

THE INDIAN EVIDENCE ACT, 1872

ACT NO. 1 OF 1872¹

[15th March, 1872.]

Preamble.—WHEREAS it is expedient to consolidate, define and amend the law of Evidence; It is hereby enacted as follows: —

PART I

RELEVANCY OF FACTS

CHAPTER I.—PRELIMINARY

1. Short title. —This Act may be called the Indian Evidence Act, 1872.

Extent.—It extends to the whole of India ²[³***] and applies to all judicial proceedings in or before any Court, including Courts-martial, ⁴[other than Courts-martial convened under the Army Act (44 & 45 Vict., c. 58)] ⁵[the Naval Discipline Act [29 & 30 Vict., 109]; or ⁶*** the Indian Navy (Discipline) Act, 1934 (34 of 1934),] ⁷[or the Air Force Act (7 Geo. 5, c. 51)] but not to affidavits⁸ presented to any Court or officer, nor to proceedings before an arbitrator;

Commencement of Act.—And it shall come into force on the first day of September, 1872.

2. [Repeal of enactments].—*Rep. by the Repealing Act, 1938 (1 of 1938), s. 2 and Schedule.*

3. Interpretation-clause.—In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context: —

“Court”.—“Court” includes all Judges⁹ and Magistrates¹⁰, and all persons, except arbitrators, legally authorised to take evidence.

“Fact”.—“Fact” means and includes—(1) anything, state of things, or relation of things, capable of being perceived by the senses;

(2) any mental condition of which any person is conscious.

Illustrations

(a) That there are certain objects arranged in a certain order in a certain place, is a fact.

(b) That a man heard or saw something, is a fact.

(c) That a man said certain words, is a fact.

(d) That a man holds a certain opinion, has a certain intention, acts in good faith or fraudulently, or uses a particular word in a particular sense, or is or was at a specified time conscious of a particular sensation, is a fact.

(e) That a man has a certain reputation, is a fact.

1. The Act has been extended to Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and Schedule, extended to and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Schedule I (w.e.f. 1-7-1965) and to the whole of the Union territory of Lakshadweep by Reg. 8 of 1965 (w.e.f. 1-10-1967). The Act came into force in Pondicherry on 1-10-1963 vide Reg. 7 of 1963, s. 3 and Schedule I. The Act has been amended in West Bengal by West Bengal Act 20 of 1960 and in Tamil Nadu by Tamil Nadu Act 67 of 1979.

2. Subs. by Act 3 of 1951, s. 3 and the Schedule, for “except Part B States”.

3. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

3. Ins. by Act 18 of 1919, s. 2 and the First Schedule.

4. Ins. by Act 35 of 1934, s. 2 and the Schedule.

5. The words “that Act as modified by” Omitted by the A.O. 1950.

6. Ins. by Act 10 of 1927, s. 2 and the First Schedule.

7. As to practice relating to affidavits, See the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 30 (c) and the First Schedule, Order XIX. See also the Code of Criminal Procedure, 1973 (Act 2 of 1974), ss. 295 and 297.

8. Cf. the Code of Civil Procedure, 1908 (Act 5 of 1908), s. 2, the Indian Penal Code (Act 45 of 1860), s. 19; and for a definition of “District Judge”, the General Clauses Act, 1897 (10 of 1897), s. 3(17).

9. Cf. the General Clauses Act, 1897 (10 of 1897), s. 3(32) and the Code of Criminal Procedure, 1973 (Act 2 of 1974).