Bharitya Sakshya Adhiniyam 2023- Overview

(Additions, Exclusions, & Modifications of Chapters & Sections)



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S -1 Title and Extent

IEA

- This Act may be called the Indian Evidence Act, 1872. Extent.—It extends to the whole of India and applies to all judicial proceedings in or before any Court, including Courts-martial, **[other than Courts-martial convened under the Army Act (44 & 45 Vict., c. 58)] [the Naval Discipline Act [29 & 30 Vict., 109]; or the Indian Navy (Discipline) Act, 1934 (34 of 1934),] [or the Air Force Act (7 Geo. 5, c. 51)]** but not to affidavits presented to any Court or officer, nor to proceedings before an arbitrator

BSA

- **1.** *(1)* This Act may be called the Bharatiya Sakshya Adhiniyam, 2023.
- *(2)* It 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.
- *(3)* It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.- 1st July, 2024.

IEA	BSA

• Section 3- . **Interpretation-clause.**
  • Court
  • Fact
  • Relevant
  • Fact in issue
  • Document
  • Evidence
  • Proved
  • Disproved
  • Not proved
  • **India- reference to J & K**
• **Section 4**
  • May presume
  • Shall presume
  • Conclusive prove
	• Section 2- Definitions
	  • Court
	  • Conclusive Proof
	  • Disproved
	  • Document- includes electronic and digital records.
	  • Evidence-
	  • including statements given electronically
	  • digital records
	  • Fact
	  • Facts in issue
	  • May presume
	  • Not proved
	  • Proved
	  • Relevant
	  • Shall presume

IEA	BSA
[the expressions "Certifying Authority", "[electronic signature]", [(Electronic Signature Certificate], "electronic form", "electronic records", "information", "secure electronic record", "secure digital signature" and "subscriber" shall have the meanings respectively assigned to them in the Information Technology Act, 2000 (21 of 2000).	• (*2*) Words and expressions used herein and not defined but defined in the Information Technology Act, 2000, the Bharatiya Nagarik Suraksha Sanhita, 2023 and the Bharatiya Nyaya Sanhita, 2023 shall have the same meanings as assigned to them in the said Act and Sanhitas.

IEA	BSA
• **S- 5.** Evidence may be given of facts in issue and relevant facts- **Same**.	**S- 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.

IEA S 6	BSA S 4
• **6. Relevancy of facts forming part of same transaction.–** Same	• **4.** Facts which, though not in issue, are so connected with a fact in issue or a relevant fact as to form part of the same transaction, are relevant, whether they occurred at the same time and place or at different times and places.

IEA S 7	BSA S 5
• **7.** Facts which are the occasion, cause or effect of facts in issue- same	• **5.** Facts which are the occasion, cause or effect, immediate or otherwise, of relevant facts, or facts in issue, or which constitute the state of things under which they happened, or which afforded an opportunity for their occurrence or transaction, are relevant.

IEA – S -8

- **S-8 Motive, preparation and previous or subsequent conduct**- Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.
- The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.
- Explanation 1.—The word “conduct” in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Act.
- Explanation 2.—When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

BSA S- 6

- **6.** (*1*) Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.
- (*2*) The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any person, an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto.
- *Explanation* 1.—The word "conduct" in this section does not include statements, unless those statements accompany and explain acts other than statements; but this explanation is not to affect the relevancy of statements under any other section of this Adhiniyam.
- *Explanation* 2.—When the conduct of any person is relevant, any statement made to him or in his presence and hearing, which affects such conduct, is relevant.

IEA S 9	BSA S 7
• **9- Facts necessary to explain or introduce relevant facts.–Same**	• **7.** Facts necessary to explain or introduce a fact in issue or relevant fact, or which support or rebut an inference suggested by a fact in issue or a relevant fact, or which establish the identity of anything, or person whose identity, is relevant, or fix the time or place at which any fact in issue or relevant fact happened, or which show the relation of parties by whom any such fact was transacted, are relevant in so far as they are necessary for that purpose.

IEA S -10	BSA S- 8
• **Things said or done by conspirator in reference to common design -** • Same	• **8.** Where there is reasonable ground to believe that two or more persons have conspired together to commit an offence or an actionable wrong, anything said, done or written by any one of such persons in reference to their common intention, after the time when such intention was first entertained by any one of them, is a relevant fact as against each of the persons believed to be so conspiring, as well for the purpose of proving the existence of the conspiracy as for the purpose of showing that any such person was a party to it.

IEA S 11	BSA S 9
• **When facts not otherwise relevant become relevant.-** Same	• **9.** Facts not otherwise relevant are relevant— • (*1*) if they are inconsistent with any fact in issue or relevant fact; • (*2*) if by themselves or in connection with other facts, they make the existence or non-existence of any fact in issue or relevant fact highly probable or improbable.

Facts tending to enable Court to determine amount are relevant in suits for damages (Rephrase)

IEA S 12	IEA S 10
• In suits for damages, facts tending to enable Court to determine amount are relevant.- Same	• In suits in which damages are claimed, any fact which will enable the Court to determine the amount of damages which ought to be awarded, is relevant.

IEA S 13	BSA S 11
• **Facts relevant when right or custom is in question.** • Same	• Where the question is as to the existence of any right or custom, the following facts are relevant— • (*a*) any transaction by which the right or custom in question was created, claimed, modified, recognised, asserted or denied, or which was inconsistent with its existence; • (*b*) particular instances in which the right or custom was claimed, recognised or exercised, or in which its exercise was disputed, asserted or departed from.

