (2) The Court, if it sees fit, may inspect the document, unless it refers to matters of State, or take other evidence to enable it to determine on its admissibility. (3) If for such a purpose it is necessary to cause any document to be translated, the Court may, if it thinks fit, direct the translator to keep the contents secret, unless the document is to be given in evidence and, if the interpreter disobeys such direction, he shall be held to have committed an offence under section 196 of the Bharatiya Nyaya Sanhita, 2023: Provided that no Court shall require any privilege communication between the Ministers and the President of India to be produced before it.	Minor and Re-numbering	Provision has been re-structured into sub-sections and without change in the content, few parts are now presented as proviso. A new proviso has been added to the section covering communication between the President of India and the Ministers. Colon has been removed and added in two different places in the section.
163	Now as 166	Re-numbering	No change in the content.
164	Now as 167	Re-numbering	No change in the content.

<p>165. Judge's power to put questions or order production.--The Judge may, in order to discover or to obtain proper proof of relevant facts, ask any question he pleases, in any form, at any time, of any witness, or of the parties about any fact relevant or irrelevant; and may order the production of any document or thing; and neither the parties nor their agents shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:</p> <p>Provided that the judgment must be based upon facts declared by this Act to be relevant, and duly proved:</p> <p>Provided also that this section shall not authorize any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under sections 121 to 131, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 148 or 149; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.</p>	<p>Judge's power to put questions or order production.</p> <p>168. The Judge may, in order to discover or obtain proof of relevant facts, ask any question he considers necessary, in any form, at any time, of any witness, or of the parties about any fact; and may order the production of any document or thing; and neither the parties nor their representatives shall be entitled to make any objection to any such question or order, nor, without the leave of the Court, to cross-examine any witness upon any answer given in reply to any such question:</p> <p>Provided that the exercise of the powers conferred herein must be based upon facts declared by this Act to be relevant, and duly proved:</p> <p>Provided further that this section shall not authorise any Judge to compel any witness to answer any question, or to produce any document which such witness would be entitled to refuse to answer or produce under sections 136 to 140, both inclusive, if the question were asked or the document were called for by the adverse party; nor shall the Judge ask any question which it would be improper for any other person to ask under section 157 or 158; nor shall he dispense with primary evidence of any document, except in the cases hereinbefore excepted.</p>	<p>Minor and Re-numbering</p>	<p>Few words have been replaced with a different choice of words without much change in the context and more for the purpose of a better drafting. Reference to section numbers in the provision have been updated as per the proposed bill.</p>
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166	Omitted	Omitted	
167	Now as 169	Re-numbering	No change in the content.
	<p>Repeal and savings.</p> <p>170. (1) The Indian Evidence Act, 1872 is hereby repealed.</p> <p>(2) Notwithstanding such repeal, if, immediately before the date on which this Act comes into force, there is any trial, application, trial, inquiry, investigation, proceeding or appeal pending, then, such application, trial, inquiry, investigation, proceeding or appeal shall be dealt with under the provisions of the Evidence Act, 1872, as in force immediately before such commencement, as if this Act had not come into force.</p>	Added	New provision has been added to expressly mention the effect of the replacement of old law with the new law.

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