Section of IEA 1872 [Deletions/Modifications made highlighted in yellow]	Proposed Change in the Bill [Additions/Modifications highlighted in green]	Nature of Change	Analysis
 1. Short titleThis Act may be called the Indian Evidence Act, 1872. ExtentIt 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; Commencement of Act And it shall come into force on the first day of September, 1872. 	 Short title, application and commencement. This Act may be called the Bharatiya Sakshya Adhiniyam, 2023. 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. It shall come into force on such date as the Central Government may, by notification, appoint. 	Minor	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.).
2	Deleted	Minor	Deletion of 'Repeal of Enactments' provision under the IEA.
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,	 2. Definitions 2. (1) In this Adhiniyam, unless the context otherwise requires, – (a) "Court" includes all Judges and Magistrates, and all persons, except arbitrators, legally authorised to take evidence; 	Major	 Omission of illustration (e) from the definition of 'fact' - 'that a man has a certain reputation, is a fact'. Addition to the definition of documents, 'and includes electronic and digital records'. Further, new illustration (vi) added to the

legally authorised to take	(b) "conclusive proof"	definition of documents
evidence.	means when one	to account for electronic
	fact is declared by	records – 'An electronic
"Fact""Fact" means and	this Adhiniyam to	record on emails, server
includes	be conclusive	logs, documents on
(1) anything, state of	proof of another,	computers, laptop, or
things, or relation of	the Court shall, on	smartphone, messages,
things, capable of	proof of the one	websites, locational
being perceived by	fact, regard the	evidence and voice mail
the senses;	other as proved,	messages stored on digital
(2) any mental	and shall not allow	devices are documents.'
condition of which	evidence to be	3. Addition to the
any person is	given for the	definition of evidence to
conscious.	purpose of	include 'information given
Illustrations	disproving it;	<i>electronically</i> within oral
(a) That there are	(c) "document" means	evidence and 'or digital
certain objects	any matter	<i>records</i> ' within
arranged in a	expressed or	documentary evidence.
certain order in a	described or	4. Omission of "India"
certain place, is a	otherwise	which was earlier
fact.	recorded upon any	defined to exclude J&K.
(b) That a man heard or	substance by	5. Omission of the
saw something, is a	means of letters,	definition of the
fact.	figures or marks or	expressions "Certifying
(c) That a man said	any other means or	Authority". "electronic
certain words, is a	by more than one	signature" etc. which are
fact.	of those means,	already defined in the
(d) That a man holds a	intended to be	Information Technology
certain opinion, has	used, or which	Act, 2000 (21 of 2000).
a certain intention,	may be used, for	6. Addition of sub-section
acts in good faith or	the purpose of	(2) [with definitions
fraudulently, or	recording that	placed under (1)] –
uses a particular	matter and	'Words and expressions
word in a particular	includes electronic	used herein and not defined
sense, or is or was	and digital	but defined in the
at a specified time	records.	Information Technology
conscious of a	Illustrations.	Act, 2000, Bharatiya
particular sensation,	i. A writing is a	Nagarik Suraksha Sanhita,
is a fact.	document.	2023 and Bharatiya Nyaya
(e) That a man has a	ii. Words painted,	Sanhita, 2023 shall have
certain reputation,	lithographed or	the same meanings as
is a fact.	photographed are	assigned to them in the
	documents.	said Act and Sanhita'
"Relevant" One fact is	iii. A map or plan is a	This apart, definitions arranged
said to be relevant to	document.	in alphabetical order with serial
another when the one is	iv. An inscription on a	numbering. This doesn't
connected with the other in	metal plate or	necessarily make sense in all
any of the ways referred to	stone is a	cases since even though, for
in the provisions of this Act	document.	example, 'not
1		proved'/'disproved'/'proved'

relating to the relevancy of facts.

"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. Explanation. --Whenever, under the provisions of the

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. Illustrations A is accused of the murder of B.

At his trial the following facts may be in issue: --That A caused B's death; That A intended to cause B's death; That A had received grave and sudden provocation from B;

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.

"Document". --"Document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one

v. A caricature is a document. 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;

- (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 nonexistence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist;
- (e) "evidence" means and includes –
- 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;

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).

of those means, intended to	ii. documents
be used, or which may be	including
used, for the purpose of	electronic or
recording that matter.	digital records
Illustrations	produced for the
A writing is a document;	inspection of the
Words printed	Court and such
lithographed or	documents are
photographed are	called
documents;	documentary
A map or plan is a	evidence;
document;	
An inscription on a metal	(f) "fact" means and
plate or stone is a	includes –
document;	i. anything, state of
A caricature is a document.	things, or relation
"Enderso" "Enderso"	of things, capable
"Evidence""Evidence"	of being perceived
means and includes	by the senses;
(1) all statements	ii. any mental
which the Court	condition of which
permits or requires	any person is
to be made before it	conscious.
by witnesses, in	Illustrations.
relation to matters of fact under	(a)That there are certain
	objects arranged in a
inquiry; such statements are	certain order in a certain
called oral evidence;	place, is a fact.
(2) all documents	(b) That a person heard or
including electronic	saw something, is a fact.
records produced	(c) That a person said
for the inspection of	certain words, is a fact.
the Court;	d) That a person holds a
such documents are	certain opinion, has a
called documentary	certain intention, acts in
evidence.	good
"Proved"A fact is said	faith, or fraudulently, or
to be proved when, after	uses a particular word in a
considering the matters	particular sense, or is or
before it, the Court either	was at a
believes it to exist, or	specified time conscious
considers its existence so	of a particular sensation,
probable that a prudent	is a fact;
man ought, under the	
circumstances of the	(g) "facts in issue"
particular case, to act upon	means and
the supposition that it	includes any fact
exists.	from which, either
	by itself or in

"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 ircumstances of the particular case, to act upon the supposition that it does not exist.

"Not proved". -- A fact is said not to be proved when it is neither proved nor disproved.

"India". -- "India" means the territory of India excluding the State of Jammu and Kashmir.

the expressions "Certifying Authority", "electronic signature", Electronic 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).

"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.

"Shall presume". --Whenever it is directed by this Act that the Court shall

connection with other facts, the existence, nonexistence, nature or extent of any right, liability or disability, asserted or denied in any suit or proceeding, necessarily follows. 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. Illustrations. A is accused of the i. 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. That A had v. received grave and sudden provocation from B. That A, at the time vi. of doing the act which caused B's death, was, by reason of mental illness, incapable of knowing its nature; vii.

(i) "may presume".— Whenever it is provided by this Adhiniyam that the Court may presume a fact, it shall regard such fact as proved, unless and until it is disproved.

"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.

	presume a fact, it	
	may either regard	
	such fact as	
	proved, unless and	
	until it is	
	disproved or may	
	call for proof of it;	
è	(j) "not proved".—A	
	fact is said to be	
	not proved when it	
	is neither proved	
7	nor disproved;	
	(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;	
	(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;	
	(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	
	is dispicited	

	(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 factsEvidence 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. ExplanationThis 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.	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.	Re-numbering; drafting error	Illustration (b) mistakenly refers to CPC by the Hindi name of CrPC, i.e. the Bharatiya Nagarik Suraksha Sanhita 2023.
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:	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: —		

 A's beating B with the club; A's causing B's death by such beating; A's intention to cause B's death. (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 	 A's beating B with the club; A's causing B's death by such beating; A's intention to cause B's death. (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 		
Code of Civil Procedure.	prescribed by the Bharatiya Nagarik Suraksha Sanhita 2023		
6	Now as 4	Re-numbering; given the title 'closely connected facts'	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

as 10 as 11 as 12 as 13 as 14 as 15 as 16	Re-numberingRe-numberingRe-numberingRe-numberingRe-numberingRe-numberingRe-numbering	No change in the content.No change in the content.No change in the content.No change in the content.No change in the content.
ns 12 ns 13 ns 14 ns 15	Re-numbering Re-numbering Re-numbering	No change in the content. No change in the content. No change in the content.
ns 13 ns 14 ns 15	Re-numbering Re-numbering	No change in the content.No change in the content.
ns 14 ns 15	Re-numbering	No change in the content.
as 15		
	Re-numbering	
as 16		No change in the content.
	Re-numbering	Clubbing the different paragraphs into different clauses of one sub-section.
as 17	Re-numbering	No change in the content.
as 18	Re-numbering	No change in the content.
oof of admissions at persons making and by or on their ssions are relevant ay be proved as at the person who them, or his entative in interest; ey cannot be proved on behalf of the who makes them his representative in st, except in the ing cases, y: — An admission may be proved by or on behalf of the	Re-numbering; drafting errors	 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. The error in 1. above is repeated in illustration (b) where instead of 26(2) it says 23(2) [IEA said 32(2)]. Illustration (e) is
	them, or his entative in interest; ey cannot be proved on behalf of the n who makes them his representative in st, except in the ing cases, y: - An admission may be proved by or on	them, or his entative in interest; ey cannot be proved on behalf of the n who makes them his representative in st, except in the ing cases, y: An admission may be proved by or on behalf of the person making it,

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.

(3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.

Illustrations

- (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.
- (b) A, the captain of a ship, is tried for casting her away. Evidence is given to show that the ship

section (2) of section 23;

- (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;
- (3) An admission may be proved by or on behalf of the person making it, if it is relevant otherwise than as an admission.
- Illustrations
 - (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.

in illustration (e)' instead of 'for reasons specified in illustration (d)'

 Reference to Calcutta and Lahore in Illustration (c) changed to Kolkata and Chennai, respectively.

