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## 19

### Transfer Of Property Act, 1882

**S.3 (Interpretation clause):** ....., “immovable property” does not include standing timber, growing crops or grass; .....

“attached to the earth” means-

- a) rooted in the earth, as in the case of trees and shrubs;
- b) embedded in the earth, as in the case of walls or buildings; or
- c) attached to what is so embedded for the permanent beneficial enjoyment of that to which it is attached.

“actionable claim” means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, .....

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## 20

### Transfer Of Property Act, 1882

**S.130 (Transfer of actionable claim):** (1) The transfer of an actionable claim whether with or without consideration shall be effected only by the execution of an instrument in writing signed by the transferor or his duly authorised agent, shall be complete and effectual upon the execution of such instrument, and thereupon all the rights and remedies of the transferor, whether by way of damages or otherwise, shall vest in the transferee, whether such notice of the transfer as is hereinafter provided be given or not: .....

(2) The transferee of an actionable claim may, upon the execution of such instrument of transfer as aforesaid, sue or institute proceedings for the same in his own name without obtaining the transferor’s consent to such suit or proceedings, and without making him a party thereto.

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## 21

### Indian Succession Act, 1925

#### Administrator

**S.218 (To whom administration may be granted, where deceased is a Hindu, Muhammadan, Buddhist, Sikh, Jaina or exempted person):** (1) If the deceased has died intestate and was a Hindu, Muhammadan, Sikh or Jaina or an exempted person, administration of his estate may be granted to any person who, according to the rules for the distribution of the estate applicable in the case of such deceased, would be entitled to the whole or any part of such deceased’s estate.

(2) When several such persons apply for such administration, it shall be in the discretion of the Court to grant it to any one or more of them.

(3) When no such person applies, it may be granted to a creditor of the deceased.

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**Indian Contract Act, 1872**

**Agency coupled with Interest (Collection of instruments financed)**

**S.202 (Termination of agency, where agent has an interest in subject-matter):** Where the agent has himself an interest in the property which forms the subject matter of the agency, the agency cannot, in the absence of an express contract, be terminated to the prejudice of such interest.

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**25**

**Indian Contract Act, 1872**

**S.182 (“Agent” and “principal” defined):** An “Agent” is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the “principal”.

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**27**

**Indian Contract Act, 1872**

**S.217 (Agent’s right of retainer out of sums received on principal’s account):** An agent may retain, out of any sums received on account of the principal in the business of the agency, all moneys due to himself in respect of advances made or expenses properly incurred by him in conducting such business, and also such remuneration as may be payable to him for acting as agent.

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**28**

**Indian Contract Act, 1872**

**S.183 (Who may employ agent):** Any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.

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**29**

**Indian Evidence Act, 1872**

**Electronic Agreements**

**S.85A (Presumption as to electronic agreements):** The Court shall presume that every electronic record purporting to be an agreement containing the digital signatures of the parties was so concluded by affixing the digital signature of the parties.

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**30**

**Indian Contract Act, 1872**

**S.29 (Agreements void for uncertainty):** Agreements, the meaning of which is not certain, or capable of being made certain, are void.

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**31**

**Indian Contract Act, 1872**

**Appropriation of Payments**

**S.60 (Application of payment where debt to be discharged is not indicated):** Where the debtor has omitted to intimate and there are no other circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, whether its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

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**32**

**Companies Act, 1956**

**Maximum number of persons**

**S.11 (Prohibition of associations and partnerships exceeding certain number):** (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of some other Indian law.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business .....

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**34**

**Income Tax Act, 1961**

**Attachment Order**

**S.226 (Other modes of recovery):** ..... (3) (i) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, by notice in writing require any person from whom money is due to the assessee or any person who holds or may subsequently hold money for or on account of the assessee to pay to the Assessing Officer or Tax recovery Officer either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the account due by the assessee in respect of arrears or the whole of the money when it is equal to or less than that amount.

(ii) A notice under this sub-section may be issued to any person who holds or may subsequently hold any money for or on account of the assessee jointly with any other person and for the purposes of this sub-section, the shares of the joint holders in such amount shall be presumed, until the contrary is proved, to be equal.

