

COMPARATIVE ANALYSIS
OF
INDIAN EVIDENCE ACT, 1872
&
BHARATIYA SAKSHYA BILL, 2023

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LAW FIRM

Indian Evidence Act, 1872		Bharatiya Sakshya Bill, 2023	
Section	Heading	Clause	Heading
1	Short title, extent and commencement	1	Short title, application and commencement
2	Repeal of enactments	—	—
3	Interpretation clause	2	Definitions
4	“May presume”	2	Definitions
5	Evidence may be given of facts in issue and relevant facts	3	Evidence may be given of facts in issue and relevant facts

6	Relevancy of facts forming part of same transaction	4	Relevancy of facts forming part of same transaction
7	Facts which are the occasion, cause or effect of facts in issue.	5	Facts which are the occasion, cause or effect of facts in issue or relevant facts
8	Motive, preparation and previous or subsequent conduct	6	Motive, preparation and previous or subsequent conduct
9	Facts necessary to explain or introduce relevant facts	7	Facts necessary to explain or introduce fact in issue or relevant facts
10	Things said or done by conspirator in reference to common design	8	Things said, done by conspirator in reference to common design

11	When facts not otherwise relevant become relevant	9	When facts not otherwise relevant become relevant
12	In suits for damages, facts tending to enable Court to determine amount are relevant		Facts tending to enable Court to determine amount are relevant in suits for damages
13	Facts relevant when right or custom is in question	11	Facts relevant when right or custom is in question
14	Facts showing existence of state of mind, or of body or bodily feeling	12	Facts showing existence of state of mind, or of body or bodily feeling
15	Facts bearing on question whether act was accidental or intentional	13	Facts bearing on question whether act was accidental or intentional
16	Existence of course of business when relevant	14	Existence of course of business when relevant
17	Admission defined	15	Admission defined
18	Admission by party to proceeding or his agent	16	Admission by party to proceeding or his agent
19	Admissions by persons whose position must be proved as against party to suit	17	Admissions by persons whose position must be proved as against party to suit

20	Admissions by persons expressly referred to by party to suit	18	Admissions by persons expressly referred to by party to suit
21	Proof of admissions against persons making them, and by or on their behalf	19	Proof of admissions against persons making them, and by or on their behalf
22	When oral admissions as to contents of documents are relevant	20	When oral admissions as to contents of documents are relevant
22A	When oral admissions as to contents of electronic records are relevant	—	—

23	Admissions in civil cases, when relevant	21	Admissions in civil cases when relevant
24	Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding	22	Confession caused by inducement, threat, coercion or promise, when relevant in criminal proceeding
25	Confession to police officer not to be proved		Confession to police officer
26	Confession by accused while in custody of Police not to be proved against him	—	—
27	How much of information received from accused may be proved	—	—
28	Confession made after removal of impression caused by inducement, threat or promise, relevant	—	—
29	Confession otherwise relevant not to become irrelevant because of promise of secrecy, etc.	—	—
30	Consideration of proved confession affecting person making it and others jointly under trial for same offence	24	Consideration of proved confession affecting person making it and others jointly under trial for same offence

31	Admissions not conclusive proof, but may estop	25	Admissions not conclusive proof, but may estop
32	Cases in which statement of relevant fact by person who is dead or cannot be found, etc., is relevant	26	Cases in which statement of facts in issue or relevant fact by person who is dead or cannot be found, etc., is relevant
33	Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated	27	Relevancy of certain evidence for proving, in subsequent proceeding, the truth of facts therein stated

34	Entries in books of account including those maintained in an electronic form when relevant	28	Entries in books of account when relevant
35	Relevancy of entry in public record or an electronic record made in performance of duty	29	Relevancy of entry in public record or an electronic record made in performance of duty
36	Relevancy of statements in maps, charts and plans		Relevancy of statements in maps, charts and plans
37	Relevancy of statement as to fact of public nature, contained in certain Acts or notifications	31	Relevancy of statement as to fact of public nature contained in certain Acts or notifications
38	Relevancy of statements as to any law contained in law books	32	Relevancy of statements as to any law contained in law books including electronic or digital form
39	What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers	33	What evidence to be given when statement forms part of a conversation, document, electronic record, book or series of letters or papers
40	Previous judgments relevant to a second suit or trial	34	Previous judgments relevant to a second suit or trial
41	Relevancy of certain judgments in probate, etc., jurisdiction	35	Relevancy of certain judgments in probate, etc., jurisdiction
42	Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 41	36	Relevancy and effect of judgments, orders or decrees, other than those mentioned in section 35