. 1		
was taken out of her		
proper course. A	ship, is tried for	
produces a book	casting her away.	
kept by him in the	Evidence is given	
ordinary course of	to show that the	
his business	ship was taken out	
showing	of her proper	
observations	course. A produces	
alleged to have been	1 2	
taken by him from	in the ordinary	
day to day, and	course of his	
indicating that the	business showing	
ship was not taken	observations	
out of her proper	alleged to have	
course. A may	been taken by him	
prove these	from day to day,	
statements, because	and indicating that	
they would be	the ship was not	
admissible between	taken out of her	
third parties, if he	proper course. A	
were dead, under	may prove these	
<mark>section 32, clause</mark>	statements,	
<mark>(2).</mark>	because they	
(c) A is accused of a	would be	
crime committed by	admissible	
him at <mark>Calcutta</mark> . He	between third	
produces a letter	parties, if he were	
written by himself	dead, under <mark>sub-</mark>	
and dated at <mark>Lahore</mark>		
on that day, and	section 23.	
bearing the Lahore	(c) A is accused of a	
post-mark of that	crime committed	
day. The statement	by him at <mark>Kolkata</mark> .	
in the date of the	He produces a	
letter is admissible,	letter written by	
because, if A were	himself and dated	
dead, it would be	at Chennai on that	
admissible under	day, and bearing	
section 32, clause	the <mark>Chennai</mark> post-	
(2).	mark of that day.	
(d) A is accused of	The statement in	
receiving stolen	the date of the	
goods knowing	letter is admissible,	
them to be stolen.	because, if A were	
He offers to prove	dead, it would be	
that he refused to	admissible under	
sell them below	sub-section (2) of	
their value. A may	section 23.	
prove these	(d) A is accused of	
statements, though	receiving stolen	

 they are admissions, because they are explanatory of conduct influenced by facts in issue. (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. 	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. (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).		
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.

24. Confession caused by inducement, threat or promise, when irrelevant a canisal 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, corection or promise, when irrelevant in criminal proceeding A confession made by an accused person is irrelevant inducement, threat, corection or promise, when irrelevant in a criminal proceeding A confession made by an accused person is irrelevant inducement, threat, corection promise, when irrelevant in a criminal proceeding, if the making of the confession accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person proceeding from a person, proceeding from a person, proceeding from a sufficient, in the opinion of the Court, to give the accused person proceeding from a person proceeding from a person proceeding from a 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 cell of a terpore in matcherity and terporesion 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. Ke-numbering; Charles and accused person is supposing that by making it he would gain any evil of a temporal anter in reference to the proceedings against him: Kenumbering; Charles and the proceeding from a proceeding from a proceeding from a proceeding from a promise has, in the opinion of the Court, been fully removed, it is relevant. Kenumbering; Charles and the proceeding from a promise has, in the opinion of the Court, been fully removed, it is relevant to to become relevant to to become in the court, been fully removed, it is relevant. Kenumbering; Charlesion accused by any such inducement, threat othe			numbering i.e. 132 of the Bill.	
	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. 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.	 inducement, threat, coercion 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, 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: 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: 	Clubbing three	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

promise of secrecy, etcIf 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 practiced 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.	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.		
 25. Confession to police-officer not to be provedNo confession made to a police-officer, shall be proved as against a person accused of any offence. 26. Confession by accused while in custody of police not to be proved against himNo confession made by any person whilst he is in the custody of a police-officer, unless it be made in the 	 23. Confession to police officer. (1) No confession made to a police officer shall be proved as against a person accused of any offence. (2) No confession made by any person while he is in the custody of a police officer, unless it is made in 	Re-numbering; Clubbing three sections into one; And possible drafting error.	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
the immediate presence of a Magistrate, shall be proved as against such person. ExplanationIn 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	unless it is made in the immediate presence of a Magistrate shall be proved against him <mark>:</mark> Provided that when any fact is deposed to as discovered in consequence of information		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. The Explanation found in section 26 IEA has been omitted.

Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 18827 (10 of 1882). 27. How much of information received from accused may be proved Provided that, when any fact is deposed to as discovered inconsequence 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.	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.		
30	Now as 24	Re-numbering	No change in the content.
31	Now as 25	Re-numbering	No change in the content.
32. Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant 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:	26. Cases in which statement of facts in issue or relevant fact by person who is dead or cannot be found, etc., is relevant. 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	Minor	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 '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.' 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

(1) When it relates to	or relevant facts in the	circumstances of the case, be the
cause of death	following cases, namely: –	basis for a conviction.
When the statement	(1) When the	There is no change in the
is made by a person	statement is made	illustrations to Section 32 IEA,
as to the cause of	by a person as to	which are supplanted and
his death, or as to	the cause of his	attached to Section 26 of the Bill.
any of the	death, or as to any	
circumstances of the	of the	
transaction which	circumstances of	
resulted in his	the transaction	
death, in cases in	which resulted in	
which the cause of	his death, in cases	
that person's death	in which the cause	
comes into	of that person's	
question. Such	death comes into	
statements are	question. Such	
relevant whether	statements are	
the person who	relevant whether	
made them was or	the person who	
was not, at the time	made them was or	
when they were	was not, at the	
made, under	time when they	
expectation of	were made, under	
death, and	expectation of	
whatever may be	death, and	
the nature of the	whatever may be	
proceeding in	the nature of the	
which the cause of	proceeding in	
his death comes	which the cause of	
into question.	his death comes	
(2) or is made in course	into question.	
of businessWhen	(2) When the	
the statement was	statement was	
made by such	made by such	
person in the	person in the	
ordinary course of	ordinary course of	
business, and in	business, and in	
particular when it	particular when it	
consists of any	consists of any	
entry or	entry or	
memorandum	memorandum mada hy him in	
made by him in	made by him in	
books kept in the	books kept in the	
ordinary course of business, or in the	ordinary course of business, or in the	
discharge of	discharge of	
professional duty;	professional duty;	
or of an	or of an	
acknowledgement	acknowledgement	
written or signed by	written or signed	
written or signed by	witten of signed	

	him of the receipt of		by him of the
	money, goods,		receipt of money,
	securities or		goods, securities or
	property of any		property of any
	kind; or of a		kind; or of a
	document used in		document used in
	commerce written		commerce written
	or signed by him; or		or signed by him;
	of the date of a		or of the date of a
	letter or other		letter or other
	document usually		document usually
	dated, written or		dated, written or
	signed by him.		signed by him.
(3)	or against interest	(3)	When the
	of makerWhen		statement is
	the statement is		against the
	against the		pecuniary or
	pecuniary or		proprietary
	proprietary interest		interest of the
	of the person		person making it,
	making it, or when,		or when, if true, it
	if true, it would		would expose him
	expose him or		or would have
	would have		exposed him to a
	exposed him to a		criminal
	criminal		prosecution or to a
	prosecution or to a		suit for damages.
	suit for damages.	(4)	When the
(4)	or gives opinion as	(=)	statement gives the
(=)	to public right or		opinion of any
	custom, or matters		such person, as to
	of general interest		the existence of
	-When the		
			any public right or
	statement gives the		custom or matters
	opinion of any such		of public or
	person, as to the		general interest, of
	existence of any		the existence of
	public right or		which, if it existed,
	custom or matter of		he would have
	public or general		been likely to be
	interest, of the		aware, and when
	existence of which,		such statement
	if it existed, he		was made before
	would have been		any controversy as
	likely to be aware,		to such right,
	and when such		custom or matter
	statement was		had arisen.
	made before any	(5)	When the
	controversy as to		statement relates
	such right, custom		to the existence of

or matter had arisen.

- (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.
- (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

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. (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

usually made, and when such statement was made before the question in dispute was raised.

(7) When the statement is contained in any deed, will or other document which relates to any such transaction as is

 question in dispute was raised. (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). (8) or is made by several persons and expresses feelings relevant to matter in questionWhen the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question. 	specified in clause (a) of section 11. (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.		
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.
37. Relevancy of statement as to fact of public nature contained in certain Acts or Notifications.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	31. Relevancy of statement as to fact of public nature contained in certain Acts or notifications. When the Court has to form an opinion as to the existence of any fact of a public	Minor	Omission of colonial references and accounting for for official gazettes published in electronic or digital forms.

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.	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.		
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.	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.	Minor	Addition of law books in electronic or digital form.
39	Now as 33	Re-numbering	No change in the content.
40	Now as 34	Re-numbering	No change in the content.
41	Now as 35	Re-numbering and addition of serial numbers in sub-sections.	No change in the content.

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.

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).	sufficient to prove a marriage in proceedings under the Divorce Act, 1869, or in prosecutions under section of the Bharatiya Nyaya Sanhita, 2023.		
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.
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.	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.	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.
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	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	Re-numbering; changes in references to sections as appearing in the	Incomplete sentence – 'In this and sections 46, 47 and 49, the word'

he ought to receive, is relevant. 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.	which he ought to receive, is relevant. 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.	new Bill; drafting error	
56	Now as 51	Re-numbering	No change in the content.
 57. Facts of which Court must take judicial notice. The Court shall take judicial notice of the following facts: (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, Nacy 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 	 52. Facts of which Court shall take judicial notice. (1) The Court shall take judicial notice of the following facts, namely:- 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 	Major	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 Furthermore, serial numbering added to divide the section into sub-sections (1) and (2).