(iii) A copy of the notice shall be forwarded to the assessee at his last address known to the Assessing Officer or Tax Recovery Officer, and in the case of a joint account to all the joint holders at their last address known to the Assessing Officer or Tax Recovery Officer.

(iv) Save as otherwise provided in this sub-section, every person to whom a notice is issued under this sub-section, shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or an insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

(v) Any claim respecting any property in relation to which a notice under this sub-section has been issued arising after the date of the notice shall be void as against any demand contained in the notice.

(vi) Where a person to whom a notice under this sub-section is sent objects to it by a statement on oath that the sum demanded or any part thereof is not due to the assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this sub-section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, but if it is discovered that such statement was false in any material particular, such person shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee on the date of the notice, or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(vii) The Assessing Officer or Tax Recovery Officer may, at any time or from time to time, amend or revoke any notice issued under this sub-section or extend the time for making any

payment in pursuance of such notice.

(viii) The Assessing Officer or Tax Recovery Officer shall grant a receipt for any amount paid in compliance with a notice issued under this sub-section, and the person so paying shall be fully discharged from his liability to the assessee to the extent of the amount so paid.

(ix) Any person discharging any liability to the assessee after receipt of a notice under this sub-section shall be personally liable to the Assessing Officer or Tax Recovery Officer to the extent of his own liability to the assessee so discharged or to the extent of the assessee's liability for any sum due under this Act, whichever is less.

(x) If the person to whom a notice under this sub-section is sent fails to make payment in pursuance thereof to the Assessing Officer or Tax Recovery Officer, he shall be deemed to be as assessee in default in respect of the amount specified in the notice and further proceedings may be taken against him for the realisation of the amount as if it were an arrear of tax due from him, in the manner provided in the sections 222 to 225 and the notice shall have the same effect as an attachment of a debt by the Tax Recovery Officer in exercise of his powers under section 222.

**Gist of Section 226**

- Money due or becoming due can be attached.
- Operates on Joint accounts for 50% of balance (Assessee's presumed share).
- Passbooks, receipts, etc., are not to be insisted for payment.
- It does not have prospective effect.
- Wrong denials lead to personal liability.
- Order can be amended, revoked and time extended.
- Assessing Officers or Tax Recovery Officers discharge is a valid and sufficient discharge (as if of the accountholder).
- Payments made ignoring the order leads to personal liability.
- Failure to comply leads to the Banker becoming the "defaulting assess".

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**35, 36**

**Indian Contract Act, 1872**

**S.187 (Definitions of express and implied authority):** An authority is said to be express when it is given by words, spoken or written. An authority is said to be implied when it is to be inferred from the circumstances of the case; and things spoken or written, or the ordinary course of dealing, may be accounted circumstances of the case.

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**Indian Contract Act, 1872**

**S.148 ("Bailment", "bailor" and "bailee" defined):** A "bailment" is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the "bailor". The person to whom they are delivered is called the "bailee". .....

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**38**

**Indian Contract Act, 1872**

**S.152 (Bailee when not liable for loss, etc., of thing bailed):** The bailee, in the absence of any special contract, is not responsible for the loss, destruction or deterioration of the thing bailed, if he has taken the amount of care of it described in section 151.

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**39**

**Indian Contract Act, 1872**

**S.170 (Bailee’s particular lien):** Where the bailee has, in accordance with the purpose of the bailment, rendered any service involving the exercise of labour or skill in respect of the goods bailed, he has, in the absence of a contract to the contrary, a right to retain such goods until he receives due remuneration for the services he has rendered in respect of them.

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**40**

**Indian Contract Act, 1872**

**S.151 (Care to be taken by bailee):** In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed.

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**41, 42**

**Indian Contract Act, 1872**

**S.148 (“Bailment”, “bailor” and “bailee” defined):** A “bailment” is the delivery of goods by one person to another for some purpose, upon a contract that they shall, when the purpose is accomplished, be returned or otherwise disposed of according to the directions of the person delivering them. The person delivering the goods is called the “bailor”. The person to whom they are delivered is called the “bailee”. .....

