

BHARATIYA
SAKSHYA ADHINIYAM, 2023
(EVIDENCE)

A C O M M E N T A R Y

With
Special Features

- Date of Enforcement Notification
- Key Highlights of Bharatiya Sakshya Adhinyam, 2023
- Comparative Tables of sections old versus new
and new versus old
- Table of new provisions introduced in new Act
- Table of provisions of Indian Evidence Act, 1872 omitted
in new Act
- Corresponding law indicated under each section of new Act
- Articles and comments of legal experts

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(EVIDENCE)

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Preface

The newly enacted Bharatiya Sakshya Adhiniyam, 2023 (BSA for short) repealed and replaced the Indian Evidence Act, 1872. Since significant developments have taken place since Independence, sociologically and scientifically, the provisions of the Act of 1872 increasingly required a thorough overhaul so as to incorporate the sociological and technological advancements in the Act of 1872. The result is the present Bharatiya Sakshya Adhiniyam, 2023.

The impact of technological advancements in the field of information technology like electronic or digital records, emails, server logs, computers, smartphones, laptops, SMS, websites, locational evidence, mails and messages on devices on criminal justice has been recognised, and necessary provisions have been made in the Adhiniyam. Digitalisation of criminal process from FIR to case diary, case diary to charge-sheet and charge-sheet to judgment as also videography of search and seizure have been emphasised and provided.

BSA, replacing the Indian Evidence Act, now has 170 sections instead of the earlier 167, changing 23 sections, adding 1 new section and repealing 5 sections. Emphasising the importance and role of information technology, BSA enlarges the definition of document to include electronic records and recognises it as primary evidence. It also permits depositions, examination and cross-examination of accused and witnesses through video conferencing.

In this commentary a comparative table showing correspondence of provisions of the old law with that of the new law has been provided. In the text, each provision is placed in juxtaposition of the old provision. Where there is no change, the rulings of the court will hold good and the gist of the judgments of the last 10 years is given as these present the current law position. Where there is a modification or change in the provision, the case

VI Preface

rulings on the old provision are presented as above to the extent applicable and impact of the change discussed. In case of an entirely new provision, the need, scope and ambit as also possible future impact thereof on the public at large is discussed.

An attempt has been made to make this commentary user-friendly, compact and handy taking care that it does not become a bulky compendium. For ease of case references, cases decided by the Supreme Court only have been cited and referred.

Patna

—DR J.K. VERMA

Brief Contents

<i>Date of Enforcement Notification</i>	XVII
<i>Key Highlights of Bharatiya Sakshya Adhiniyam, 2023</i>	XIX
<i>Comparative Table between Indian Evidence Act, 1872 (IEA 1872) and Bharatiya Sakshya Adhiniyam, 2023 (BSA 2023)</i>	XXIII
<i>Comparative Table between Bharatiya Sakshya Adhiniyam, 2023 (BSA 2023) and Indian Evidence Act, 1872 (IEA 1872)</i>	XXXVII
<i>Provisions Introduced in the Bharatiya Sakshya Adhiniyam, 2023</i>	LI
<i>Provisions of the Indian Evidence Act, 1872 omitted in the Bharatiya Sakshya Adhiniyam, 2023</i>	LI
<i>Table of Cases</i>	LIII
<i>Overview of the Criminal Law Reforms 2023 by Manisha Karia</i>	LXI
<i>A Note on New Criminal Laws by Kumar Askand Pandey</i>	LXXV
<i>Notable Changes Made in New Criminal Laws 2023 by Sanjay Vashishtha</i>	LXXXIII
<i>Introduction</i>	1

PART I

1. Preliminary	5
----------------------	---

PART II

2. Relevancy of Facts	13
-----------------------------	----

PART III
ON PROOF

3. Facts Which Need Not Be Proved	67
4. Of Oral Evidence	70
5. Of Documentary Evidence	73
6. Of the Exclusion of Oral Evidence by Documentary Evidence	98

PART IV
PRODUCTION AND EFFECT OF EVIDENCE

7. Of the Burden of Proof	109
8. Estoppel	124
9. Of Witnesses	126
10. Of Examination of Witnesses	134
11. Of Improper Admission and Rejection of Evidence	152
12. Repeal and Savings	153
The Schedule	154
<i>Subject Index</i>	157