			1 1 6 9	
	any laws for the	e)	the seals of Courts	
	<mark>time being in force</mark>		of Admiralty and	
	<mark>in a Province</mark> or in		Maritime	
	the States;		Jurisdiction,	
(5)	The accession and		Notaries Public,	
()	the sign manual of		and all seals which	
	the Sovereign for		any person is	
	the time being of		authorised to use	
	the United		by the	
	Kingdom of Great		Constitution, or by	
	0		<i>.</i>	
	Britain and Ireland;		an Act of	
(6)	All seals of which		Parliament or State	
	<mark>English Courts take</mark>		Legislatures, or	
	<mark>judicial notice: the</mark>		Regulations	
	seals of all the		having the force of	
	Courts in India and		law in India;	
	of all Courts out of	f)	the accession to	
	India established by	,	office, names,	
	the authority of the		titles, functions,	
	Central		and signatures of	
	Government or the		the persons filling	
	Crown		for the time being	
	Representative; the		any public office in	
	seals of Courts of		5 1	
			any State, if the	
	Admiralty and		fact of their	
	Maritime		appointment to	
	Jurisdiction and of		such office is	
	Notaries Public, and		notified in any	
	all seals which any		Official Gazette;	
	person is authorised	g)	the existence, title	
	to use by the		and national flag	
	Constitution or an		of every country or	
	Act of Parliament of		sovereign	
	the United		recognised by the	
	Kingdom or an Act		Government of	
	or Regulation		India;	
	having the force of	h)	the divisions of	
	law in India;)	time, the	
(7)	The accession to		geographical	
(7)			divisions of the	
	office, names, titles,			
	functions, and		world, and public	
	signatures of the		festivals, fasts and	
	persons filling for		holidays notified	
	the time being any		in the Official	
	public office in any		Gazette;	
	State, if the fact of	i)	the territory of	
	their appointment		India;	
	to such office is	j)	the	
	notified in any		commencement,	
	Official Gazette;		continuance and	

(8) The existence, title	termination of	
and national flag of	hostilities between	
every State or	the Government of	
Sovereign	India and any	
recognised by	other country or	
Government of	body of persons;	
India;	k) the names of the	
(9) The divisions of	members and	
time, the	officers of the	
geographical	Court, and of their	
divisions of the	deputies and	
world, and public	subordinate	
festivals, fasts and	officers and	
holidays notified in	assistants, and also	
the Official Gazette;	of all officers	
(10) <mark>The</mark>	acting in execution	
territories under the	of its process, and	
dominion of the	of advocates and	
Government of	other persons	
India;	authorised by law	
(11) The	to appear or act	
commencement,	before it;	
continuance and	l) the rule of the road	
termination of	or land or at the	
hostilities between	sea.	
the Government of	(2) In the cases referred	
India and any other	to in sub-section (1)	
State or body of	and also on all	
persons;	matters of public	
(12) The names	history, literature,	
of the members and	science or art, the	
officers of the	Court may resort for	
Court, and of their	its aid to appropriate	
deputies and	books or documents	
subordinate officers	of reference and if the	
and assistants, and	Court is called upon	
also of all officers	by any person to take	
acting in execution	judicial notice of any	
of its process, and	fact, it may refuse to	
all advocates,	do so unless and until	
attorneys, proctors,	such person produces	
vakils, pleaders and	any such book or	
other persons	document as it may	
authorised by law	consider necessary to	
to appear or act	enable it to do so.	
before it;		
(13) The rule of		
the road on land or		
at sea.		

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. 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.			
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.
62. Primary evidence Primary evidence means the document itself produced for the inspection of the Court. Explanation 1Where a document is executed in several parts, each part is primary evidence of the document. 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. Explanation 2 Where a number of documents are	57. Primary evidence means the document itself produced for the inspection of the Court. Explanation 1. – Where a document is executed in several parts, each part is primary evidence of the document. 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. Explanation 3. – Where a number of documents are	Major	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.

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. Illustration

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. 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. 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. 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. 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. 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. Illustration. A person is shown to have been in possession of a

63. Secondary evidence	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. 58. Secondary evidence	Major	The deletions from the Act are
means and includes –	includes –		in <mark>yellow</mark> and additions in the
 certified copies given under the provisions hereinafter contained; copies made from the original by mechanical processes which in themselves insure the accuracy of the copy; and copies compared with such copies; copies made from 	 certified copies given under the provisions hereinafter contained; copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy; and copies compared with such copies; copies made from 		Bill in green. The Bill expands the scope of secondary evidence significantly. The change in the definition from 'means and includes' to 'includes' 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
or compared with the original; 4) counterparts of	or compared with the original; 4) counterparts of		were permitted to be used in Section 65 IEA (60 of the Bill) without an inclusion in the
documents as against the parties who did not execute them;	documents as against the parties who did not execute them;		exhaustive definition of secondary evidence in 63 IEA. The Bill includes them in the definition of secondary
5) oral accounts of the contents of a document given by some person who has himself seen it.	 5) oral accounts of the contents of a document given by some person who has himself seen it; 		evidence but goes a step ahead to make the entire definition non-exhaustive.
[Illustrations here not changed in the Bill]	 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 		

	cannot conveniently be examined in Court, and who is skilled in the examination of such documents. [Illustrations here don't change those in the Act]		
64	Now as 59	Re-numbering	No change in the content.
 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: (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; (b) when the existence, condition or contents of the original have been proved to be admitted in writing by the person 	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:- (a) when the original is shown or appears to be in the possession or power – 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, and when after the notice mentioned in section 64, such person does not produce it; (b) when the existence, condition or contents of the original have been proved to be	Major; incomplete drafting/drafting error	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</i>) where the genuineness of the document itself in question. However, it does not add a corresponding provision in the Explanation to explain what secondary evidence is to be given for this case.

against whom it is proved or by his representative in interest;

- (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;
- (d) when the original is of such a nature as not to be easily movable;
- (e) when the original is a public document within the meaning of section 74;
- (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;
- (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.

In cases (a), (c) and (d), any secondary evidence of the contents of the document is admissible. In case (b), the written admission is admissible.

In case (e) or (f), a certified copy of the document, but

admitted in writing by the person against whom it is proved or by his representative in interest;

- (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;
- (d) when the original is of such a nature as not to be easily movable;
- (e) when the original is a public document within the meaning of section 74;
- (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;
- (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;

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.	 (h) when the genuineness of the document itself is in question. <i>Explanation</i> For the purposes of, - (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. 		
N/A	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.	Major	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.

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

(a) the computer affidavit, the Bill provides for of which direct output evidence would be the certificate to take the form of containing the admissible. the new Schedule. Part A of the information was (2) The conditions Schedule is to be furnished by produced by the referred to in subthe party while Part B by the expert. Part B asks for computer section (1) in during the respect of a additional information to be computer output period over furnished such as Hash Value, Hashing Algorithm, along with shall be the which the following, namely: the Hash report to be enclosed computer was with the certificate. used regularly to store or (a) the computer output process information for containing the information the purposes of any activities was produced by the regularly carried on over computer or that period by communication device during the person the period over having lawful control over the which the use of the computer was computer; used regularly (b) during the said to create, store period, or process information of information for the kind the purposes of contained in the any activity electronic record regularly or of the kind carried on over that period by from which the information so the person contained is having lawful derived was control over regularly fed the use of the into the computer or computer in the communication device; ordinary course (b) during the said of the said activities; period, information of (c) throughout the material part of the kind the said period, contained in the computer the electronic was operating record or of the properly or, if kind from not, then in which the respect of any information so period in which contained is

it was not	derived was	
operating	regularly fed	
properly or was	into the	
out of operation	computer in	
during that part	the ordinary	
of the period,	course of the	
was not such as	said activities;	
to affect the	(c) throughout the	
electronic record	material part of	
or the accuracy	the said period,	
of its contents;	the computer	
and	or	
(d) the information	communication	
contained in the	device was	
electronic record	operating	
reproduces or is	properly or, if	
derived from	not, then in	
such	respect of any	
information fed	period in	
into the	which it was	
computer in the	not operating	
ordinary course	properly or	
of the said	was out of	
activities.	operation	
activities.	during that	
(3) Where over any	part of the	
period, the function	period, was not	
of storing or	such as to	
processing	affect the	
information for the	electronic	
purposes of any	record or the	
activities regularly	accuracy of its	
carried on over that	contents; and	
period as	(d) the information	
mentioned in clause	contained in	
(a) of sub-section (2)	the electronic	
was regularly	record	
performed by	reproduces or	
computers,	is derived from	
whether	such	
(a) by a	information	
combination of	fed into the	
-	computer in	
operating over that period: or	the ordinary course of the	
that period; or (b) by different	said activities.	
(b) by different		
computers	(3) Where over any	
operating in	period, the	
succession over	function of	
that period; or	creating, storing or	

(c) by different combinations of **computers** operating in succession over that period; or (d) in any other <mark>manner</mark> involving the successive operation over that period, in whatever order, of one or more computers and <mark>one or more</mark> 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 much
 - (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 informationcreation 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

1 6	C •1	
production of	any of the	
that electronic	following things	
record as may	shall be submitted	
be appropriate	along with the	
for the purpose	electronic record at	
of showing that	each instance	
the electronic	where it is being	
record was	submitted for	
produced by a	admission,	
computer;	namely:	
(c) dealing with	(a) identifying the	
any of the	electronic	
matters to	record	
which the	containing the	
conditions	statement and	
mentioned in	describing the	
sub-section (2)	manner in	
relate,	which it was	
and purporting to be	produced;	
signed by a person	(b) giving such	
occupying a responsible	particulars of	
official position in relation	any device	
to the operation of the	involved in the	
relevant device or the	production of	
management of the	that electronic	
relevant activities		
	record as may	
(whichever is appropriate)	be appropriate	
shall be evidence of any	for the purpose	
matter stated in the	of showing	
certificate; and for the	that the	
purposes of this subsection	electronic	
it shall be sufficient for a	record was	
matter to be stated to the	produced by a	
best of the knowledge and	computer <mark>or a</mark>	
belief of the person stating	communication	
it.	device referred	
(5) For the purposes of	to in clauses (a)	
this section,	to (e) of sub-	
(a) information	section (3);	
shall be taken to	(c) dealing with	
be supplied to a	any of the	
computer if it is	matters to	
supplied thereto	which the	
in any	conditions	
appropriate	mentioned in	
form and	sub-section (2)	
whether it is so	relate, and	
supplied	purporting to	
directly or (with	be signed by a	
5		
or without	person in	
human	<mark>charge of the</mark>	
----------------------------------	------------------------------	--
intervention) by	computer or	
means of any	communication	
appropriate	device and an	
equipment;	expert	
(b) whether in the	(whichever is	
course of	appropriate)	
activities carried	shall be	
on by any	evidence of	
official,	any matter	
information is	stated in the	
<mark>supplied with a</mark>	certificate; and	
view to its being	for the	
stored or	purposes of	
processed for	this sub-section	
<mark>the purposes of</mark>	it shall be	
<mark>those activities</mark>	sufficient for a	
by a computer	matter to be	
operated	stated to the	
<mark>otherwise than</mark>	best of the	
<mark>in the course of</mark>	knowledge and	
those activities,	belief of the	
that	person stating	
information, if	it in the form	
duly supplied to	specified in the	
that computer,	Schedule.	
shall be taken to	(5) For the purposes	
be supplied to it	of this section, –	
in the course of	(a) information	
those activities;	shall be taken	
(c) a computer	to be supplied	
output shall be	to a computer	
taken to have	or	
been produced	communication	
by a computer	<mark>device</mark> if it is	
whether it was produced by it	supplied	
1 5	thereto in any	
directly or (with or without	appropriate form and	
human	whether it is so	
intervention) by	supplied	
means of any	directly or	
appropriate	(with or	
equipment.	without human	
equipinent.	intervention)	
Explanation For the	by means of	
purposes of this section any	any	
reference to information	appropriate	
being derived from other	equipment;	
- chig werry cu from outer	cy mpmenty	

