

CHAPTER VI B

PRESUMPTION AS TO DOCUMENTS

SECTION 36A. Presumption as to documents in certain cases. —

Where any document is produced by any person or has been seized from the custody or control of any person, in either case, under this Act or under any other law and such document is tendered by the prosecution in evidence against him or against him and any other person who is tried jointly with him, the Court shall, —

unless the contrary is proved by such (a)

person, presume — the truth of the (i) contents

of such document;

that the signature and (ii) every other part of such document which purports to be in the handwriting of any particular person or which the Court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document executed or attested, that it was executed or attested by the person by whom it purports to have been so executed or attested;

admit the document in evidence, (b) notwithstanding that it is not duly stamped, if such document is otherwise admissible in evidence.

SECTION 36B. Admissibility of micro films, facsimile copies of documents and computer print outs as documents and as evidence. —

(1) Notwithstanding anything contained in any other law for the time being in force, —

a micro film of a document or the (a) reproduction of the image or images embodied in such micro film (whether enlarged or not); or

a facsimile copy of a document; (b) or

a statement contained in a document (c) and included in a printed material produced by a computer (hereinafter referred to as a “computer print out”), if the conditions mentioned in sub-section (2) and the other provisions contained in this section are satisfied in relation to the statement and the computer in question,

shall be deemed to be also a document for the purposes of this Act and the rules made thereunder and shall be admissible in any proceedings thereunder, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

The conditions referred to in (2) sub-section (1) in respect of a computer print out shall be the following, namely :—

the computer print out containing the (a) statement was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

during the said period, there was (b) regularly supplied to the computer in the ordinary course of the said activities, information of the kind contained in the statement or of the kind from which the information so contained is derived;

throughout the material part of the (c) said period, the computer was operating properly or, if not, then any respect in which it was not operating properly or was out of operation during that part of that period was not such as to affect the production of the document or the accuracy of the contents; and

the information contained in the (d) statement reproduced or is derived from information supplied to the computer in the ordinary course of the said activities.

Where over any period, the (3) function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause(a) of sub-section (2) was regularly performed by computers, whether —

by a combination of computers (a) operating over that period; or

by different computers operating in (b) succession over that period; or

by different combinations of (c) computers operating in succession over that period;
or

in any other manner involving the (d) successive operation over that period,
in whatever order, of one or more computers and one or more combinations
of computers,

all the computers used for that purpose during that period shall be treated
for the purposes of this section as constituting a single computer; and
references in this section to a computer shall be construed accordingly.

In any proceedings under this (4) Act and the rules made thereunder where
it is desired to give a statement in evidence by virtue of this section, a
certificate doing any of the following things, that is to say, —

identifying the document containing (a) the statement and describing the
manner in which it was produced;

giving such particulars of any device (b) involved in the production of that
document as may be appropriate for the purpose of showing that the
document was produced by a computer;

dealing with any of the matters to (c) which the conditions mentioned in sub-section
(2) relate,

and purporting to be signed by a person occupying a responsible official
position in relation to the operation of the relevant device or the
management of the relevant activities (whichever is appropriate) shall be
evidence of any matter stated in the certificate; and for the purposes of this
sub-section it shall be sufficient for a matter to be stated to the best of the
knowledge and belief of the person stating it.

For the purposes of this (5) section, —

information shall be taken to be (a) supplied to a computer if it is supplied
thereto in any appropriate form and whether it is so supplied directly or
(with or without human intervention) by means of any appropriate
equipment;

whether in the course of activities (b) carried on by any official, information
is supplied with a view to its being stored or processed for the purposes of

those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

a document shall be taken to have (c) been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

Explanation. — For the purposes of this section, —

“computer” means any device that (a) receives, stores and processes data, applying stipulated processes to the information and supplying results of these processes; and

any reference to information being (b) derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.