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**Indian Contract Act, 1872**

**S.150 (Bailor’s duty to disclose faults in goods bailed):** The bailor is bound to disclose to the bailee faults in the goods bailed, of which the bailor is aware, and which materially interfere with the use of them, or expose the bailee to extraordinary risks; and if he does not make such disclosure, he is responsible for damage arising to the bailee directly from such faults. ....

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**44**

**Banking Regulation Act, 1949**

**Balance Sheet**

**S.31 (Submission of returns):** The accounts and balance-sheet referred to in Section 29 together with the auditor’s report shall be published in the prescribed manner and three copies thereof shall be furnished as returns to the Reserve Bank within three months from the end of the period to which they refer: .....

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**45**

**Reserve Bank Of India Act, 1934**

**Bank Rate**

**S.49 Publication of Bank rate:** The Bank shall make public from time to time the standard rate at which it is prepared to buy or rediscount bills of exchange or other commercial paper eligible for purchase under this Act.

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**48**

**Banker’s Books Evidence Act, 1891**

**S.6 (Inspection of books by order of Court or Judge):** (1) on the application of any party to a legal proceeding the Court or a Judge may order that such party be at liberty to inspect and take copies of any entries in the banker’s book for any of the purposes of such proceedings, or may order the bank to prepare and produce, within time to be specified in the order, certified copies of all such entries, accompanied by a further certificate that no other entries are to be found in the books of the bank relevant to the matters in issue in such proceeding, and such

further certificate shall be dated and subscribed in manner hereinafter directed in reference to certified copies. ....

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## 49

### **Banker's Books Evidence Act, 1891**

**S.4 (Mode of proof of entries in banker's books):** Subject to the provisions of this Act a certified copy of any entry in a banker's books shall in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts, therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise.

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## 50

### **Banker's Books Evidence Act, 1891**

**S.2 (Definitions)** ..... (3) "bankers" books' include ledgers, day-books, cash-books, account books and all other books used in the ordinary business of a bank;

(3) "bankers' books" include ledgers, day-books, cash-books, account-books and all other books used in the ordinary business of a bank whether kept in the written form or as printouts of data stored in floppy, disc, tape or any other form of electro-magnetic storage device.

(4) "legal proceedings" means, -

- i) any proceeding or inquiry in which evidence is or may be given;
- ii) an arbitration; and
- iii) any investigation or inquiry under the Code of Criminal Procedure, 1973 (2 of 1974) or under any other law for the time being in force the collection of evidence, conducted by a police officer or by any other person (not being a Magistrate) authorised in this behalf by a Magistrate or by any law for the time being in force; .....

(8) "certified copy" means when the books of a bank;

(a) are maintained in written form, a copy of any entry in such books together with a certificate written at the foot of such copy that it is a true copy of such entry, that such entry is contained in one of the ordinary books of the bank and was made in the usual and ordinary course of business and that such book is still in the custody of the bank, and where the copy was obtained by a mechanical or other process which in itself ensured the accuracy of the copy, a further certificate to that effect, but where the book from which such copy was prepared has been destroyed in the usual due course of the bank's business after the date on which the copy had been so prepared a further certificate to that effect, each such certificate being dated and subscribed by the principal accountant or manager of the bank with his name and official title; and

(b) consist of printouts of data stored in a floppy, disc, tape or any other electro-magnetic data storage device, a printout of such entry or a copy of such printout together with such statements certified in accordance with the provisions of S.2-A".

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### **Indian Contract Act, 1872**

#### **Banker's Lien**

**S.171 (General lien of bankers, factors, wharfingers, attorneys and policybrokers):**

Bankers, factors, wharfingers, attorneys of a High Court and policy brokers may in the absence of a contract to the contrary, retain, as a security for a general balance of account any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed

to them, unless there is an express contract to the effect.