information shall be a reference to its being derived therefrom by calculation, comparison or any other process	(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 sub- section (3).		
 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: Provided that such notice shall not be required in 	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:	Minor	Apart from the re-numbering corrections, out-of-date references to 'attorney or pleader' have been substituted by 'advocate or representative'.

order to render secondary	Provided that such notice		
evidence admissible in any	shall not be required in		
of the following cases, or in	order to render secondary		
any other case in which the	evidence		
Court thinks fit to dispense	admissible in any of the		
with it:	following cases, or in any		
(1) when the document	other case in which the		
to be proved is itself	Court thinks fit to		
a notice;	dispense with it: –		
(2) when, from the	(a) when the		
nature of the case,	document to be		
the adverse party	proved is itself a		
must know that he	notice;		
will be required to	(b) when, from the		
produce it;	nature of the case,		
(3) when it appears or	the adverse party		
is proved that the	must know that he		
adverse party has	will be required to		
obtained possession	produce it;		
of the original by	(c) when it appears or		
fraud or force;	is proved that the		
(4) when the adverse	adverse party has		
party or his agent	obtained		
has the original in	possession of the		
Court;	original by fraud		
(5) when the adverse	or force;		
party or his agent	(d) when the adverse		
has admitted the	party or his agent		
loss of the	has the original in		
document;	Court;		
(6) when the person in	(e) when the adverse		
possession of the	party or his agent		
document is out of	has admitted the		
reach of, or not	loss of the		
	document;		
subject to, the			
process of the Court.	(f) when the person in		
Court.	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.
07-11	11011 45 00	ite-ituitioeriitg	i to change in the content.
68	Now as 67	Re-numbering	No change in the content.

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.	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.	Minor	Colonial reference to execution of document in the United Kingdom omitted.
70	Now as 69	Re-numbering	No change in the content.
71	Now as 70	Re-numbering	No change in the content.
72	Now as 71	Re-numbering	No change in the content.
73	Now as 72	Re-numbering; internal serial- numbers added for the paragraphs.	No change in the content.
 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. 	 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 Certify the digital signature purported to have been affixed by that 	Minor; drafting error	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.

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).	person.		
 74. Public documents The following documents are public documents: (1) Documents forming the acts, or records of the acts (i) of the sovereign authority, (ii) of official bodies and tribunals, and (iii) of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country; (2) Public records kept [in any State of private documents All other documents are private. 	 74. Public and private documents. (1) The following documents are public documents:- (a) documents forming the acts, or records of the acts - (i) of the sovereign authority; (ii) of official bodies and tribunals; and (iii) of public officers, legislative, judicial and executive of India or of a foreign country; (b) public records kept in any State or Union Territory of private documents. (2) All other documents referred to in subsection (1) are private. 	Minor	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.
76	Now as 75	Re-numbering	No change in the content.
77	Now as 76	Re-numbering	No change in the content.
78. Proof of other official documents The	77. Proof of other official documents. The following	Minor	Apart from serial numbering changes, the changes here

6 11 : 1 1:	1 1 1 1 1 1	.1 1 . 1
following public	public documents may be	mostly are devoted to removing
documents may be proved	proved as follows: –	colonial references. Deletions
as follows:	(a) Acts, orders or	are in the <mark>yellow</mark> highlights and
(1) Acts, orders or	notifications of the	additions made by the Bill in
notifications of the	Central	green.
Central	Government in	
Government in any	any of its	
of its <mark>departments,</mark>	Ministries and	
or of the Crown	Departments or of	
<mark>Representative</mark> or of	any State	
any State	Government or	
Government or any	any Department of	
department of any	any State	
State Government, –	Government <mark>or</mark>	
_	Union territory	
by the records of	Administration, –	
the departments,	i. by the records	
certified by the	of the	
head of those	Departments,	
departments	certified by the	
respectively, or by	head of those	
any document	Departments	
purporting to be	respectively; or	
printed by order of	ii. by any	
any such	document	
Government or, as	purporting to	
the case may be, of	be printed by	
the Crown	order of any	
Representative;	such	
(2) the proceedings of	Government;	
the Legislatures,	iii. the proceedings	
by the journals of	of Parliament or	
those bodies	a State	
respectively, or by	Legislative	
published Acts or	Assembly, by	
abstracts, or by	the journals of	
copies purporting	those bodies	
to be printed by	respectively, or	
order of the	by published	
Government	Acts or	
concerned;	abstracts, or by	
(3) proclamations,	copies	
orders or	purporting to	
regulations issued	be printed by	
by <mark>Her Majesty or</mark>	order of the	
by the Privy	Government	
Council, or by any	concerned;	
department of Her	(b) proclamations,	
Majesty's	orders or	
Government,	regulations issued	
	0	

by copies or extracts contained in the London Gazette, or purporting to be printed by the Queen's Printer;

- (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:
- (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;
- (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

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; (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:

(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;
(e) public documents

(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

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.	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.		
79. Presumption as to genuineness of certified	78. Presumption as to genuineness of certified	Minor	Special reference to Jammu & Kashmir removed.
copies The Court shall	copies.		
presume to be genuine			
every document	(1) The Court shall		
purporting to be a	presume to be		
certificate, certified copy or other document, which is	genuine every document		
by law declared to be			
admissible as evidence of	purporting to be a certificate, certified		
any particular fact, and	copy or other		
which purports to be duly	document, which		
certified by any officer of	is by law declared		
the Central Government or	to be admissible as		
of a State Government, or	evidence of any		
by any officer in the State	particular fact, and		
of Jammu and	which purports to		
Kashmir who is duly	be duly certified		
authorized thereto by the	by any officer of		
Central Government	the Central		
Provided that such	Government or of		
document is substantially	a State		
in the form and purports to	Government:		
be executed in the manner	Provided that such		
directed by law in that	document is substantially		
behalf.	in the form and purports		
The Court shall also	to be executed		
presume that any officer by	in the manner directed by		
whom any such document	law in that behalf.		
purports to be signed or	(2) The Court shall		
certified, held, when he	also presume that		
signed it, the official	any officer by		

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.
80. 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.	Now as 79 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	Re-numbering Minor and Re- numbering	No change in the content. 'Private acts of Parliament' removed from the title, References to 'London, British Crown, UK' removed from the text.
	particular case are such as to render that origin probable.		
[81A. Presumption as to Gazettes in electronic formsThe 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.

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.]	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. 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.		
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.
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.	Presumption as to electronic agreements. 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.	Minor and Re- numbering	'digital signature' added to the text
85B. Presumption as to electronic records and [electronic signatures] (1) In any proceedings involving a secure electronic record, the Court	Presumption as to electronicrecordsandelectronicsignatures.86. (1) In any proceedingsinvolving a secure electronicrecord, the Court shall	Minor and Re- numbering	In (2), electronic signature replaced with 'digital signature'

			1
shall presume unless	presume unless contrary is		
contrary is proved, that the	proved, that the secure		
secure	electronic record has not been		
electronic record has not	altered since the specific point		
been altered since the	of time to which the secure		
specific point of time to	status relates.		
which the secure status	(2) In any proceedings,		
relates.	involving secure digital		
(2) In any proceedings,	signature, the Court shall		
involving secure [electronic	presume unless the contrary is		
signature], the Court shall	proved that –		
presume unless the	(a) the secure electronic		
contrary is proved that –	signature is affixed by		
(a) the secure [electronic	subscriber with the intention		
signature] is affixed by	of signing or approving the		
subscriber with the	electronic record;		
intention of signing or	(b) except in the case of a		
approving the electronic	secure electronic record or a		
record;	secure electronic signature,		
(b) except in the case of a	nothing in this section shall		
secure electronic record or a	create any presumption,		
secure [electronic	relating to authenticity and		
signature], nothing in	integrity of the electronic		
this section shall create any	record or any electronic		
presumption, relating to	signature.		
authenticity and integrity	8		
of the electronic record			
or any [electronic			
signature].			
85C	Now as 87	Re-numbering	No change in the content.
	1100 43 07	Re-numbering	No change in the content.
86. Presumption as to	Presumption as to certified	Minor and Re-	'any country not forming
certified copies of foreign	copies of foreign judicial	numbering	part of India or of Her Majesty's
judicial records. The Court			Dominions' in the text replaced
may presume that	88. (1) The Court may presume		with 'any country beyond India'
any document purporting	that any document purporting		white any country beyond man
, , , , , , , , , , , , , , , , , , , ,	to be a certified copy of any		
to be a certified copy of any	15 5		
judicial record of [* * * any	judicial record of any country		
country not forming	beyond India is genuine and		
part of India or] of Her	accurate, if the document		
Majesty's Dominions is	purports to be certified in any		
genuine and accurate, if the	manner which is certified by		
document purports to be	any representative of the		
certified in any manner	Central Government, in or for		
which is certified by any	such country, to be the manner		
representative of * * * the	commonly in use in that		
[Central Government] [in	country for the certification of		
or for] [such country] to be	copies of judicial records.		
	1 ,		
the manner commonly in			