IEA S 14

- **Facts showing existence of state of mind, or of body, or bodily feeling.**
- **Same**

BSA S 12

- **12.** Facts showing the existence of any state of mind, such as intention, knowledge, good faith, negligence, rashness, ill-will or goodwill towards any particular person, or showing the existence of any state of body or bodily feeling, are relevant, when the existence of any such state of mind or body or bodily feeling is in issue or relevant.
- *Explanation* 1.—A fact relevant as showing the existence of a relevant state of mind must show that the state of mind exists, not generally, but in reference to the particular matter in question.
- *Explanation* 2.—But where, upon the trial of a person accused of an offence, the previous commission by the accused of an offence is relevant within the meaning of this section, the previous conviction of such person shall also be a relevant fact.

IEA S 15	BSA S 13
• Facts bearing on question whether act was accidental or intentional.	• **13.** When there is a question whether an act was accidental or intentional, or done with a particular knowledge or intention, the fact that such act formed part of a series of similar occurrences, in each of which the person doing the act was concerned, is relevant.

IEA S 16	BSA S 14
• **. Existence of course of business when relevant.** • **Same**	• **14.** When there is a question whether a particular act was done, the existence of any course of business, according to which it naturally would have been done, is a relevant fact.

IEA S 17	BSA S 15
• Admission defined. • Same	• **15.** An admission is a statement, oral or documentary or contained in electronic form, which suggests any inference as to any fact in issue or relevant fact, and which is made by any of the persons, and under the circumstances, hereinafter mentioned.

IEA S 19	BSA S 17
• **Admissions by persons whose position must be proved as against party to suit.** • **Same**	• **17.** Statements made by persons whose position or liability, it is necessary to prove as against any party to the suit, are admissions, if such statements would be relevant as against such persons in relation to such position or liability in a suit brought by or against them, and if they are made whilst the person making them occupies such position or is subject to such liability.

IEA S 20	BSA S 18
• **Admissions by persons expressly referred to by party to suit.** • **Same**	• **18.** Statements made by persons to whom a party to the suit has expressly referred for information in reference to a matter in dispute are admissions.

IEA S 21

- **Proof of admissions against persons making them, and by or on their behalf.**
- **Same**

BSA S 19

- **19.** Admissions are relevant and may be proved as against the person who makes them, or his representative in interest; but they cannot be proved by or on behalf of the person who makes them or by his representative in interest, except in the following cases, namely:—
- (*1*) an admission may be proved by or on behalf of the person making it, when it is of such a nature that, if the person making it were dead, it would be relevant as between third persons under section 26;
- (*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.

IEA S 22	BSA S 20
• **When oral admissions as to contents of documents are relevant.** • **Same**	• **20.** Oral admissions as to the contents of a document are not relevant, unless and until the party proposing to prove them shows that he is entitled to give secondary evidence of the contents of such document under the rules hereinafter contained, or unless the genuineness of a document produced is in question.

IEA S 22A	BSA
• 22A. When oral admission as to contents of electronic records are relevant.—Oral admissions as to the contents of electronic records are not relevant, unless the genuineness of the electronic record produced is in question.	• Removed • Oral admission as to contents of electronic records cannot be given.

IEA S 23

Admissions in civil cases when relevant

–In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.

Explanation.—Nothing in this section shall be taken to exempt any **barrister, pleader, attorney or vakil** from giving evidence of any matter of which he may be compelled to give evidence under section 126.

BSA S 21

- **21.** In civil cases no admission is relevant, if it is made either upon an express condition that evidence of it is not to be given, or under circumstances from which the Court can infer that the parties agreed together that evidence of it should not be given.
- *Explanation.*—Nothing in this section shall be taken to exempt any advocate from giving evidence of any matter of which he may be compelled to give evidence under sub-sections (*1*) and (*2*) of section 132.

IEA S 24, 28, 29 Merged

- **Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.**–A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or 2 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.
- **29 Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.—**If such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception 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.

BSA S 22

- **22.** 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:
- Provided further that if such a confession is otherwise relevant, it does not become irrelevant merely because it was made under a promise of secrecy, or in consequence of a deception practised on the accused person for the purpose of obtaining it, or when he was drunk, or because it was made in answer to questions which he need not have answered, whatever may have been the form of those questions, or because he was not warned that he was not bound to make such confession, and that evidence of it might be given against him.

IEA S 25, 26, 27 merged

- 25 Confession to police-officer **not to be proved**.—No confession made to a police-officer , shall be proved as against a person accused of any offence.
- 26**. Confession by accused while in custody of police not to be proved against him.—**No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.
- **[Explanation.—In this section "Magistrate" does not include the head of a village discharging magisterial functions in the Presidency of Fort St. George or elsewhere, unless such headman is a Magistrate exercising the powers of a Magistrate under the Code of Criminal Procedure, 1887 (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.

BSA S 23

- **Confession to Police Officers**
- (*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 the immediate presence of a Magistrate shall be proved against him:
- Provided that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact discovered, may be proved.

IEA S 30

- Consideration of proved confession affecting person making it and others jointly under trial for same offence.
- **Same**

BSA S 24

- **24.** When more persons than one are being tried jointly for the same offence, and a confession made by one of such persons affecting himself and some other of such persons is proved, the Court may take into consideration such confession as against such other person as well as against the person who makes such confession.
    - *Explanation* I.—"Offence", as used in this section, includes the abetment of, or attempt to commit, the offence.
    - *Explanation* II.—A trial of more persons than one held in the absence of the accused who has absconded or who fails to comply with a proclamation issued under section 84 of the Bharatiya Nagarik Suraksha Sanhita, 2023 shall be deemed to be a joint trial for the purpose of this section.