**52**

### **Reserve Bank Of India Act, 1934**

#### **Issue of Bearer Drafts prohibited**

**S.31 (Issue of demand bills and notes):** (1) No person in India other than the bank, or, as expressly authorised by this Act, the Central Government shall draw, accept, make or issue any bill of exchange, hundi, promissory note or engagement for the payment of money payable to bearer on demand, or borrow, owe or take up any sum or sums of money on the bills, hundis or notes payable to bearer on demand of any such person:

Provided that cheques or drafts, including hundis, payable to bearer on demand or otherwise may be drawn on a person's account with a banker, shroff or agent.

(2) Notwithstanding anything contained in the Negotiable Instruments Act, 1881 (26 of 1881), no person in India other than the Bank or, as expressly authorised by this Act, the Central Government, shall make or issue any promissory-note expressed to be payable to the bearer of the instrument".

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**57**

### **Banker's Books Evidence Act, 1891**

**S.5 (Case in which officer of bank not compellable to produce books):** No officer of a bank shall in any legal proceeding to which the bank is not a party be compellable to produce any banker's book the contents of which can be proved under this Act, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

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**58**

### **Consumer Protection Act, 1986**

**S.6 (Objects of the Central Council):** The objects of the Central Council shall be to promote and protect the rights of the consumers such as: .....

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**59**

### **Consumer Protection Act, 1986**

**S.4 (The Central Consumer Protection Council):** (1) The Central Government shall, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Central Consumer Protection Council (hereinafter referred to as the Central Council). .....

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**71**

### **Indian Contract Act, 1872**

#### **Clayton's Rule**

**S.61 (Application of payment where neither party appropriates):** Where neither party makes any appropriation the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payment shall be applied in discharge of each proportionably.

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**73**

### **Companies Act, 1956**

#### **Borrowing Powers**

**S.292 (Certain powers to be exercised by Board only at meeting):** (1) The Board of directors of a company shall exercise the following powers on behalf of the company, and it shall do so only by means of resolutions passed at meetings of the Board:- .....

- c) the power to borrow moneys otherwise than on debentures;
- d) the power to invest the funds of the company; and
- e) the power to make loans; .....

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**74**  
**Companies Act, 1956**  
**Borrowing Powers of Board limited**

**S.293 (Restrictions on powers of Board):** (1) The Board of directors of a public company, or of a private company which is a subsidiary of a public company, shall not, except with the consent of such public company or subsidiary in general meeting,- .....

(d) borrow moneys after the commencement of this Act, where the moneys to be borrowed, together with the moneys already borrowed by the company (apart from temporary loans obtained from the company’s bankers in the ordinary course of business), will exceed the aggregate of the paid-up capital of the company and its free reserves, that is to say, reserves not set apart for any specific purpose; .....

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**75**  
**Companies Act, 1956**

**S.132 (Certificate of Registration):** The Registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part, stating the amounts thereby secured; and the certificate shall be conclusive evidence that the requirements of this Part as to registration have been complied with.

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**76**  
**Companies Act, 1956**  
**Modification of charges**

**S.135 (Provisions of Part to apply to modification of charges):** Whenever the terms or conditions, or the extent or operation, of any charge registered under this Part are or is modified, it shall be the duty of the company to send to the Registrar the particulars of such modification, and the provisions of this Part as to registration of a charge shall apply to such modification of the charge.

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**77**  
**Companies Act, 1956**  
**Charges invalid unless registered**

**S.125 (Certain charges to be void against liquidator or creditors unless registered):** (1) Subject to the provisions of this Part, every charge created on or after the 1<sup>st</sup> day of April, 1914, by a company and being a charge to which this section applies shall, so far as any security on the company’s property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the prescribed particulars of the charge, together with the instrument, if any, by which the charge is created or evidenced, or a copy thereof verified in the prescribed manner, are filed with the Registrar for registration in the manner required by this Act within (thirty) days after the date of its creation: .....

- (4) This section applies to the following charges: .....
- (d) a charge on any book debts of the company;

- (e) a charge, not being a pledge, on any movable property of the company;
- (f) a floating charge on the undertaking or any property of the company including stock-in-trade;

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**Companies Act, 1956**

**Maximum number of persons**

**S.11 (Prohibition of associations and partnerships exceeding certain number):** (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of some other Indian law.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business .....