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.]	(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.	Re-numbering	No change in the content.
	1100 43 07	ixe-indifibering	The change in the content.
88	Omitted	Omitted	
[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. 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	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.	Minor and Re- numbering	Explanation deleted.

section 2 of the Information Technology Act, 2000 (21 of 2000).]			
89	Now as 91	Re-numbering	No change in the content.
90. Presumption as to documents thirty years oldWhere 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. ExplanationDocuments 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. Illustrations (a) A has been in possession of landed property for a long time. He produces from his custody deeds	Presumption as to documents thirty years old. 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. Explanation to section 83 shall also apply to this section . Illustration. (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. (b) A produces deeds relating to landed property of which he is the mortgagee. The mortgagor is in possession. The custody shall be 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 shall be proper.	Minor and Re- numbering but contains error	Explanation deleted and mentioned explanation to section 83 also applies to this section. Interestingly in the bill Section 83 does not carry any explanation.

electronic records five years oldWhere 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. ExplanationElectronic 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.	Presumption as to electronic records five years old. 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. Explanation to section 84 shall also apply to this section.	Re-numbering	Mentioned explanation to section 84 also applies to this section. Interestingly in the bill Section 84 does not carry any explanation.
71	INUW 05 24	ne-numbering	ino change in me content.

92. Exclusion of evidence of aral greement. Fixelusion of evidence of any such contract, grant or other disposition of property, or any matter required by law to be reduced to the form of the form of a document, have been proved according to the last section, no evidence of any oral according to the last section, no evidence of any oral agreement or statement shall be admitted, as between the parties to any such contract, grant or other interest, for the purpose of contracting varying, adding to, or subtracting from, its terms: Proviso numbers, and amount respectively. Proviso (1).—Any fact may be moved and which would invalidate any document, or which would entitle any farms (2).—It was a document or or der relating thereto; such as fraud, intumidation, or mistake in fact or rait miting thang there is a consider to any such consideration, or mistake in fact or rait manter shall be execution, want of capacity in any contracting party, want of capacity in any contracting party, want or failure of or no subtracting in any fact may be subtracting thereto; such as fraud, in any fact may be subtracting party, want or failure of consideration, or mistake in fact or rait mitimation on any docree or order relating thereto; such as fraud, in any contracting party, want of capacity in any contracting party, want or failure of or nor failure of or any separate or and agreement as to any matter or which a document is silent, and which is not inconsistent with its terms, may be proved. Provisio (2).—The existence of any separate or any				· · · · ·
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condition precedent to the subsequent oral agreement to attaching of any obligation rescind or modify any such under any such contract, contract, grant or disposition grant or disposition of of property, may be proved, property, may be proved. except in cases in which such Proviso (4).--The existence contract, grant or disposition of property is by law required of any distinct subsequent oral agreement to rescind or to be in modify any such writing, or has been registered according to the law in force contract, grant or disposition of property, for the time being as to the may be proved, except in registration of documents: cases in which such Provided also that any usage or custom by which incidents contract, grant or disposition of property is not expressly mentioned in by law required to be in any contract are usually writing, or has been annexed to contracts of that registered according to the description, may be proved: law in Provided also that the force for the time being as annexing of such incident would not be repugnant to, or the registration to of documents. inconsistent with, the express Proviso (5).––Any usage or terms of the contract: custom by which incidents Provided also that any fact not expressly mentioned in may be proved which shows in any contract are what manner the language of a usually annexed document is related to existing to facts. contracts of that Illustration. description, be may proved: (a) A policy of insurance is effected on goods "in ships Provided that the annexing of such incident would not from Kolkata to Vishakhapatnam["]. The goods be repugnant to, or are shipped in a particular ship inconsistent with, the which is lost. The fact that express terms of the contract. particular ship was orally Proviso (6).––Any fact may excepted from the policy, be proved which shows in cannot be proved. what manner the language (b) A agrees absolutely in of a document is writing to pay B one thousand rupees on the 1st March, 2023. related to existing facts. Illustrations The fact that, at the same time, (a) A policy of insurance is an oral agreement was made effected on goods "in ships that the money should not be from Calcutta to London". paid till the 31st March, 2023, cannot be proved. The goods are shipped in a particular ship (c) An estate called "the which is lost. The fact that Rampur tea estate" is sold by a particular ship was orally deed which contains a map of excepted from the the property sold. The fact that

policy, cannot be proved.	land not included in the map	
(b) A agrees absolutely in	had always been regarded as	
writing to pay B Rs. 1,000	part of the estate and was	
on the <mark>first</mark> March <mark>1873</mark> . The	meant to pass by the deed	
fact that, at the	cannot be proved.	
same time, an oral	(d) A enters into a written	
agreement was made that	contract with B to work certain	
the money should not be	mines, the property of B, upon	
paid till the thirty-first	certain terms. A was induced	
March,	to do so by a	
cannot be proved.	misrepresentation of B's as to	
(c) An estate called "the	their value.	
Rampore tea estate" is sold	This fact may be proved.	
by a deed which contains a	(e) A institutes a suit against B	
map of the property	for the specific performance of	
sold. The fact that land not	a contract, and also prays that	
included in the map had	the contract may be reformed	
always been regarded as	as to one of its provisions, as	
part of the estate and was	that provision was inserted in	
meant to pass by the deed	it by mistake. A may prove	
cannot be proved.	that such a mistake was made	
(d) A enters into a written	as would by law entitle him to	
contract with B to work	have the contract reformed.	
certain mines, the property	(f) A orders goods of B by a	
of B, upon certain	letter in which nothing is said	
terms. A was induced to do	as to the time of payment, and	
so by a misrepresentation	accepts the goods on delivery.	
of B's as to their value. This	B sues A for the price. A may	
fact may be proved.	show that the goods were	
(e) A institutes a suit	supplied on credit for a term	
against B for the specific	still unexpired.	
performance of a contract,	(g) A sells B a horse and	
and also prays that the	verbally warrants him sound.	
contract may be reformed	A gives B a paper in these	
as to one of its provisions,	words: "Bought of A a horse	
as that provision was	for thirty thousand rupees". B	
inserted in it by mistake. A	may prove the verbal	
may prove that such a	warranty.	
mistake was made as	(h) A hires lodgings of B, and	
would by law entitle him to	gives B a card on which is	
have the contract reformed.	written – "Rooms, <mark>ten</mark>	
(f) A orders goods of B by a	thousand rupees a month." A	
letter in which nothing is	may prove a verbal agreement	
said as to the time of	that these terms were to	
payment, and accepts the	include partial board. A hires	
goods on delivery. B sues A	lodging of B for a year, and a	
for the price. A may show	regularly stamped agreement,	
that the goods were	drawn up by an advocate, is	
supplied on credit for a	made between them. It is silent	
term	on the subject of board. A may	

		1	
still unexpired.	not prove that board was		
(g) A sells B a horse and	included in the term verbally.		
verbally warrants him	(i) A applies to B for a debt due		
sound. A gives B a paper in	to A by sending a receipt for		
these words: "Bought of	the money. B keeps the receipt		
A a horse of Rs. 500". B may	and does not send the money.		
prove the verbal warranty.	In a suit for the amount, A may		
(h) A hires lodgings of B,	prove this.		
and gives B a card on which	(j) A and B make a contract in		
is written"Rooms, Rs. 200	writing to take effect upon the		
a month." A may prove a	happening of a certain		
verbal agreement that these	contingency. The writing is left		
terms were to include	with B who sues A upon it. A		
partial board.	may show the circumstances		
A hires lodgings of B for a	under which it was delivered.		
year, and a regularly	under which it was derivered.		
stamped agreement, drawn			
1 0			
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.			
(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.			
(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.			
93. Exclusion of evidence to	Exclusion of evidence to	Minor and Re	- Illustration a. has been updated in
explain or amend	explain or	numbering	terms of amount.
ambiguous document	Amend ambiguous document.		
When the language used	96. When the language used in		
in a document is, on its face,	a document is, on its face,		
ambiguous or defective,	ambiguous or defective,		
evidence may not be given	evidence may not be given of		
of facts which would show	facts which would show its		
its meaning or supply its	meaning or supply its defects.		
defects.	Illustrations.		
Illustrations			
mustrations			

 (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. (b) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled. 	 (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. (b) A deed contains blanks. Evidence cannot be given of facts which would show how they were meant to be filled. 		
 94. Exclusion of evidence against application of document to existing factsWhen 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. Illustration A sells to B, by deed, "my estate at Rampur containing 100 bighas. Evidence may not be given to be given of the fact that the estate meant to be sold was one situated at a different place and of a different size. 	Exclusion of evidence Against application of document to existing facts. 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. 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.	Minor and Re- numbering	Illustration now mentioned 100 as 'hundred'.
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. Illustration A sells to B, by deed, "my house in Calcutta".	Evidence as to document unmeaning reference to existing facts. 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. 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	Minor and Re- numbering	City name updated in illustration.