43	Judgments, etc., other than those mentioned in sections 40 to 42, when relevant	37	Judgments, etc., other than those mentioned in sections 34, 35 and 36 when relevant
44	Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved	38	Fraud or collusion in obtaining judgment, or incompetency of Court, may be proved

45	Opinions of experts	39	Opinions of experts
45A	Opinion of Examiner of Electronic Evidence	—	—
46	Facts bearing upon opinions of experts	40	Facts bearing upon opinions of experts
47	Opinion as to handwriting, when relevant	41	Opinion as to hand-writing and digital signature, when relevant
47A	Opinion as to electronic signature when relevant	—	—
48	Opinion as to existence of right or custom, when relevant		Opinion as to existence of general custom or right, when relevant
49	Opinions as to usages, tenets, etc., when relevant	43	Opinion as to usages, tenets, etc., when relevant
50	Opinion on relationship, when relevant	44	Opinion on relationship, when relevant
51	Grounds of opinion, when relevant	45	Grounds of opinion, when relevant
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53	In criminal cases, previous good character relevant	47	In criminal cases previous good character relevant
53A	Evidence of character or previous sexual experience not relevant in certain cases	48	Evidence of character or previous sexual experience not relevant in certain cases
54	Previous bad character not relevant, except in reply	49	Previous bad character not relevant, except in reply

55	Character as affecting damages	50	Character as affecting damages
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56	Fact judicially noticeable need not be proved	51	Fact judicially noticeable need not be proved
57	Facts of which Court must take judicial notice	52	Facts of which Court shall take judicial notice
58	Facts admitted need not be proved	53	Facts admitted need not be proved
59	Proof of facts by oral evidence	54	Proof of facts by oral evidence
60	Oral evidence must be direct	55	Oral evidence to be direct
61	Proof of contents of documents	56	Proof of contents of documents
62	Primary evidence	57	Primary evidence
63	Secondary evidence	58	Secondary evidence
64	Proof of documents by primary evidence	59	Proof of documents by primary evidence
65	Cases in which secondary evidence relating to documents may be given		Cases in which secondary evidence relating to documents may be given
65A	Special provisions as to evidence relating to electronic record	62	Special provisions as to evidence relating to electronic record
65B	Admissibility of electronic records	61, 63	Admissibility of electronic or digital record Admissibility of electronic records
66	Rules as to notice to produce	64	Rules as to notice to produce
67	Proof of signature and handwriting of person alleged to have signed or written document produced	65	Proof of signature and handwriting of person alleged to have signed or written document produced
67A	Proof as to electronic signature	66	Proof as to electronic signature
68	Proof of execution of document required by law to be attested	67	Proof of execution of document required by law to be attested

69	Proof where no attesting witness found	68	Proof where no attesting witness found
70	Admission of execution by party to attested document	69	Admission of execution by party to attested document
71	Proof when attesting witness denies the execution	70	Proof when attesting witness denies the execution
72	Proof of document not required by law to be attested	71	Proof of document not required by law to be attested
73	Comparison of signature, writing or seal with others admitted or proved	72	Comparison of signature, writing or seal with others admitted or proved
73A	Proof as to verification of digital signature	73	Proof as to verification of digital signature
74	Public documents	74	Public and private documents
75	Private documents		Public and private documents