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**Companies Act, 1956**

**S.252 (Minimum number of directors):** (1) Every [public company (other than a public company which has become such by virtue of the section 43A)] shall have at least three directors:

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**Companies Act, 1956**

**Modification of charges**

**S.135 (Provisions of Part to apply to modification of charges):** Whenever the terms or conditions, or the extent or operation, of any charge registered under this Part are or is modified, it shall be the duty of the company to send to the Registrar the particulars of such modification, and the provisions of this Part as to registration of a charge shall apply to such modification of the charge.

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81

**Companies Act, 1956**

**S.275 (No person to be a director of more than fifteen companies):** After the commencement of this Act, no person shall, save as otherwise provided in section 276, hold office at the same time as director in more than fifteen companies.

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**Companies Act, 1956**

**On full repayment**

**S.138 (Company to report satisfaction and procedure thereafter):** (1) The company shall give intimation to the Registrar of the payment or satisfaction, in full, of any charge relating to the company and requiring registration under this Part, within thirty days from the date of such payment or satisfaction.

(2) The Registrar shall, on receipt of such intimation, cause a notice to be sent to the holder of the charge calling upon him to show cause within a time (not exceeding fourteen days) specified in such notice, why payment or satisfaction should not be recorded as intimated to the registrar.

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**Companies Act, 1956**

**S.142 (Penalties):** (1) If default is made in filing with the Registrar for registration the particulars-

- a) of any charge created by the company;
- b) of the payment or satisfaction of a debt in respect of which a charge has been registered under this Part; or
- c) of the issues of debentures of a series;

requiring registration with Registrar under the provisions of this Part, then, unless the registration has been effected on the application of some other person, the company, and every officer of the company or other person who is in default, shall be punishable with fine which may extend to five thousand rupees for every day during which the default continues. ....

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**84**

**Companies Act, 1956**

**S.143 (Company's register of charges):** Every company shall keep at its registered office a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or on any property of the company .....

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**85**

**Companies Act, 1956**

**Register of charges open for inspection by all**

**S.130 (Register of charges to be kept by Registrar):** (1) The Registrar shall, in respect of each company, cause to be kept a register containing the particulars of all the charges requiring registration under this Part.

(1A) Every company shall forward to the Registrar for being entered in the register kept under sub-section (1) the particulars of all the charges requiring registration under this Part in such form and manner, and after payment of, such fees may be prescribed. ....

(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of such fee as may be prescribed for each inspection.

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**86**

**Indian Contract Act, 1872**

**S.13 ("Consent" defined):** Two or more persons are said to consent when they agree upon the same thing in the same sense.

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**87**

**Consumer Protection Act, 1986**

**S.2 (Definitions):** ..... (d) 'consumer' means any person who: ..... (ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose; .....

(o) 'service' means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information,

but does not include the rendering of any service free of charge or under a contract of personal service; .....

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**88**

**Consumer Protection Act, 1986**

**S.9 (Establishment of Consumer Disputes Redressal Agencies):** There shall be established for the purposes of this Act, the following agencies, namely:

a Consumer Disputes Redressal Forum to be known as the 'District Forum' established by the State Government in each district of the State by notification

Provided that the State Government may, if it deems fit, establish more than one District Forum in a district.

a Consumer Disputes Redressal Commission to be known as the 'State Commission' established by the State Government in the State by notification; and

a National Consumer Disputes Redressal Commission established by the Central Government by notification.

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**89**

**Indian Contract Act, 1872**

**S.137 (Creditor's forbearance to sue does not discharge surety):** Mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him does not, in the absence of any provision in the guarantee to the contrary, discharge the surety.

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**90**

**Indian Contract Act, 1872**

**S.134 (Discharge of surety by release or discharge of principal debtor):** The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

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**91**

**Indian Contract Act, 1872**

**S.133 (Discharge of surety by variance in terms of contract):** Any variance, made without surety's consent, in the terms of the contract between the principal (debtor) and the creditor, discharges the surety as to transactions subsequent to the variance.

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**92**

**Indian Contract Act, 1872**

**S.138 (Release of one co-surety does not discharge others):** Where there are co-sureties, a release by the creditor of one of them does not discharge the others; .....