IEA S 31	BSA S 25
• **Admissions not conclusive proof, but may estop.** • **Same**	• **25.** Admissions are not conclusive proof of the matters admitted but they may operate as estoppels under the provisions hereinafter contained.

IEA S 32

- **Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant.**
- **(1) When it relates to cause of death.**
- **(2) or is made in course of business.–**
- **(3) or against interest of maker**
- **(4) or gives opinion as to public right or custom, or matters of general interest.–**
- **(5) or relates to existence of relationship.**
- **(6) or is made in will or deed relating to family affairs.**
- **(7) or in document relating to transaction mentioned in section 13, clause (a).**
- **(8) or is made by several persons and expresses feelings relevant to matter in question.**

BSA S 26

- **26.** 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, namely:—
- (*a*) when the statement is made……
- (b) …..
- (c)….
- (d) ….

IEA S 33

- **Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated.**
- **Same**

BSA S 27

- **27.** Evidence given by a witness in a judicial proceeding, or before any person authorised by law to take it, is relevant for the purpose of proving, in a subsequent judicial proceeding, or in a later stage of the same judicial proceeding, the truth of the facts which it states, when the witness is dead or cannot be found, or is incapable of giving evidence, or is kept out of the way by the adverse party, or if his presence cannot be obtained without an amount of delay or expense which, under the circumstances of the case, the Court considers unreasonable:
- Provided that the proceeding was between the same parties or their representatives in interest; that the adverse party in the first proceeding had the right and opportunity to cross-examine and the questions in issue were substantially the same in the first as in the second proceeding.
- *Explanation.*—A criminal trial or inquiry shall be deemed to be a proceeding between the prosecutor and the accused within the meaning of this section.

IEA S 34

- **Entries in books of account when relevant.**
- **Same**

BSA S 28

- **28.** Entries in the books of account, including those maintained in an electronic form, regularly kept in the course of business are relevant whenever they refer to a matter into which the Court has to inquire, but such statements shall not alone be sufficient evidence to charge any person with liability.
- *Illustration.*
  - A sues B for one thousand rupees, and shows entries in his account books showing B to be indebted to him to this amount. The entries are relevant, but are not sufficient, without other evidence, to prove the debt.

IEA S 35	BSA S 29
• **Relevancy of entry in public record made in performance of duty** • **Same**	• **29.** An entry in any public or other official book, register or record or an electronic record, stating a fact in issue or relevant fact, and made by a public servant in the discharge of his official duty, or by any other person in performance of a duty specially enjoined by the law of the country in which such book, register or record or an electronic record, is kept, is itself a relevant fact.

IEA S 36	BSA 30
• **Relevancy of statements in maps, charts and plans** • **Same**	• **30.** Statements of facts in issue or relevant facts, made in published maps or charts generally offered for public sale, or in maps or plans made under the authority of the Central Government or any State Government, as to matters usually represented or stated in such maps, charts or plans, are themselves relevant facts.

IEA S 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 **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].

BSA S 31

- **31.** 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 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.

IEA S 38

- **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.

BSA S 32

- **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.

IEA S 39	BSA S 33
• What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers. • Same	• **33.** When any statement of which evidence is given forms part of a longer statement, or of a conversation or part of an isolated document, or is contained in a document which forms part of a book, or is contained in part of electronic record or of a connected series of letters or papers, evidence shall be given of so much and no more of the statement, conversation, document, electronic record, book or series of letters or papers as the Court considers necessary in that particular case to the full understanding of the nature and effect of the statement, and of the circumstances under which it was made.

IEA S 40	BSA S 34
• **Previous judgments relevant to bar a second suit or trial.** • **Same**	• 34. The existence of any judgment, order or decree which by law prevents any Court from taking cognizance of a suit or holding a trial, is a relevant fact when the question is whether such Court ought to take cognizance of such suit or to hold such trial.

IEA S 41

- Relevancy of certain judgments in probate, etc., jurisdiction.
- Same

BSA S 35

- **35.** (*1*) A final judgment, order or decree of a competent Court or Tribunal, in the exercise of probate, matrimonial, admiralty or insolvency jurisdiction, which confers upon or takes away from any person any legal character, or which declares any person to be entitled to any such character, or to be entitled to any specific thing, not as against any specified person but absolutely, is relevant when the existence of any such legal character, or the title of any such person to any such thing, is relevant.
- (*2*) Such judgment, order or decree is conclusive proof that—
  - (*i*) any legal character, which it confers accrued at the time when such judgment, order or decree came into operation;
  - (*ii*) any legal character, to which it declares any such person to be entitled, accrued to that person at the time when such judgment, order or decree declares it to have accrued to that person;
  - (*iii*) any legal character which it takes away from any such person ceased at the time from which such judgment, order or decree declared that it had ceased or should cease; and
  - (*iv*) anything to which it declares any person to be so entitled was the property of that person at the time from which such judgment, order or decree declares that it had been or should be his property.