76	Certified copies of public documents	75	Certified copies of public documents
77	Proof of documents by production of certified copies	76	Proof of documents by production of certified copies
78	Proof of other official documents	77	Proof of other official documents
79	Presumption as to genuineness of certified copies	78	Presumption as to genuineness of certified copies
80	Presumption as to documents produced as record of evidence	79	Presumption as to documents produced as record of evidence, etc.
81	Presumption as to Gazettes, newspapers, private Acts of Parliament and other documents	80	Presumption as to Gazettes, newspapers, and other documents
81A	Presumption as to Gazettes in electronic forms	81	Presumption as to Gazettes in electronic or digital record

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	82	Presumption as to maps or plans made by authority of Government
84	Presumption as to collections of laws and reports of decisions	83	Presumption as to collections of laws and reports of decisions
85	Presumption as to power-of-attorney	84	Presumption as to powers-of-attorney
85A	Presumption as to electronic agreements	85	Presumption as to electronic agreements
85B	Presumptions as to electronic records and electronic signatures	86	Presumption as to electronic records and electronic signatures
85C	Presumption as to Electronic Signature Certificates	87	Presumption as to Electronic Signature Certificates
86	Presumption as to certified copies of foreign judicial records	88	Presumption as to certified copies of foreign judicial records
87	Presumption as to books, maps and charts	89	Presumption as to books, maps and charts

88	Presumption as to telegraphic messages	—	—
88A	Presumption as to electronic messages	90	Presumption as to electronic messages
89	Presumption as to due execution, etc., of documents, not produced	91	Presumption as to due execution, etc., of documents not produced
90	Presumption as to documents thirty years old	92	Presumption as to documents thirty years old
90A	Presumption as to electronic records five years old	93	Presumption as to electronic records five years old

91	Evidence of terms of contracts, grants and other dispositions of property reduced to form of documents	94	Evidence of terms of contracts, grants and other dispositions of property reduced to form of document
92	Exclusion of evidence of oral agreement	95	Exclusion of evidence of oral agreement
93	Exclusion of evidence to explain or amend ambiguous document	96	Exclusion of evidence to explain or amend ambiguous document
94	Exclusion of evidence against application of document to existing facts	97	Exclusion of evidence against application of document to existing facts
95	Evidence as to document unmeaning in reference to existing facts	98	Evidence as to document unmeaning in reference to existing facts
96	Evidence as to application of language which can apply to one only of several persons	99	Evidence as to application of language which can apply to one only of several persons
97	Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies	101	Evidence as to application of language to one of two sets of facts, to neither of which the whole correctly applies
98	Evidence as to meaning of illegible characters, etc.	102	Evidence as to meaning of illegible characters, etc.
99	Who may give evidence of agreement varying terms of document	103	Who may give evidence of agreement varying terms of document
100	Saving of provisions of Indian Succession Act relating to wills	104	Saving of provisions of Indian Succession Act relating to Wills
101	Burden of proof	105	Burden of proof
102	On whom burden of proof lies	106	On whom burden of proof lies
103	Burden of proof as to particular fact		Burden of proof as to particular fact

104	Burden of proving fact to be proved to make evidence admissible	107	Burden of proving fact to be proved to make evidence admissible
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105	Burden of proving that case of accused comes within exceptions	108	Burden of proving that case of accused comes within exceptions
106	Burden of proving fact especially within knowledge	109	Burden of proving fact especially within knowledge
107	Burden of proving death of person known to have been alive within thirty years	110	Burden of proving death of person known to have been alive within thirty years
108	Burden of proving that person is alive who has not been heard of for seven years	111	Burden of proving that person is alive who has not been heard of for seven years
109	Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent	112	Burden of proof as to relationship in the cases of partners, landlord and tenant, principal and agent
110	Burden of proof as to ownership	113	Burden of proof as to ownership
111	¹¹⁴ Proof of good faith in transactions where one party is in relation of active confidence		Proof of good faith in transactions where one party is in relation of active confidence
111A	Presumption as to certain offences	115	Presumption as to certain offences
112	Birth during marriage, conclusive proof of legitimacy	116	Birth during marriage, conclusive proof of legitimacy
113	Proof of cession of territory	—	—
113A	Presumption as to abetment of suicide by a married woman	117	Presumption as to abetment of suicide by a married woman
113B	Presumption as to dowry death	118	Presumption as to dowry death

