# IPC Section 28: “Counterfeit”.

## Section 28 of the Indian Penal Code: "Counterfeit" – A Detailed Analysis  
  
Section 28 of the Indian Penal Code (IPC) defines "counterfeit." This definition is crucial for understanding offences related to forgery, using forged documents, and counterfeiting currency. The term "counterfeit" signifies an imitation made with the intent to deceive, and its precise meaning is essential for the correct application of related legal provisions.  
  
The section states:  
  
> A person is said to “counterfeit” who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.  
  
> Explanation 1.—It is not essential to counterfeiting that the imitation should be exact.  
  
> Explanation 2.—When a person causes one thing to resemble another thing, and the resemblance is such that a person might be deceived thereby, it shall be presumed, until the contrary is proved, that the person so causing the one thing to resemble the other thing intended by means of that resemblance to practise deception or knew it to be likely that deception would thereby be practised.  
  
  
Let's break down the components of this definition:  
  
\*\*1. Resemblance:\*\*  
  
The core of counterfeiting is creating a resemblance between two things. One thing is made to look like another, mimicking its appearance or characteristics. This resemblance doesn't have to be perfect or exact. A substantial likeness that can potentially deceive is sufficient.  
  
\*\*2. Intention to Deceive:\*\*  
  
The resemblance must be created with the \*intention\* to deceive. This involves a deliberate and conscious purpose to mislead others into believing that the counterfeit item is the genuine article. This intention is a crucial element of the offence.  
  
\*\*3. Knowledge of Likelihood of Deception:\*\*  
  
Alternatively, even if the person creating the resemblance doesn't have a direct intention to deceive, they can still be considered to have counterfeited if they \*know\* that deception is likely to be practiced by means of that resemblance. This covers situations where the person creating the resemblance might not intend to use it for deception themselves but is aware that others might do so.  
  
\*\*4. Explanation 1: Exact Imitation Not Essential:\*\*  
  
This explanation clarifies that the imitation doesn't need to be perfect. A substantial resemblance that is likely to deceive is enough to constitute counterfeiting. Minor differences or imperfections don't negate the offence as long as the overall likeness is sufficient to create a potential for deception.  
  
\*\*5. Explanation 2: Presumption of Intent:\*\*  
  
This explanation introduces a crucial presumption. If a person creates a resemblance between two things, and that resemblance is such that a person \*might\* be deceived by it, the law presumes that the person creating the resemblance intended to deceive or knew that deception was likely. This presumption shifts the burden of proof to the accused to demonstrate that they did not intend to deceive and were not aware of the likelihood of deception.  
  
\*\*6. Illustrations:\*\*  
  
\* \*\*Counterfeit Currency:\*\* Creating fake currency notes that resemble genuine notes, intending to pass them off as real, is a clear example of counterfeiting.  
\* \*\*Forged Documents:\*\* Creating a fake passport or driver's license that resembles a genuine document, intending to use it for fraudulent purposes, constitutes counterfeiting.  
\* \*\*Imitation Products:\*\* Manufacturing a product that closely resembles a branded product, intending to mislead consumers into believing it is the genuine brand, is counterfeiting.  
\* \*\*Fake Artwork:\*\* Creating a painting that imitates the style and signature of a famous artist, intending to sell it as an original, constitutes counterfeiting.  
  
  
\*\*7. Application in IPC:\*\*  
  
The concept of "counterfeit" is used in various sections of the IPC, including:  
  
\* \*\*Section 231 (Counterfeiting coin):\*\* This section deals with counterfeiting coins, making them resemble genuine currency.  
\* \*\*Section 232 (Counterfeiting Indian coin):\*\* This section specifically addresses counterfeiting Indian coins.  
\* \*\*Section 467 (Forgery of valuable security, will, etc.):\*\* This section deals with forgery of valuable documents, including wills, and uses the concept of counterfeiting to describe the act of creating a false document.  
\* \*\*Section 471 (Using as genuine a forged document or electronic record):\*\* This section criminalizes the act of using a forged document or electronic record as if it were genuine, and the concept of counterfeiting is relevant in determining whether the document or record is indeed forged.  
  
  
\*\*8. Judicial Interpretations:\*\*  
  
Several judicial pronouncements have clarified the scope of "counterfeit." Courts have emphasized the importance of the intention to deceive or the knowledge of the likelihood of deception. They have also clarified that the resemblance doesn't have to be perfect, and a substantial likeness that can potentially deceive is sufficient.  
  
\*\*9. Distinction from "Similar":\*\*  
  
While "counterfeit" involves creating a resemblance with the intention to deceive, "similar" merely denotes a likeness or resemblance without necessarily implying any intention to deceive. Two things can be similar without one being a counterfeit of the other. The crucial difference lies in the intent behind the resemblance.  
  
  
  
\*\*10. Conclusion:\*\*  
  
Section 28 of the IPC provides a comprehensive definition of "counterfeit," encompassing the creation of a resemblance between two things with the intention to deceive or the knowledge that deception is likely. This definition clarifies that the resemblance need not be perfect, and a substantial likeness sufficient to potentially deceive is enough. The section also introduces a presumption of intent to deceive when such a resemblance is created. Understanding the nuances of this definition, including the element of intention and the presumption introduced, is crucial for the accurate application of related provisions within the IPC and ensuring a just and effective legal system.