IEA S 42, 43	BSA S 36- S 37
• Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41. • 43. Judgments, etc., other than those mentioned in sections 40, 41 and 42, when relevant • **Illustration B deleted from Section 43- no reason**	• **36.** Judgments, orders or decrees other than those mentioned in section 35 are relevant if they relate to matters of a public nature relevant to the enquiry; but such judgments, orders or decrees are not conclusive proof of that which they state. • **37.** Judgments or orders or decrees, other than those mentioned in sections 34, 35 and 36, are irrelevant, unless the existence of such judgment, order or decree is a fact in issue, or is relevant under some other provision of this Adhiniyam.

IEA S 44	BSA 38
• **Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved.** • **Same**	• **38.** Any party to a suit or other proceeding may show that any judgment, order or decree which is relevant under section 34, 35 or 36, and which has been proved by the adverse party, was delivered by a Court not competent to deliver it, or was obtained by fraud or collusion.

IEA S 45, 45A Merged

- When the Court has to form an opinion upon a point of foreign law or of science, or art, or as to identity of handwriting [or finger impressions], the opinions upon that point of persons specially skilled in such foreign law, science or art, [or in questions as to identity of handwriting] [or finger impressions] are relevant facts.
- Such persons are called experts.
- 45A. **Opinion of Examiner of Electronic Evidence.—**When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000 (21 of 2000), is a relevant fact.
- Explanation.—For the purposes of this section, an Examiner of Electronic Evidence shall be an expert.]

BSA S 39

- **39.** (*1*) When the Court has to form an opinion upon a point of foreign law or of science or art, or any other field, or as to identity of handwriting or finger impressions, the opinions upon that point of persons specially skilled in such foreign law, science or art, or any other field, or in questions as to identity of handwriting or finger impressions are relevant facts and such persons are called experts.
- (*2*) When in a proceeding, the court has to form an opinion on any matter relating to any information transmitted or stored in any computer resource or any other electronic or digital form, the opinion of the Examiner of Electronic Evidence referred to in section 79A of the Information Technology Act, 2000, is a relevant fact.
- *Explanation.*—For the purposes of this sub-section, an Examiner of Electronic Evidence shall be an expert.

IEA S 46	BSA S 40
• **Facts bearing upon opinions of experts.** • **Same**	• **40.** Facts, not otherwise relevant, are relevant if they support or are inconsistent with the opinions of experts, when such opinions are relevant.

IEA S 47

- **Opinion as to handwriting, when relevant.**
- **Same**

BSA S 41

- **41.** (*1*) When the Court has to form an opinion as to the person by whom any document was written or signed, the opinion of any person acquainted with the handwriting of the person by whom it is supposed to be written or signed that it was or was not written or signed by that person, is a relevant fact.
- *Explanation.*—A person is said to be acquainted with the handwriting of another person when he has seen that person write, or when he has received documents purporting to be written by that person in answer to documents written by himself or under his authority and addressed to that person, or when, in the ordinary course of business, documents purporting to be written by that person have been habitually submitted to him.

IEA S 47A	BNS
• **Opinion as to digital signature, when relevant** • **Removed**	• Removed • Because the digital signature may be proved by digital signature certificate or public key u/s 73 BSA.

IEA S 48	BSA S 42
• Opinion as to existence of right or custom, when relevant. • Same	• **42.** When the Court has to form an opinion as to the existence of any general custom or right, the opinions, as to the existence of such custom or right, of persons who would be likely to know of its existence if it existed, are relevant. • *Explanation.*—The expression "general custom or right" includes customs or rights common to any considerable class of persons.

IEA S 49	BSA S 43

• **Opinion as to usages, tenets, etc., when relevant.**
• **Same**
	• **43.** When the Court has to form an opinion as to—
	  • (*i*) the usages and tenets of any body of men or family;
	  • (*ii*) the constitution and governance of any religious or charitable foundation; or
	  • (*iii*) the meaning of words or terms used in particular districts or by particular classes of people,
	• the opinions of persons having special means of knowledge thereon, are relevant facts.

IEA S 50

- **Opinion on relationship, when relevant.**
- **Same**

BSA S 44

- **44.** 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 prove a marriage in proceedings under the Divorce Act, 1869, or in prosecution under sections 82 and 84 of the Bharatiya Nyaya Sanhita, 2023.

IEA S 51	BSA S 45
• Grounds of opinion, when relevant. • Same	• **45.** Whenever the opinion of any living person is relevant, the grounds on which such opinion is based are also relevant.

IEA S 52, S 53	BSA 46
• 52. In civil cases character to prove conduct imputed, irrelevant. • 53. In criminal cases previous good character relevant.	• **46.** In civil cases the fact that the character of any person concerned is such as to render probable or improbable any conduct imputed to him, is irrelevant, except in so far as such character appears from facts otherwise relevant. • **47.** In criminal proceedings the fact that the person accused is of a good character, is relevant.
• Same	

IEA S 53 A

- Evidence of character or previous sexual experience not relevant in certain cases.
- Same

BSA S 48

- **48.** In a prosecution for an offence under section 64, section 65, section 66, section 67, section 68, section 69, section 70, section 71, section 74, section 75, section 76, section 77 or section 78 of the Bharatiya Nyaya 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.

IEA S 54

- Previous bad character not relevant, except in reply.
- Same

BSA S 49

- **49.** In criminal proceedings, the fact that the accused has a bad character, is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.
- *Explanation* 1.—This section does not apply to cases in which the bad character of any person is itself a fact in issue.
- *Explanation* 2.—A previous conviction is relevant as evidence of bad character.