114	Court may presume existence of certain facts	119	Court may presume existence of certain facts
114A	Presumption as to absence of consent in certain prosecution for rape	120	Presumption as to absence of consent in certain prosecution for rape
115	Estoppel	121	Estoppel

116	Estoppel of tenant; and of licensee of person in possession	122	Estoppel of tenants and of licensee of person in possession
117	Estoppel of acceptor of bill of exchange, bailee or licensee	123	Estoppel of acceptor of bill of exchange, bailee or licensee
118	Whom may testify	124	Who may testify
119	Witness unable to communicate verbally	125	Witness unable to communicate verbally
120	Parties to civil suit, and their wives or husbands—husband or wife of person under criminal trial	126	Competency of husband and wife as witnesses in certain cases
121	Judges and Magistrates	127	Judges and Magistrates
122	Communications during marriage	128	Communications during marriage
123	Evidence as to affairs of State	129	Evidence as to affairs of State
124	Official communications	130	Official communications
125	Information as to commission of offences		Information as to commission of offences
126	Professional communications	132	Professional communications
127	Section 126 to apply to interpreters, etc.	—	—

128	Privilege not waived by volunteering evidence	133	Privilege not waived by volunteering evidence
129	Confidential communications with legal advisers	134	Confidential communication with legal advisers
130	Production of title-deeds of witness not a party	135	Production of title-deeds of witness not a party
131	Production of documents or electronic records which another person, having possession, could refuse to produce	136	Production of documents or electronic records which another person, having possession, would refuse to produce

132	Witness not excused from answering on ground that answer will criminate	137	Witness not excused from answering on ground that answer will criminate
133	Accomplice	138	Accomplice
134	Number of witnesses	139	Number of witnesses
135	Order of production and examination of witnesses	140	Order of production and examination of witnesses
136	Judge to decide as to admissibility of evidence	141	Judge to decide as to admissibility of evidence
137	Examination-in-chief	142	Examination of witnesses
138	Order of examinations	143	Order of examinations
139	Cross-examination of person called to produce a document	144	Cross-examination of person called to produce a document
140	Witnesses to character	145	Witnesses to character
141	Leading questions		Leading questions
142	When they must not be asked	146	Leading questions

143	When they may be asked	146	Leading questions
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145	Cross-examination as to previous statements in writing	148	Cross-examination as to previous statements in writing
146	Questions lawful in cross-examination	149	Questions lawful in cross-examination
147	When witness to be compelled to answer	150	When witness to be compelled to answer
148	Court to decide when question shall be asked and when witness compelled to answer	151	Court to decide when question shall be asked and when witness compelled to answer
149	Question not to be asked without reasonable grounds	152	Question not to be asked without reasonable grounds

150	Procedure of Court in case of question being asked without reasonable grounds	153	Procedure of Court in case of question being asked without reasonable grounds
151	Indecent and scandalous questions	154	Indecent and scandalous questions
152	Questions intended to insult or annoy	155	Questions intended to insult or annoy
153	Exclusion of evidence to contradict answers to questions testing veracity	156	Exclusion of evidence to contradict answers to questions testing veracity
154	Question by party to his own witness	157	Question by party to his own witness
155	Impeaching credit of witness	158	Impeaching credit of witness

156	Questions tending to corroborate evidence of relevant fact, admissible		Questions tending to corroborate evidence of relevant fact, admissible
157	Former statements of witness may be proved to corroborate later testimony as to same fact	160	Former statements of witness may be proved to corroborate later testimony as to same fact
158	What matters may be proved in connection with proved statement relevant under section 32 or 33	161	What matters may be proved in connection with proved statement relevant under section 32 or 33
159	Refreshing memory	162	Refreshing memory
160	Testimony to facts stated in document mentioned in section 159	163	Testimony to facts stated in document mentioned in section 159
161	Right of adverse party as to writing used to refresh memory	164	Right of adverse party as to writing used to refresh memory
162	Production of documents	165	Production of documents
163	Giving, as evidence, of document called for and produced on notice	166	Giving, as evidence, of document called for and produced on notice