

Bharatiya Sakshya Adhiniyam, 2023 – Note

Oct 13, 2026 · @Advocate Deepak

The Bharatiya Sakshya Adhiniyam, 2023 (BSA) replaced the Indian Evidence Act, 1872 (IEA) for all proceedings governed by it from 1 July 2024, keeping most of the old law but modernising it for electronic evidence.

Overview

Item	Detail
Short title	Bharatiya Sakshya Adhiniyam, 2023 (Act No. 47 of 2023)
Replaces	Indian Evidence Act, 1872 (s.170 repeals it, with savings)
Passed	Lok Sabha 20 Dec 2023; Rajya Sabha 21 Dec 2023; Presidential assent 25 Dec 2023
In force	1 July 2024, together with the Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Nyaya Sanhita (BNS)
Structure	170 sections in 12 Chapters (IEA had 167 sections in 11 Chapters)
Approach	Most IEA provisions retained, renumbered; about two dozen provisions modified, a few new, some obsolete ones dropped

The Adhiniyam is the third of the three criminal-law reform statutes. It is a procedural law that governs what facts may be proved, how, and by whom, and it applies to civil and criminal trials alike.

Key changes from the Indian Evidence Act

- 1. Wider definition of "document" (s.2).** It now expressly includes electronic and digital records: emails, server logs, documents on computers, laptops and smartphones, messages, websites, locational evidence and voicemail.

2. **Wider definition of "evidence" (s.2).** Oral evidence now includes statements made electronically, so witnesses, accused persons and experts can be examined through video conferencing.
3. **Electronic records as primary evidence (s.57).** Where an electronic record is created or stored in several files simultaneously or sequentially, each file is primary evidence.
4. **Secondary evidence widened (s.58).** It includes oral and written admissions and the testimony of a person who has examined the document and is skilled in examining such documents.
5. **Equal status for electronic records (s.61).** A record cannot be refused admission only because it is electronic; it has the same legal effect as paper.
6. **Fuller admissibility regime (s.63 and the Schedule).** The IEA s.65B certificate now extends to communication devices and needs a second, expert certificate. See the next section.
7. **Confessions (s.22, s.23).** Inducement language now reads "threat, inducement or promise" with coercion, violence or torture added to the grounds that make a confession irrelevant. The police-custody bar and the discovery exception are merged into s.23.
8. **Joint trial and absconders (s.24).** A confession of a co-accused can be considered in a joint trial, and an accused who has absconded or failed to answer a proclamation is treated as tried jointly.
9. **Expert opinion (s.39).** Experts expressly include forensic science, in line with the BNSS push for forensic investigation.
10. **Gender-neutral language.** References to "he" and "his" are modernised, and archaic wording is dropped.

The core rules on relevancy, admissions, dying declarations, presumptions, burden of proof, estoppel and examination of witnesses are carried over largely word for word.

Electronic evidence: ss.57, 61, 62, 63 and the Schedule

An electronic record is admissible only if the s.63 conditions are met and a certificate in the form given in the Schedule accompanies it. The Supreme Court in *Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal* (2020) held the IEA s.65B(4) certificate mandatory for secondary electronic evidence, and s.63 keeps and tightens that approach.

Provision	Effect
s.57	Each file of an electronic record stored in several files is primary evidence

Provision	Effect
s.61	Electronic or digital record cannot be denied admissibility only because of its form
s.62	Contents of an electronic record are to be proved under s.63
s.63(1)	"Computer output" (printout, optical, magnetic or semiconductor media) is a document and admissible without production of the original, if conditions are met
s.63(2)	Conditions: device regularly used for the information, regular feeding of data, device operating properly (or malfunction did not affect accuracy), data reproduced from regular inputs. Now covers communication devices
s.63(3)	Several computers or intermediaries are treated as one combined computer
s.63(4)	Certificate in the Schedule, identifying the record, describing how it was produced and the device, signed by the person in charge of the device and an expert
Schedule	Part A is filled by the party or person in charge, and Part B by the expert; both carry the hash value of the record (SHA-256 or another algorithm)

What this means in practice:

- **Two signatures.** The expert's certificate is new; the IEA needed only the person in charge.
- **Hash value.** Record the hash at the time of seizure or extraction and state the algorithm, so the integrity of a WhatsApp chat, CCTV clip or email can be shown.
- **Timing.** Courts have allowed the certificate to be produced at a later stage in some cases, but filing it with the document avoids objection.
- **Original devices.** Where the original device is produced and spoken to by its owner, the certificate is generally unnecessary, since that is primary evidence.

Please check the exact Schedule format and any latest High Court or Supreme Court rulings before filing, since the case law on the BSA is still developing.

Ready reckoner: IEA to BSA

Topic	IEA 1872	BSA 2023
Definitions (document, evidence)	s.3	s.2
Facts in issue and relevant facts	s.5	s.3
Res gestae	s.6	s.4
Admissions	ss.17 to 23	ss.15 to 21
Confession caused by threat, inducement, promise	s.24	s.22
Confession to police; custody; discovery of fact	ss.25, 26, 27	s.23
Confession of co-accused, joint trial	s.30	s.24
Dying declaration and other statements of unavailable persons	s.32	s.26
Expert opinion	s.45	s.39
Primary evidence	s.62	s.57
Secondary evidence	s.63	s.58
Admissibility of electronic records	s.65B	s.63
Burden of proof	s.101	s.104
Presumption of abetment of suicide by married woman	s.113A	s.117
Presumption as to dowry death	s.113B	s.118
Court's discretion to presume facts	s.114	s.119
Estoppel	s.115	s.121
Competency of witnesses	s.118	s.124

These numbers are from my working knowledge of the two Acts and should be checked against the bare Act before citing in a pleading or in court.

Transition and practical points

The BSA applies to proceedings begun on or after 1 July 2024, while matters pending before that date continue under the IEA, by virtue of the repeal and savings clause in s.170. For a case filed before 1 July 2024 the IEA rules, including s.65B, therefore still

govern the evidence, even where the trial is heard now.

- **Pleadings and arguments.** Cite the BSA section for new matters and the IEA section for old ones; for a mixed brief, give both.
- **Cheque bounce and civil suits.** Electronic proof such as bank SMS, email and WhatsApp needs the s.63 certificate, with Part A from the party and Part B from an expert.
- **Family and POSH matters.** Chats, call recordings and photographs should be hashed at the time of collection and the device preserved.
- **Criminal defence.** Check whether the prosecution has filed the dual certificate, and object to unsupported CCTV or phone extractions at the time of marking the exhibit.
- **Remote evidence.** Electronic examination of witnesses is recognised, so the BNSS procedure and court permission should be followed.

Sources: [Bar and Bench on digital evidence in ongoing trials](#), [KSK note on Section 63 BSA](#), [iPleaders on electronic evidence under the BSA](#).