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B to Haidarabad. Evidence may be given of facts showing whether Haidarabad in the Dekkhan or Haiderabad in Sind was meant.whether Ramgarh in Uttarakhand was meant.whether Ramgarh in Uttarakhand or Ramgarh in Uttarakhand was meant.Whether Ramgarh in Uttarakhand was meant.Whether Ramgarh in Uttarakhand or Ramgarh in Uttarakhand was meant.Whether Ramgarh in	them was meant.			
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may be given of facts showing whether Haidarabad in the Dekkhan or Haiderabad in Sind was meant.or Ramgarh in Uttarakhand was meant.Uttarakhand was meant.Image: Comparison of the	B to Haidarabad. Evidence	whether <mark>Ramgarh</mark> in Rajasthan		
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100 Now as 103 Re-numbering No change in the content. 101. Burden of proof Burden of proof. Minor and Re- Full stop removed after 'facts	98	Now as 101	Re-numbering	No change in the content.
100 Now as 103 Re-numbering No change in the content. 101. Burden of proof Burden of proof. Minor and Re- Full stop removed after 'facts				
100 Now as 103 Re-numbering No change in the content. 101. Burden of proof Burden of proof. Minor and Re- Full stop removed after 'facts	99	Now as 102	Re-numbering	No change in the content
101. Burden of proof Burden of proof. Minor and Re- Full stop removed after 'facts			in municernig	ro change in the content.
101. Burden of proof Burden of proof. Minor and Re- Full stop removed after 'facts	100	Now as 102	Po numborino	No change in the content
	100	110W d5 103	Re-numbering	ino change in the content.
Whoever desires any Court numbering exists' and a 'and' added to	1	Burden of proof.		1
	Whoever desires any Court		numbering	exists' and a 'and' added to

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,		continue the following statement which in 1872 provision was divided by a full stop.
proof lies on that person.		
judgment that B shall be		
1		
5		
1		
(b) A desires a Court to give		
, 8		
facts which he asserts, and		
1		
Now as 105	Re-numbering	No change in the content.
	0	0
Now as 106	Re-numbering	No change in the content.
Now as 107	Re-numbering	No change in the content.
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	Minor and Re- numbering	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.
	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. 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. Now as 105 Now as 105 Now as 107 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	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. 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.Re-numberingNow as 105Re-numberingNow as 106Re-numberingBurden of proving that case of 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

absenceofsuchallegcircumstances.unseIllustrationsnot(a) A, accused of murder,The	A, accused of murder, eges that, by reason of soundness of mind, he did know the nature of the act. burden of proof is on A. A, accused of murder,		
circumstances.unstIllustrationsnot 1(a) A, accused of murder,The	soundness of mind, he did know the nature of the act. burden of proof is on A.		
Illustrationsnot I(a) A, accused of murder,The	know the nature of the act. burden of proof is on A.		
(a) A, accused of murder, The	e burden of proof is on A.		
	1		
allogos that by reason of (b)	A, accused of murder,		
alleges that, by reason of (b)			
unsoundness of mind, he alles	eges that, by grave and		
	Iden provocation, he was		
	prived of the power of self-		
	trol. The burden of proof is		
(b) A, accused of murder, on A	-		
	Section 325 of the Bharatiya		
	aya Sanhita, 2023 provides		
	t whoever, except in the		
	e provided for by section		
	1 5		
1	5		
U.S.	evous hurt, shall be subject		
· · · · · · · · · · · · · · · · · · ·	certain punishments. A is		
1 · · · · ·	rged with voluntarily		
	sing grievous hurt under		
1 5	tion <mark>115</mark> . The burden of		
5 0 1	wing the circumstances		
	nging the case under said		
±	tion <mark>120</mark> lies on A.		
charged with voluntarily			
causing grievous hurt			
under section <mark>325</mark> . The			
burden of proving the			
circumstances bringing the			
case under section 335 lies			
on A.			
106 Nov	w as 109	Re-numbering	No change in the content.
		0	0
107 Nov	w as 110	Re-numbering	No change in the content.
108. Burden of proving that Burd	den of proving that person	Minor and Re-	'Provided that' has been deleted.
person is alive who has not is al		numbering	
	o has not been heard of for		
years[Provided that seve			
when] the question is year			
	. When the question is		
	ether a man is alive or dead,		
1	-		
	l it is proved that he has not		
5 5	en heard of for seven years		
	those who would naturally		
	ve heard of him if he had		
1 0	n alive, the burden of		
	oving that he is alive is		
person who affirms it.			
he is alive is [shifted to] the prov person who affirms it.	wing that he is alive is		

	shifted to the person who		
100	affirms it.	D 1 1	
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.
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	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.

 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).] 112 	(b) criminal conspiracy or attempt to commit, or abetment of, an offence under section 147 or section 148 of the Bharatiya Nyaya Sanhita, 2023.	Re-numbering	No change in the content.
110		0.14.1	
113	Omitted	Omitted	In the surface time, we forward a the
[113A. Presumption as to abetment of suicide by a married womanWhen 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. ExplanationFor the purposes of this section, "cruelty" shall have the same meaning as in section	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 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.	Minor and Re- numbering	In the explanation, reference to the Indian Penal Code and provision has been updated with the Bill and re-numbered provision.
Code (45 of 1860).] [113B. Presumption as to dowry deathWhen 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	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	Minor and Re- numbering	In the explanation, reference to the Indian Penal Code and provision has been updated with the Bill and re-numbered provision.

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

	1	
usually cease to exist, is still	(e) judicial and official acts	
in existence;	have been regularly	
(e) that judicial and official	performed;	
acts have been regularly	(f) the common course of	
performed;	business has been followed in	
(f) that the common course	particular cases;	
	1	
of business has been	(g) evidence which could be	
followed in particular	and is not produced would, if	
cases;	produced, be	
(g) that evidence which	unfavourable to the person	
could be and is not	who withholds it;	
produced would, if	(h) if a man refuses to answer a	
produced, be unfavourable	question which he is not	
to the person	compelled to answer by law,	
who withholds it;	the answer, if given, would be	
(h) that if a man refuses to	unfavourable to him;	
answer a question which he	(i) when a document creating	
is not compelled to answer	an obligation is in the hands of	
by law, the answer, if given,	the obligor, the obligation has	
would be unfavourable to	been discharged.	
	0	
him;	(2) The Court shall also have	
(i) that when a document	regard to such facts as the	
creating an obligation is in	following, in considering	
the hands of the obligor, the	whether such maxims do or do	
obligation has been	not apply to the particular case	
discharged. But the Court	before it: –	
shall also have regard to	(i) as to Illustration (a) $-a$ shop-	
such facts as the following,	keeper has in his bill a marked	
in considering whether	rupee soon after it was stolen, and	
such maxims do or do not	cannot account for its possession	
apply to the particular case	specifically, but is continually	
before it:	receiving rupees in the course of	
as to illustration (a) a	his business;	
shop-keeper has in his bill a	(ii) as to Illustration (b) – A , a	
marked rupee soon after it	person of the highest character, is	
was stolen, and cannot	tried for causing a man's death by	
	an act of negligence in arranging	
account for its possession	certain machinery. B, a person of	
specifically, but is	equally good character, who also	
continually receiving	took part in the arrangement,	
rupees in the course of his	describes precisely what	
business;	was done, and admits and	
as to illustration (b) –-A, a	explains the common carelessness	
person of the highest	of A and himself;	
character, is tried for	(iii) as to Illustration (b) – a	
causing a man's death by an		
act of	crime is committed by several	
negligence in arranging	persons. A, B and C, three of the	
certain machinery. B, a	criminals, are captured on the	
person of equally good	spot and kept apart from each	
character, who also took	other. Each gives an account of the	
character, who also took		

	l .	1
part in the arrangement,	crime implicating D, and the	
describes precisely what	accounts corroborate each other in	
was done, and admits and	such a manner as to render	
explains the common	previous concert highly	
1	improbable;	
carelessness of A and		
himself; as to illustration (b)	(iv) as to Illustration (c) $-A$, the	
a crime is committed by	drawer of a bill of exchange, was a	
several persons. A, B and C,	man of business. B, the acceptor,	
three of the criminals, are	was a young and ignorant person,	
captured on the spot and	completely under A's influence;	
	(v) as to Illustration (d) – it is	
kept apart from each other.	proved that a river ran in a certain	
Each gives an account of the	course five years ago, but it is	
crime implicating D, and		
the accounts corroborate	known that there have been floods	
each other in such a manner	since that time which might	
as to render previous	change its course;	
concert highly improbable;	(vi) as to Illustration (e) – a	
as to illustration (c)A, the	judicial act, the regularity of	
	which is in question, was	
drawer of a bill of	performed under exceptional	
exchange, was a man of	circumstances;	
business. B, the acceptor,	(vii) as to Illustration (f) – the	
was a	question is, whether a letter was	
young and ignorant person,	received. It is shown to have been	
completely under A's		
influence;	posted, but the usual course of the	
as to illustration (d)it is	post was interrupted by	
	disturbances;	
proved that a river ran in a	(viii) as to Illustration $(g) - a$	
certain course five years	man refuses to produce a	
ago, but it is known that	document which would bear on a	
there have been floods since	contract of small importance on	
that time which might	which he is sued, but which might	
change its course;	also injure the feelings and	
as to illustration (e)a	reputation of his family;	
judicial act, the regularity of	(ix) as to Illustration $(h) - a$ man	
,	refuses to answer a question	
which is in question, was	· · ·	
performed under	which he is not compelled by law	
exceptional	to answer, but the answer to it	
circumstances;	might cause loss to him in matters	
as to illustration (f)the	unconnected with the matter in	
question is, whether a letter	relation to which it is asked;	
was received. It is shown to	(x) as to Illustration $(i) - a$ bond	
have been posted, but the	is in possession of the obligor, but	
usual course of the post was	the circumstances of the case are	
-	such that he may have stolen it.	
interrupted by		
disturbances;		
as to illustration (g)a man		
refuses to produce a		
document which would		
bear on a contract of small		
	l	1

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.		1.0	
[114A. Presumption as to	Presumption as to absence of	Minor and Re	
absence of consent in	consent in	numbering	been updated as per the bill.
certain prosecution for	Certain prosecution for rape.		
rapeIn a prosecution for	120. In a prosecution for rape		
rape under clause (a),	under clause (a), clause (b),		
clause (b), clause (c), clause	clause (c), clause (d), clause (e),		
(d), clause (e), clause (f),	clause (f), clause (g), clause (h),		
clause (g), clause (h), clause	clause (i), clause (j), clause (k),		
(i), clause (j), clause (k),	clause (l), clause (m) or clause		
clause (l), clause (m) or	(n) of sub-section (2) of section		
clause (n) of sub-section (2)	64 of the Bharatiya Nyaya		
of section 376 of the Indian	Sanhita, 2023, where sexual		
Penal Code (45 of 1860),	intercourse by the accused is		
where sexual intercourse	proved and the question is		
by the accused is proved	whether it was without the		
and the question is whether it was without the consent	consent of the woman alleged		
	to have been raped and such		
of the woman alleged to	woman states in her evidence		
have been raped and such woman states in her	before the court that she did		
	not consent, the court shall		
evidence before the court that she did not consent, the	presume that she did not consent.		
court shall presume that she did not consent.	Explanation.—In this section, "sexual intercourse" shall		
ExplanationIn this section, "sexual	mean any of the acts		
	mentioned in clauses (a) to (d)		
intercourse" shall mean any of the acts mentioned in	of section 63 of the Bharatiya Nagarik Suraksha Sanhita,		
	2023.		
clauses (a) to (d) of section	<mark>2023</mark> .		