IEA S 55

- Character as affecting damages
- Same

BSA S 50

- **50.** In civil cases, the fact that the character of any person is such as to affect the amount of damages which he ought to receive, is relevant.
- *Explanation*.—In this section and sections 46, 47 and 49, the word "character" includes both reputation and disposition; but, except as provided in section 49, evidence may be given only of general reputation and general disposition, and not of particular acts by which reputation or disposition has been shown.

IEA S 56, 57, 58

- 56. Fact judicially noticeable need not be proved.
- 57. Facts of which Court must take judicial notice.
- 58. Facts of which Court must take judicial notice.
- Same

BSA 51, 52, 53

- **51.** No fact of which the Court will take judicial notice need be proved.
- **52.** Facts of which Court must take judicial notice
- **53.** No fact needs to be proved in any proceeding which the parties thereto or their agents agree to admit at the hearing, or which, before the hearing, they agree to admit by any writing under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings:
- Provided that the Court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions.

IEA S 59, 60, 61

- 59. Proof of facts by oral evidence.- All facts, except the [contents of documents **or electronic records],** may be proved by oral evidence.
- 60- Oral evidence must be direct- Same
- 61. Proof of contents of documents- Same

BSA S 54, 55, 56

- **54.** All facts, except the contents of documents may be proved by oral evidence.
- **55.** Oral evidence shall, in all cases whatever, be direct
- **56.** The contents of documents may be proved either by primary or by secondary evidence.

IEA S 62

- **62.** Primary evidence. — 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.
- 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 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.

BSA S 57

- **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 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.

- No provision
- Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal AIR 2020 SC 4908

- *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.

IEA S 63

- 63. Secondary evidence. — Secondary evidence **means** and includes —
- (1) certified copies given under the provisions hereinafter contained;
- (2) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies;
- (3) copies made from or compared with the original;
- (4) counterparts of documents as against the parties who did not execute them;
- (5) oral accounts of the contents of a document given by some person who has himself seen it.

BSA S 58

- **58.** Secondary evidence includes—
- (*i*) certified copies given under the provisions hereinafter contained;
- (*ii*) copies made from the original by mechanical processes which in themselves ensure the accuracy of the copy, and copies compared with such copies;
- (*iii*) copies made from or compared with the original;
- (*iv*) counterparts of documents as against the parties who did not execute them;
- (*v*) oral accounts of the contents of a document given by some person who has himself seen it;
- (*vi*) oral admissions;
- (*vii*) written admissions;
- (*viii*) 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.

IEA S 64, 65

- 64. Proof of documents by primary evidence.
- 65. Cases in which secondary evidence relating to documents may be given.
- Same
- **No provision similar to S 61 in BSA**

BSA S 59

- **59.** Documents shall be proved by primary evidence except in the cases hereinafter mentioned.
- **60.** Secondary evidence may be given of the existence, condition, or contents of a document in the following cases.
- **61.** Electronic or digital record- Nothing in this 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, subject to section 63, have the same legal effect, validity and enforceability as other document.

S 65A

- The contents of electronic records may be proved in accordance with the provisions of **Section 65B.**

S 62

- **62.** The contents of electronic records may be proved in accordance with the provisions of section 63.

IEA S 65B

- (1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.

BSA S 63

- **63.** (*1*) Notwithstanding anything contained in this Adhiniyam, any information contained in an electronic record which is printed on paper, stored, recorded or copied in optical or magnetic media or semiconductor memory which is produced by a computer or **any communication device or otherwise stored**, **recorded or copied in any electronic form** (hereinafter referred to as the computer output **[definition expanded]**) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence or any contents of the original or of any fact stated therein of which direct evidence would be admissible.

- (2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely: —
- (a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

- (*2*) The conditions referred to in sub-section (*1*) in respect of a computer output shall be the following, namely:—
- (*a*) the computer output containing the information was produced by the computer or communication device during the period over which the computer or communication device was used regularly to create, store or process information for the purposes of any activity regularly carried on over that period by the person having lawful control over the use of the computer or communication device;

- (b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;
- (c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and
- (d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

- (*b*) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer or communication device in the ordinary course of the said activities;
- (*c*) throughout the material part of the said period, the computer or communication device was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and
- (*d*) the information contained in the electronic record reproduces or is derived from such information fed into the computer or communication device in the ordinary course of the said activities.

- (3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause (a) of sub-section (2) was regularly performed by computers, whether—
- **(a) by a combination of computers operating over that period; or**
- **(b) by different computers operating in succession over that period; or**
- **(c) by different combinations of computers operating in succession over that period; or**
- **(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.**

- (*3*) Where over any period, the function of creating, storing or processing information for the purposes of any activity regularly carried on over that period as mentioned in clause (*a*) of sub-section (*2*) was regularly performed by means of one or more computers or communication device, whether—
- (*a*) in standalone mode; or
- (*b*) on a computer system; or
- (*c*) on a computer network; or
- (*d*) on a computer resource enabling information creation or providing information processing and storage; or
- (*e*) through an intermediary

- 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, —

- all the computers or communication devices used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer or communication device; and references in this section to a computer or communication device 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 any of the following things **shall be submitted along with the electronic record** at each instance where it is being submitted for admission, namely:—

- (a) identifying the electronic record containing the statement and describing the manner in which it was produced;
- (b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;
- (c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate,