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**93**

**Indian Contract Act, 1872**

**Surety should consent for change in Terms and Conditions**

**S.135 (Discharge of surety when creditor compounds with, gives time to, or agrees not to sue, principal debtor):** A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such contract.

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**Indian Contract Act, 1872**

**S.141 (Surety’s right to benefit of creditor’s securities):** A surety is entitled to the benefit of every security which the creditor has against the principal debtor at the time when the contract of suretyship is entered into, whether the surety knows of the existence of such security or not; and, if the creditor loses, or, without the consent of the surety, parts with such security, the surety is discharged to the extent of the value of the security.

95

**Indian Contract Act, 1872**

**S. 126 (“Contract of guarantee”, “surety”, “principal debtor” and “creditor”):** A “contract of guarantee” is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the “surety”; the person in respect of whose default the guarantee is given is called the “principal debtor”, and the person to whom the guarantee is given is called the “creditor”. A guarantee may be either oral or written.

96

**Indian Contract Act, 1872**

**Consent and consideration for agreements**

**S.10 (What agreements are contracts):** All Agreements are contracts if they are made by the free consent of parties competent to contract for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void.

Nothing herein contained shall effect any law in force in India and not hereby expressly repealed, by which any contract is required to be made in writing or in presence of witnesses, or any law relating to the registration of documents.

97

**Hindu Succession Act, 1956**

**S.6 (Devolution of interest in co-parcenary property):** When a male Hindu dies after commencement of this Act, having at the time of his death an interest in a Mitakshara co-parcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the co-parcenary and not in accordance with this Act. ....

98

**Hindu Succession Act, 1956**

**S.29A (Equal rights to daughter in co-parcenary property):** Notwithstanding anything contained in Section 6 of this Act-

(i) in a Joint Hindu Family governed by Mitakshara Law, the daughter of a co-parcener shall by birth become a co-parcener in her own right in the same manner as the son and have the same rights in the co-parcenary property as she would have had if she had been a son, inclusive of the right to claim by survivorship and shall be subject to the same liabilities and disabilities in respect thereto as the son. ....

99

**Consumer Protection Act, 1986**

**S.24 (Limitation period):** (1) The District Forum, the State Commission or the National Commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen. ....

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**100**

**Code Of Criminal Procedure, 1973**

**S.349 (Imprisonment or committal of person refusing to answer or produce document):**

If any witness or person called to produce a document or thing before a Criminal Court refuses to answer such questions as are put to him or to produce any document or thing in his possession or power which the court requires him to produce, and does not, after a reasonable opportunity has been given to him so to do, offer any reasonable excuse for such refusal, such Court may, for reasons to be recorded in writing, sentence him to simple imprisonment, or by warrant under the hand of the Presiding Magistrate or Judge commit him to the custody of an officer of the Court for any term not exceeding seven days, unless in the meantime, such person consents to be examined and to answer, or to produce the document or thing and in the event of his persisting in his refusal, he may be dealt with according to the provisions of section 345 or section 346.

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**101**

**The Credit Information Companies (Regulation) Act, 2005**

**S.17 Collection and furnishing of credit information:** (1) A credit information company or any person authorised in that behalf by the company may, by notice in writing, in such form, as may be specified by regulations made by the Reserve Bank or as near thereto, require its members being credit institution or credit information company, to furnish such credit information as it may deem necessary in accordance with the provisions of this Act.

(2) Every credit institution which is member of the credit information company and every credit information company which is a member of other credit information company shall, on receipt of notice under sub-section (1), provide credit information to the credit information company of which it is a member, within such period as may be specified in the notice.

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**102**

**The Credit Information Companies (Regulation) Act, 2005**

**S.15 Credit institution to be member of a credit information company:** (1) Every credit institution in existence on the commencement of this Act, before the expiry of three months from such commencement or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

(2) Every credit institution which comes into existence after the commencement of this Act, before the expiry of three months from its coming into existence, or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

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**103**

**The Credit Information Companies (Regulation) Act, 2005**

**S.16 Failure to become a member of a credit information company:** (1) Where a credit institution—

(a) abstains from becoming a member of at least one credit information company; or

(b) at any time is not a member of any credit information company,

the Reserve Bank *suo moto* or on a complaint from a credit information company may, direct such credit institution to take necessary steps within such time, as it may specify to become a member of a credit information company.