375 of the Indian Penal			
Code (45 of 1860).]			
	N	D	NTh
115	Now as 121	Re-numbering	No change in the content.
11/	NI 100	D 1 '	
116	Now as 122	Re-numbering	No change in the content.
110	NJ 100	D 1 1	
117	Now as 123	Re-numbering	No change in the content.
	TA71 ()°C	N/: 1 D	
118. Who may testifyAll	Who may testify.	Minor and Re-	Explanation has been amended:
persons shall be competent	124. All persons shall be	numbering	"Explanation. – A person with
to testify unless the Court	competent to testify unless the		mental illness is not incompetent
considers that they	Court considers that they are		to testify, unless he
are prevented from	prevented from		is prevented by his mental illness
understanding the	understanding the questions		from understanding the questions
questions put to them, or	put to them, or from giving		put to him and giving
from giving rational	rational answers to those		rational answers to them."
answers to those	questions, by tender years,		Lunatic has been replaced with
questions, by tender years,	extreme old age, disease,		mental illness.
extreme old age, disease,	whether of body or mind, or		
whether of body or mind,	any other cause of the same		
or any other cause of the	kind.		
same kind.	Explanation.—A person with		
ExplanationA lunatic is	mental illness is not		
not incompetent to testify,	incompetent to testify, unless		
unless he is prevented by	he is prevented by his mental		
his lunacy from	illness from understanding the		
understanding the	questions put to him and		
questions put to him and	giving rational answers to		
giving rational answers to	them.		
them.	NI 105	D 1 1	
119	Now as 125	Re-numbering	No change in the content.
120. Parties to civil suit, and	1 2	Minor and Re-	Section content is same but
their wives or husbands.	wife as witnesses in certain	numbering	divided into sub sections. Title
Husband or wife of person			changed from: Parties to civil suit,
under criminal trialIn all	126. (1) In all civil proceedings		and their wives or husbands.
civil proceedings the	the parties to the suit, and the		Husband or wife of person under
parties to the suit, and the	husband or wife of any party		criminal trial. To "Competency
husband or wife of any	to the suit, shall be competent		of husband and
party to the suit, shall be	witnesses.		wife as
competent witnesses. In	(2) In criminal proceedings		witnesses in
criminal proceedings	against any person, the		certain cases."
against any person, the	husband or wife of such		
husband or wife of such	person, respectively, shall be a		
person, respectively, shall	competent witness.		
be a competent witness.	NJ 105	D 1 1	
121	Now as 127	Re-numbering	No change in the content.
	100	D 1 1	
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.
126. Professional communicationsNo 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: Provided that nothing in this section shall protect from disclosure (1) any such communication made in furtherance of any [illegal] purpose, (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. It is immaterial whether the attention of such barrister,	 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: Provided that nothing in this section shall protect from disclosure of — (a) any such communication made in furtherance of any illegal purpose; (b) any fact observed by any advocate, in the course of his 	Minor and Re- numbering	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.

	T		1
[pleader], attorney or vakil	Illustration.		
was or was not	(a) A, a client, says to B, an		
directed to such fact by or	advocate – "I have committed		
on behalf of his client.	forgery, and I wish you to		
ExplanationThe	defend me." As the defence of		
obligation stated in this	a man known to be guilty is		
section continues after the	not a criminal purpose, this		
employment has ceased.	communication is protected		
Illustrations	from disclosure.		
(a) A, a client, says to B, an	(b) A, a client, says to B, an		
attorney—"I have	advocate – "I wish to obtain		
committed forgery, and I	possession of property by the		
wish you to defend me." As	use of a forged deed on which		
the defence of a man known	I request you to sue." This		
to be guilty is not a criminal	communication, being made in		
.	furtherance of a criminal		
purpose, this communication is			
	purpose, is not protected from		
protected from disclosure. (b) A a client cause to B and	disclosure.		
(b) A, a client, says to B, an	(c) A, being charged with		
attorney "I wish to obtain	embezzlement, retains B, an		
possession of property by	advocate, to defend him. In the		
the use of a forged	course of the proceedings, B		
deed on which I request	observes that an entry has		
you to sue."	been made in A's account		
This communication, being	book,		
made in furtherance of a	charging A with the sum said		
criminal purpose, is not	to have been embezzled,		
protected from disclosure.	which entry was not in the		
(c) A, being charged with	book at the commencement of		
embezzlement, retains B, an	his professional service . This		
attorney, to defend him. In	being a fact observed by B in		
the course of the	the course of his service,		
proceedings, B observes	showing that a fraud has been		
that an entry has been made	committed since the		
in A's account book,	commencement of		
charging A with the sum	the proceedings, it is not		
said to have been	protected from disclosure.		
embezzled, which entry	(3) The provisions of this		
was not in the book at the	section shall apply to		
commencement of his	interpreters, and the clerks or		
employment. This being a	employees of advocates.		
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.			
127	Omitted	Omitted	Merged with Section 132.
		- marica	

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.	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.	Minor and Re- numbering	Reference to section 126 has been updated as per proposed bill. Terms such as Barrister, pleader, attorney, vakil replaced with advocate.
129	Now as 134	Re-numbering	No change in the content.
130	Now as 135	Re-numbering	No change in the content.
131	Now as 136	Re-numbering	No change in the content.
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:	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:	Minor and Re- numbering	The word 'Proviso' has been removed as the sentence starts with 'Provided that'.

ProvisoProvided 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. 133	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.	Re-numbering	No change in the content.
134	Now as 139	Re-numbering	No change in the content.
135	Now as 140	Re-numbering	No change in the content.
136	Now as 141	Re-numbering	No change in the content.
137. Examination-in-chief -The examination of witness by the party who calls him shall be called his examination-in-chief. Cross-examinationThe examination of a witness by the adverse party shall be called his cross examination. Re-examinationThe examination of a witness, subsequent to the cross- examination by the party who called him, shall be called his re-examination.	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.	Minor and Re- numbering	A general title has been added as 'Examination of witnesses'. The section has been divided into sub- sections.
Called fils fe-examination.138.OrderofexaminationsWitnessesshall be first examined-in-chief, then (if the adversepartyso desires) cross-examined,then (if the party callinghim so desires) re-examined. The examinationand cross-examinationmust relate to relevantfacts, but the cross-examination need not beconfined to the facts towhich the witness testified	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.	Minor and Re- numbering	Section re-structured with sub- sections with minor edits.

on his examination-in- chief. Direction of re- examinationThe 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. Omitted	Omitted and	Omitted and merged with section
		shifted	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-examinationWhen	Questions lawful in cross- examination.	Minor and Re- numbering	Sub section numbering has been replaced with alphabets. Sections

a witness is cross-	149. When a witness is cross-		within the provision have been
examined, he may, in	examined, he may, in addition		updated as per the proposed bill.
addition to the questions	to the questions		
hereinbefore referred to, be	hereinbefore referred to, be		
asked any questions which			
tend	tend –		
(1) to test his veracity,	(a) to test his veracity;		
(2) to discover who he is	(b) to discover who he is and		
and what is his position in	what is his position in life; or		
life, or	(c) to shake his credit, by		
(3) to shake his credit, by	injuring his character,		
injuring his character,	although the answer to such		
although the answer to	questions might tend directly		
such questions might tend	or indirectly to criminate him,		
directly or indirectly to	or might expose or tend		
criminate him or might	directly or indirectly to expose		
expose or tend directly or	him to a penalty or forfeiture:		
1 5	1 2		
indirectly to expose him to	Provided that in a prosecution		
a penalty or forfeiture:	for an offence under section 64,		
[Provided that in a	section 65, section 67, section		
prosecution for an offence	68, section 70, or section 71 of		
under section 376, [section	the Bharatiya Nagarik		
376A, section 376AB	Suraksha Sanhita, 2023 or for		
section 376B, section 376C,	attempt to commit any such		
section 376D, section	offence, where the question of		
376DA, section 376DB] or	consent is an issue, it shall not		
section 376E of the Indian	be permissible to adduce		
Penal Code (45 of 1860) or	evidence or to put questions in		
for attempt to commit any	the cross-examination of the		
such offence, where the	victim as to the general		
question of consent is an	immoral character, or previous		
issue, it shall not be	sexual experience, of such		
permissible to adduce	victim with		
evidence or to put	any person for proving such		
questions in the cross-	consent or the quality of		
examination of the victim	consent.		
	consent.		
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.]			
147. When witness to be	When witness to be compelled	Minor and Re-	Reference to section within the
compelled to answerIf	to	numbering	provision has been updated as per
any such question relates to	answer.	0	the proposed bill.
a matter relevant to the suit	150. If any such question		and proposed bill.
	, i i		
or proceeding, the	relates to a matter relevant to		
provisions of section 132	the suit or proceeding, the		
shall apply thereto.			