- (*a*) identifying the electronic record containing the statement and describing the manner in which it was produced;
- (*b*) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer or a communication device referred to in clauses (*a*) to (*e*) of sub-section (*3*);
- (*c*) dealing with any of the matters to which the conditions mentioned in sub-section (*2*) relate,

- and purporting to be signed by a person **occupying a responsible official position in relation to the operation of the relevant device** or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this subsection it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

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

Party

THE SCHEDULE

[*See* section 63(*4*)(*c*)]

CERTIFICATE

PART A

(To be filled by the Party)

I, _____ (Name), Son/daughter/spouse of _____ residing/employed at _____ do hereby solemnly affirm and sincerely state and submit as follows:—

I have produced electronic record/output of the digital record taken from the following device/digital record source (tick mark):—

Computer / Storage Media ☐ DVR ☐ Mobile ☐ Flash Drive ☐

CD/DVD ☐ Server ☐ Cloud ☐ Other ☐

Other: _____

Make & Model: _____ Color: _____
Serial Number: _____
IMEI/UIN/UID/MAC/Cloud ID_____ (as applicable)
and any other relevant information, if any, about the device/digital record_____(specify).

The digital device or the digital record source was under the lawful control for regularly creating, storing or processing information for the purposes of carrying out regular activities and during this period, the computer or the communication device was working properly and the relevant information was regularly fed into the computer during the ordinary course of business. If the computer/digital device at any point of time was not working properly or out of operation, then it has not affected the electronic/digital record or its accuracy. The digital device or the source of the digital record is:—

Owned ☐ Maintained ☐ Managed ☐ Operated ☐

by me (select as applicable).

I state that the HASH value/s of the electronic/digital record/s is _____, obtained through the following algorithm:—

☐ SHA1:

☐ SHA256:

☐ MD5:

☐ Other_____ (Legally acceptable standard)

(Hash report to be enclosed with the certificate)

(Name and signature)

Date (DD/MM/YYYY): _____

Time (IST): _____hours (In 24 hours format)

Place: _____

Expert

PART B

(To be filled by the Expert)

I, _____ (Name), Son/daughter/spouse of _____ residing/employed at _____ do hereby solemnly affirm and sincerely state and submit as follows:—

The produced electronic record/output of the digital record are obtained from the following device/digital record source (tick mark):—

Computer / Storage Media ☐ DVR ☐ Mobile ☐ Flash Drive ☐

CD/DVD ☐ Server ☐ Cloud ☐ Other ☐

Other: _____

Make & Model: _____ Color: _____
Serial Number: _____
IMEI/UIN/UID/MAC/Cloud ID_____ (as applicable)
and any other relevant information, if any, about the device/digital record_____(specify).

I state that the HASH value/s of the electronic/digital record/s is _____, obtained through the following algorithm:—

☐ SHA1:

☐ SHA256:

☐ MD5:

☐ Other_____ (Legally acceptable standard)

(Hash report to be enclosed with the certificate)

(Name, designation and signature)

Date (DD/MM/YYYY): _____

Time (IST): _____hours (In 24 hours format)

Place: _____

- (5) For the purposes of this section, —
- (a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;
- **(b) whether in the course of activities carried on by any official, information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;**
- (c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.
- **Explanation.—For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.]**

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

IEA S 66

- 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, 1 [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:

BSA S 64

- **64.** 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:

- (1) when the document to be proved is itself a notice;
- (2) when, from the nature of the case, the adverse party must know that he will be required to produce it;
- (3) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
- (4) when the adverse party or his agent has the original in Court;
- (5) when the adverse party or his agent has admitted the loss of the document;
- (6) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

- (*a*) when the document to be proved is itself a notice;
- (*b*) when, from the nature of the case, the adverse party must know that he will be required to produce it;
- (*c*) when it appears or is proved that the adverse party has obtained possession of the original by fraud or force;
- (*d*) when the adverse party or his agent has the original in Court;
- (*e*) when the adverse party or his agent has admitted the loss of the document;
- (*f*) when the person in possession of the document is out of reach of, or not subject to, the process of the Court.

IEA S 67, S 67A

- 67. Proof of signature and handwriting of person alleged to have signed or written document produced.
- 67A. Proof as to electronic signature.
- Same

BSA S 65

- **65.** If a document is alleged to be signed or to have been written wholly or in part by any person, the signature or the handwriting of so much of the document as is alleged to be in that person's handwriting must be proved to be in his handwriting.
- **66.** Except in the case of a secure electronic signature, if the electronic signature of any subscriber is alleged to have been affixed to an electronic record, the fact that such electronic signature is the electronic signature of the subscriber must be proved.

IEA S 68

- 68. Proof of execution of document required by law to be attested.
- Same

BSA S 67

- **67.** If a document is required by law to be attested, it shall not be used as evidence until one attesting witness at least has been called for the purpose of proving its execution, if there be an attesting witness alive, and subject to the process of the Court and capable of giving evidence:
- Provided that it shall not be necessary to call an attesting witness in proof of the execution of any document, not being a will, which has been registered in accordance with the provisions of the Indian Registration Act, 1908, unless its execution by the person by whom it purports to have been executed is specifically denied.

IEA S 69

- **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.

BSA S 68

- **68.** 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.

S 70, 71, 72 IEA

- 70. Admission of execution by party to attested document.
- 71. Proof when attesting witness denies the execution.
- 72. Proof of document not required by law to be attested.
- Same

BSA S 69, 70, 71

- **69.** The admission of a party to an attested document of its execution by himself shall be sufficient proof of its execution as against him, though it be a document required by law to be attested.
- **70.** If the attesting witness denies or does not recollect the execution of the document, its execution may be proved by other evidence.
- **71.** An attested document not required by law to be attested may be proved as if it was unattested.