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## **104**

### **The Credit Information Companies (Regulation) Act, 2005**

**S.14 Functions of a credit information company:** (1) A credit information company may engage in any one or more of the following forms of business, namely:—

(a) to collect, process and collate information on trade, credit and financial standing of the borrowers of the credit institution which is a member of the credit information company;

(b) to provide credit information to its specified users or to the specified users of any other credit information company or to any other credit information company being its member;

(c) to provide credit scoring to its specified users or specified users of any other credit information company or to other credit information companies being its members;

(d) to undertake research project;

(e) to undertake any other form of business which the Reserve Bank may, specify by regulations as a form of business in which it is lawful for a credit information company to engage.

(2) No credit information company shall engage in any form of business other than those referred to in sub-section (1). .....

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## **105, 106**

### **The Credit Information Companies (Regulation) Act, 2005**

**S.20 Privacy principles:** Every credit information company, credit institution and specified user, shall adopt the following privacy principles in relation to collection, processing, collating, recording, preservation, secrecy, sharing and usage of credit information, namely:—

(a) the principles—

(i) which may be followed by every credit institution for collection of information from its borrowers and clients and by every credit information company, for collection of information from its member credit institutions or credit information companies, for processing, recording, protecting the data relating to credit information furnished by, or obtained from, their member credit institutions or credit information companies, as the case may be, and sharing of such data with specified users;

(ii) which may be adopted by every specified user for processing, recording, preserving and protecting the data relating to credit information furnished, or received, as the case may be, by it;

(iii) which may be adopted by every credit information company for allowing access to records containing credit information of borrowers and clients and alteration of such records in case of need to do so;

(b) the purpose for which the credit information may be used, restriction on such use and disclosure thereof;

(c) the extent of obligation to check accuracy of credit information before furnishing of such information to credit information companies or credit institutions or specified users, as the case may be;

(d) preservation of credit information maintained by every credit information company, credit institution, and specified user as the case may be (including the period for which such information may be maintained, manner of deletion of such information and maintenance of records of credit information);

(e) networking of credit information companies, credit institutions and specified users through electronic mode;

(f) any other principles and procedures relating to credit information which the Reserve Bank may consider necessary and appropriate and may be specified by regulations.

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### **The Credit Information Companies (Regulation) Act, 2005**

**S.15 Credit institution to be member of a credit information company:** (1) Every credit institution in existence on the commencement of this Act, before the expiry of three months from such commencement or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

(2) Every credit institution which comes into existence after the commencement of this Act, before the expiry of three months from its coming into existence, or within such extended period, as the Reserve Bank may allow on its application and subject to being satisfied about the reason for extension, shall become member of at least one credit information company.

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**108**

### **Indian Contract Act, 1872**

**S. 126 (“Contract of guarantee”, “surety”, “principal debtor” and “creditor”):** A “contract of guarantee” is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the “surety”; the person in respect of whose default the guarantee is given is called the “principal debtor”, and the person to whom the guarantee is given is called the “creditor”. A guarantee may be either oral or written.

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**118**

### **Reserve Bank Of India Act, 1934**

#### **CRR**

**S.42 (Cash reserves of scheduled banks to be kept with the Bank):** (1) Every bank included in the Second Schedule shall maintain with the Bank an average daily balance the amount of which shall not be less than three percent of the total of the demand and time liabilities in India of such bank as shown in the return referred to in sub-section(2):

Provided that the Bank may, by notification in the Gazette of India increase the said rate to

such higher rate as may be specified in the notification so however that the rate shall not be more than (twenty per cent) of the total of demand and time liabilities. ....

(2) Every scheduled bank shall send to the bank a return, signed by two responsible officers of such bank showing- .....