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

ground for asking him if he is a dakait.			
150. Procedure of Court in case of question being asked without reasonable groundsIf 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 after wards 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	suggested, he may be	
the facts suggested, he may	contradicted.	
be contradicted.	Illustration.	
Illustrations	(a) A claim against an	
(a) A claim against an	underwriter is resisted on the	
underwriter is resisted on	ground of fraud. The claimant	
the ground of fraud.	is asked whether, in a former	
The claimant is asked	transaction, he had not made a	
whether, in a former	fraudulent claim. He denies it.	
transaction, he had not	Evidence is offered to show	
made a fraudulent claim.	that he did make such a claim.	
He denies it. Evidence is	The evidence is inadmissible.	
offered to show that he did	(b) A witness is asked whether	
make such a claim. The	he was not dismissed from a	
evidence is inadmissible.	situation for dishonesty. He	
(b) A witness is asked	denies it. Evidence is offered to	
whether he was not	show that he was dismissed	
dismissed from a situation	for dishonesty. The evidence is	
for dishonesty. He denies it.	not admissible.	
Evidence is offered to show	(c) A affirms that on a certain	
that he was dismissed for	day he saw B at <mark>Goa</mark> . A is	
dishonesty. The evidence is	asked whether he himself was	
not admissible.	not on that day at <mark>Varanasi</mark> . He	
(c) A affirms that on a	denies it. Evidence is offered to	
certain day he saw B at	show that A was on that day at	
Lahore. A is asked whether	Varanasi. The evidence is	
he himself was not on that	admissible, not as	
day at Calcutta. He denies	contradicting A on a fact	
it. Evidence is offered to	which affects his credit, but as	
show that A was on that	contradicting the alleged fact	
day at Calcutta. The	that B was seen on the day in	
evidence is admissible, not	question in Goa. In each of	
as contradicting A on a fact	these cases, the witness might,	
which affects his credit, but	if his denial was false, be	
as	charged with giving	
contradicting the alleged	false evidence.	
fact that B was seen on the	(d) A is asked whether his	
day in question in Lahore.	family has not had a blood	
In each of these cases the	feud with the family of B	
witness might, if his denial	against whom he gives	
was false, be charged with	evidence. He denies it. He may	
giving false	be contradicted on the ground	
evidence.	that the question tends to	
	-	
(d) A is asked whether his family has not had a blood	impeach his impartiality.	
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.		D	
154	Now as 157	Re-numbering	No change in the content.
155. Impeaching credit of	Impeaching credit of witness.	Minor and re-	Numbers replaced with alphabet
witnessThe credit of a	158. The credit of a witness	numbering	in sub-sections. 'indicted'
witness may be impeached	may be impeached in the		replaced with 'accused' in
in the following	following ways by the adverse		illustration b. and it is now better
ways by the adverse party,	party, or, with the consent of		explained.
or, with the consent of the	the Court, by the party who		
Court, by the party who	calls him—		
calls him:	(a) by the evidence of persons		
(1) by the evidence of	who testify that they, from		
persons who testify that	their knowledge of the		
they, from their knowledge	witness, believe him to be		
of the witness, believe	unworthy of credit;		
him to be unworthy of	(b) by proof that the witness		
credit;	has been bribed, or has		
(2) by proof that the witness	accepted the offer of a		
has been bribed, or has	bribe, or has received any		
[accepted] the offer of a	other corrupt inducement to		
bribe, or has received any	give his evidence;		
other corrupt inducement	(c) by proof of former		
to give his evidence;	statements inconsistent with		
(3) by proof of former	any part of his evidence which		
statements inconsistent	is liable to be contradicted;		
with any part of his	Explanation. – A witness		
evidence which is liable to	declaring another witness to		
be	be unworthy of credit may not,		
contradicted.	upon his examination-in-chief,		
* * * * *	give reasons for his belief, but		
ExplanationA witness	he may be asked his reasons in		
declaring another witness	cross-examination, and the		
to be unworthy of credit	answers which he gives cannot		
may not, upon his	be contradicted, though, if		
examination-in-chief, give	they are false, he may		
reasons for his belief, but he	afterwards be charged with		
may be asked his reasons in	giving false evidence.		
cross-examination,	Illustration.		
and the answers which he	(a) A sues B for the price of		
gives cannot be	goods sold and delivered to B.		
contradicted, though, if	C says that he delivered the		
they are false, he may	goods to B. Evidence is offered		
afterwards be	to show that, on a previous		
charged with giving false	occasion, he said that he had		
evidence.	not delivered goods to B. The		
Illustrations	evidence is admissible.		

 (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. (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. 	(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.		
156	Now as 159	Re-numbering	No change in the content.
157	Now as 160	Re-numbering	No change in the content.
 158. What matters may be proved in connection with proved statement relevant under section 32 or 33Whenever 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. 159. Refreshing memory 	What matters may be proved in connection with proved statement relevant under section 26 or 27. 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. Refreshing memory.	Minor and Re- numbering Minor and Re- numbering	Reference to section numbers have been updated as per the proposed bill.
A witness may, while under examination, refresh his memory by referring to any writing made by himself at the time	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	numbering	into sub-sections and without change in the content, few parts are now presented as proviso.

of the transaction	0		
concerning which he is	questioned,		
questioned,	or so soon afterwards that the		
or so soon afterwards that	Court considers it likely that		
the Court considers it likely	the transaction was at that time		
that the transaction was at	fresh in his memory:		
that time fresh in his	Provided that the witness may		
memory.	also refer to any such writing		
The witness may also refer	made by any other		
	person, and read by the		
to any such writing made	1 5		
by any other person, and	witness within the time		
read by the witness	aforesaid, if when he read it, he		
within the time aforesaid, if	knew it to be correct.		
when he read it he knew it	(2) Whenever a witness may		
to be correct.	refresh his memory by		
<mark>When witness may use</mark>	reference to any document, he		
copy of document to	may, with the permission of		
refresh memory	the Court, refer to a copy of		
Whenever a witness may	such document:		
refresh	Provided that the Court be		
his memory by reference to	satisfied that there is sufficient		
any document, he may,	reason for the		
with the permission of the	non-production of the original		
Court, refer to a copy of	Provided further that an		
such document:	expert may refresh his		
Provided the Court be	memory by reference to		
satisfied that there is	professional treatises.		
	professional treatises.		
sufficient reason for the			
non-production of the			
original. An expert may			
refresh his memory by			
reference to professional			
treatises.			
160. Testimony to facts	Testimony to facts stated in	Minor and Re-	Reference to section numbers
stated in document	document	numbering	have been updated as per the
mentioned in section 159	mentioned in section <mark>162</mark> .		proposed bill.
A witness may also testify	163. A witness may also testify		
to facts mentioned in any	to facts mentioned in any such		
such document as is	document as is		
mentioned in section 159,	mentioned in section 162,		
although he has no specific	although he has no specific		
recollection of the facts	recollection of the facts		
themselves, if he is sure that	themselves, if he is sure that		
the facts were correctly	the facts were correctly		
recorded in the document.	recorded in the document.		
Illustration	Illustration.		
A book-keeper may testify	A book-keeper may testify to		
to facts recorded by him in	facts recorded by him in books		
	regularly kept in the course of		

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.			
161	Now as 164	Re-numbering	No change in the content.
162. Production of documentsA 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).	 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 placed 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.

165. Judge's power to put	Judge's power to put questions	Minor and	Re-	Few words have been replaced
questions or order	or order	numbering	-	with a different choice of words
productionThe Judge	production.			without much change in the
may, in order to discover or	168. The Judge may, in order to			context and more for the purpose
to obtain proper proof of	discover or obtain proof of			of a better drafting.
relevant facts, ask any	relevant facts, ask any			Reference to section numbers in
question he pleases, in any	question he considers			the provision have been updated
form, at any time, of any	necessary, in any form, at any			as per the proposed bill.
witness, or of the parties	time, of any witness, or of the			as per the proposed bill.
about any fact relevant or	parties about any fact; and			
irrelevant; and may order	may order the production of			
the production of any	any document or thing; and			
document or thing; and	neither the parties nor their			
neither the parties nor their	representatives shall be			
agents shall be entitled to	entitled to make any objection			
make any objection to any	to any such question or order,			
such question or order, nor,	nor, without the leave of the			
without the leave of the	Court, to cross-examine any			
Court, to cross-examine any	witness upon any answer			
witness upon any answer	given in reply to any such			
given in reply to any such	question:			
question:	Provided that the exercise of			
Provided that the judgment	the powers conferred herein			
must be based upon facts	must be based upon facts			
declared by this Act to be	declared by this Act to be			
relevant, and duly proved:	relevant, and duly proved:			
Provided also that this	Provided further that this			
section shall not authorize	section shall not authorise any			
any Judge to compel any	Judge to compel any witness to			
witness to answer any	answer any question, or to			
question, or to produce any	produce any document which			
document which such	such witness would be entitled			
witness would be entitled	to refuse to answer or produce			
to refuse to answer or	under sections 136 to 140, both			
produce under sections 121	inclusive, if the question			
to 131, both inclusive, if the	were asked or the document			
question were asked or the	were called for by the adverse			
document were called for	party; nor shall the Judge ask			
by the adverse party; nor	any question which it would			
shall the Judge ask any	be improper for any other			
question which it would be	person to ask under section			
improper for any other	157 or 158; nor shall he			
person to ask under section	dispense with primary			
148 or 149; nor shall he	evidence of any document,			
dispense with primary	except in the cases			
	-			
evidence of any document, except in the cases	hereinbefore excepted.			
except in the cases hereinbefore excepted.				
neremberore excepted.				

166	Omitted	Omitted	
167	Now as 169	Re-numbering	No change in the content.
	Repeal and savings. 170. (1) The Indian Evidence Act, 1872 is hereby repealed. (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.	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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