S 73 IEA

- **73**. Comparison of signature, writing or seal with others admitted or proved.
- Renumbering of sub-sections

BSA S 72

- **72.** (*1*) In order to ascertain whether a signature, writing or seal is that of the person by whom it purports to have been written or made, any signature, writing, or seal admitted or proved to the satisfaction of the Court to have been written or made by that person may be compared with the one which is to be proved, although that signature, writing or seal has not been produced or proved for any other purpose.
- (*2*) The Court may direct any person present in Court to write any words or figures for the purpose of enabling the Court to compare the words or figures so written with any words or figures alleged to have been written by such person.
- (*3*) This section applies also, with any necessary modifications, to finger impressions.

IEA S 73A

- 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.
- **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).]**

BSA S 73

- **73.** 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.

IEA S 74, 75- merged

- 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.
- **75. Private documents.—All other documents are private.**

BSA S 74

- **74.** Public & 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 except the documents referred to in sub-section (*1*) are private.

IEA 76

- 76. Certified copies of public documents.
- Same

BSA 75

- **75.** Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees therefor, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officer with his name and his official title, and shall be sealed, whenever such officer is authorised by law to make use of a seal; and such copies so certified shall be called certified copies.
- *Explanation.*—Any officer who, by the ordinary course of official duty, is authorised to deliver such copies, shall be deemed to have the custody of such documents within the meaning of this section.

IEA S 77

- 77. Proof of documents by production of certified copies.
- Same

BSA S 76

- **76.** Such certified copies may be produced in proof of the contents of the public documents or parts of the public documents of which they purport to be copies.

IEA S 78

- **78. Proof of other official documents.**
- The following public documents may be proved as follows:—
- (1) Acts, orders or notifications of [the Central Government] in any of its departments, 2 **[or of the Crown Representative]** or of any State Government or any department of any State Government, —
    - by the records of the departments, certified by the head of those departments respectively, or
    - by any document purporting to be printed by order of any such Government **[or, as the case may be, of the Crown Representative];**
- (2) the proceedings of the **Legislatures,—** by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government concerned;

BSA 77

- **77.** The following public documents may be proved as follows:—
- (*a*) Acts, orders or notifications of the Central Government in any of its Ministries and Departments or of any State Government or any Department of any State Government or Union territory Administration—
- (*i*) by the records of the Departments, certified by the head of those Departments respectively; or
- (*ii*) by any document purporting to be printed by order of any such Government;
- (*b*) the proceedings of Parliament or a State Legislature, by the journals of those bodies respectively, or by published Acts or abstracts, or by copies purporting to be printed by order of the Government concerned.

- **(3)** proclamations, orders or regulations issued by **[Her Majesty] or by the Privy Council, or by any department of 4 [Her Majesty's Government,**— 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;

- (*c*) proclamations, orders or Regulations issued 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;
- (*d*) 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 any Central Act;
- (*e*) 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

- **(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 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

- (*f*) 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 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.

IEA S 79

- 79. Presumption as to genuineness of certified copies.
- Same

BSA 78

- **78.** (*1*) The Court shall presume to be genuine every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer of the Central Government or of a State Government:
- Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.
- (*2*) The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper.

S 80

- Same

S 79

- Presumption as to documents produced as record of evidence, etc

IEA S 81

- The Court shall presume the genuineness of every document purporting to be the **London Gazette or** [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 2 [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.

BSA S 80

- **80.** The Court shall presume the genuineness of every document purporting to be the Official Gazette, or to be a newspaper or journal, and of every document purporting to be a document directed by any law to be kept by any person, if such document is kept substantially in the form required by law and is produced from proper custody.
- *Explanation.*—For the purposes of this section and section 92, document is said to be in proper custody if it is in the place in which, and looked after by the person with whom such document is required to be kept; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render that origin probable.

IEA S 81 A

- **81. 81A. Presumption as to Gazettes in electronic forms.**
- The Court shall presume the genuineness of every electronic record purporting to be the Official Gazette, or 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.

BSA S 81

- **81.** The Court shall presume the genuineness of every electronic or digital record purporting to be the Official 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 93 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.

S 82, 83, 84, 85

- 82. Presumption as to document admissible in England without proof of seal or signature.
- 83. Presumption as to maps or plans made by authority of Government.
- 84. Presumption as to collections of laws and reports of decisions.
- 85. Presumptions as to powers-of-attorney

BSA 82, 83, 84

- Removed
- 82- Presumption as to maps or plans made by authority of Government.
- 83- Presumption as to collections of laws and reports of decisions.
- 84- Presumption as to powers of-attorney.

S 85A, 85B, 85C

- 85A 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.
- 85B. Presumption as to electronic records and electronic signatures. - same
- 85C. Presumption as to Electronic Signature Certificates.- Same

BSA 85, 86, 87

- **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.
- 86- Presumption as to electronic records and electronic signatures.
- 87- Presumption as to Electronic Signature Certificates

IEA S 86

- **86. Presumption as to certified copies of foreign judicial records.**
- The Court may presume that any document purporting to be a certified copy of any judicial record of any country **not forming part of India or] of Her Majesty's Dominions** is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the [Central Government] [in or for] [such country] to be the manner commonly in 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 15[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].

BSA 88

- **88.** (*1*) The Court may presume that any document purporting to be a certified copy of any judicial record of any country beyond India is genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the Central Government in or for such country to be the manner commonly in use in that country for the certification of copies of judicial records.
- (*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.

IEA S 87, 88

- S 87- Same
- **S 88- presumption as to telegraphic messages-**

BSA S 89

- S 89- Presumption as to books, maps and charts.
- Removed

S 88A

- **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 section 2 of the Information Technology Act, 2000 (21 of 2000).**

BSA S 90

- **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.

IEA S 89

- 89. Presumption as to due execution, etc., of documents not produced.- SAME

BSA S 91

- S 91- Presumption as to due execution, etc., of documents not produced.

IEA S 90

- 90. Presumption as to documents thirty years old.
- Where any document, purporting or proved to be thirty years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the signature and every other part of such document, which purports to be in the handwriting of any particular person, is in that person’s handwriting, and, in the case of a document executed or attested, that it was duly executed and attested by the persons by whom it purports to be executed and attested.
- **Explanation.— Documents are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they would naturally be; but no custody is improper if it is proved to have had a legitimate origin, or if the circumstances of the particular case are such as to render such an origin probable. This explanation applies also to section 81.**

BSA S 92

- **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.*—The *Explanation* to section 80 shall also apply to this section

IEA S 90A

- **90A. Presumption as to electronic records five years old.**
- Where any electronic record, purporting or proved to be five years old, is produced from any custody which the Court in the particular case considers proper, the Court may presume that the 2 [electronic signature] which purports to be the 2 [electronic signature] of any particular person was so affixed by him or any person authorised by him in this behalf.
- **Explanation. — Electronic records are said to be in proper custody if they are in the place in which, and under the care of the person with whom, they naturally be; but no custody is improper if it is proved to have had a legitimate origin, or the circumstances of the particular case are such as to render such an origin probable. This Explanation applies also to section 81A.]**

BSA S 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.*—The *Explanation* to section 81 shall also apply to this section.

IEA

- S 91- same
- S 92- same
- S 93- same
- S 94- same
- S 95- same
- S 96- same
- S 97- same
- S 98- same
- S 99- same
- S 100- same

BSA

- S 94- Evidence of terms of contracts, grants and other dispositions of property reduced to form of document.
- S 95- Exclusion of evidence of oral agreement.
- S 96- Exclusion of evidence to explain or amend ambiguous document.
- S 97- Exclusion of evidence against application of document to existing facts.
- S 98- Evidence as to document unmeaning in reference to existing facts
- S 99- Evidence as to application of language which can apply to one only of several persons.
- S 100- Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies.
- S 101-Evidence as to meaning of illegible characters, etc.
- S 102- Who may give evidence of agreement varying terms of document.
- S 103- Saving of provisions of Indian Succession Act relating to wills.

Burden of proof

IEA

- S 101-112- same
- S 113- Proof of cession of territory.

BSA

- S 104-
- removed

IEA S 120

- **120. Parties to civil suit, and their wives or husbands**. Husband or wife of person under criminal trial. — In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses. In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

BSA 126

- 126- Competency of husband and wife as witnesses in certain cases.-
- (1) In all civil proceedings the parties to the suit, and the husband or wife of any party to the suit, shall be competent witnesses.
- (2) In criminal proceedings against any person, the husband or wife of such person, respectively, shall be a competent witness.

IEA

- S 121- same
- S 122- same
- S 123- same
- S 124- same
- S 125- same
- S 126. Professional communications.
- S 127. Section 126 to apply to interpreters, etc. - **merged into S 132 BSA**

BSA

- S 127- Judges and Magistrates
- S 128- Communications during marriage
- S 129- Evidence as to affairs of State.
- S 130- Official communications.
- S 131- Information as to commission of offences.
- S 132- Professional communications- Sub-sec 3 added after illustrations.

IEA S 128

- 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.

BSA 133

- **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.

IEA S 137

- **137. Examination-in-chief.** — The examination of witness by the party who calls him shall be called his examination-in-chief.
- **Cross-examination. —** The examination of a witness by the adverse party shall be called his cross-examination.
- **Re-examination.** —The examination of a witness, subsequent to the cross-examination by the party who called him, shall be called his re-examination.

BSA S 142

- **142.** (*1*) The examination of a 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.

IEA S 138

- **–Order of Examination-** Witnesses shall be first examined-in-chief, then (if the adverse party so desires) cross-examined, then (if the party calling him so desires) re-examined. The examination and cross-examination must relate to relevant facts, but the cross-examination need not be confined to the facts to which the witness testified on his examination-in-chief.
- **Direction of re-examination.** — The re-examination shall be directed to the explanation of matters referred to in cross-examination; and, if new matter is, by permission of the Court, introduced in re-examination, the adverse party may further cross-examine upon that matter.

BSA S 143

- **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.
- (*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.

S 141, 142, 143- merged

- 141. **Leading questions.** — Any question suggesting the answer which the person putting it wishes or expects to receive, is called a leading question.
- **142. When they must not be asked.** — 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. The Court shall permit leading questions as to matters which are introductory or undisputed, or which have, in its opinion, been already sufficiently proved.
- **143. When they may be asked**. — Leading questions may be asked in cross-examination.

BSA S 146

- **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.

IEA

- **S 166- Power of jury or assessors to put questions-**

BSA

- **removed**

Thank You

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