(5) Any scheduled bank failing to comply with the provisions of sub-section (2) shall be liable to pay to the Bank a penalty of one hundred rupees for each day during which the failure continues.”

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**122**  
**Indian Contract Act, 1872**  
**Payment mistakes**

**S.72 (Liability of person to whom money is paid, or thing delivered by mistake or under coercion):** A person to whom money has been paid, or anything delivered, by mistake or under coercion, must repay or return it.

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**123**  
**Sale Of Goods Act, 1930**  
**Prima facie Delivery**

**S.39 (Delivery to carrier or wharfinger):** (1) Where, in pursuance of a contract of sale the seller is authorised or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer, or delivery of the goods to a wharfinger for safe custody, is prima facie deemed to be a delivery of the goods to the buyer. ....

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**124**  
**Banking Regulation Act, 1949**

**S.26 (Return of unclaimed deposits):** Every banking company shall, within thirty days after the close of each calendar year submit a return in the prescribed form and manner to the Reserve Bank as at the end of such calendar year of all accounts (in India) which have not been operated upon for ten years. ....

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**125, 126, 127, 128, 129**  
**Information Technology Act, 2000**

**S.2 (Definitions):** .....

(d) ‘affixing digital signature’ with its grammatical variations and cognate expressions means adoption of any methodology or procedure by a person for the purpose of authenticating an electronic record by means of digital signature;

.....

(f) ‘asymmetric crypto system’ means a system of a secure key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature;

(g) ‘certifying authority’ means a person who has been granted a licence to issue a Digital Signature Certificate under section 24;

.....

(p) ‘digital signature’ means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3;

.....

.....

(zc) 'private key' means the key of a key pair used to create a digital signature;

(zd) 'public key' means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;

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**130**

**Information Technology Act, 2000**

**S.24 (Procedure for grant or rejection of licence):** The Controller may, on receipt of an application under sub-section (1) of section 21, after considering the documents accompanying the application and such other factors, as he deems fit, grant the licence or reject the application.

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131

**Information Technology Act, 2000**

**S.21 (Licence to issue digital signature certificates):** (1) Subject to the provisions of sub-section (2), any person may make an application, to the Controller, for a licence to issue digital signature certificates. ....

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**132**

**Indian Evidence Act, 1872**

**S.85C (Presumption as to Digital Signature Certificates):** The Court shall presume, unless contrary is proved, that the information listed in a Digital Signature Certificate is correct, except for information specified as subscriber information which has not been verified, if the certificate was accepted by the subscriber.

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**133**

**Information Technology Act, 2000**

**S.5 (Legal recognition of digital signatures):** Where any law provides that information or any other matter shall be authenticated by affixing the signature or any document should be signed or bear the signature of any person then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied, if such information or matter is authenticated by means of digital signature affixed in such manner as may be prescribed by the Central Government. ....

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**134**

**Information Technology Act, 2000**

**S.6 (Use of electronic records and digital signatures in government and its agencies):**

(1) Where any law provides for:

- the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate government in a particular manner;
- the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;
- the receipt or payment of money in a particular manner,

then notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate government. ....

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**Consumer Protection Act, 1986**

**S.8A (The District Consumer Protection Council):** (1) The State Government shall establish for every district, by notification, a council to be known as the District Consumer Protection Council .....

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**Consumer Protection Act, 1986**

**S.15 (Appeal):** Any person aggrieved by an order made by the District Forum may prefer an appeal against such order to the State Commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed. ....

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**Consumer Protection Act, 1986**

**S.11 (Jurisdiction of the District Forum):** (1) Subject to the other provisions of this Act, the District Forum shall have jurisdiction to entertain complaints where the value of the goods or service and the compensation, if any, claimed does not exceed rupees twenty lakhs. ....

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**Consumer Protection Act, 1986**

**S.12 (Manner in which complaint shall be made):** A complaint in relation to any goods sold or delivered or agreed to be sold or delivered or any service provided or agreed to be provided may be filed with a District Forum by,:

the consumer to whom such goods are sold or delivered or agreed to be sold or delivered or such service provided or agreed to be provided;

any recognised consumer association whether the consumer to whom the goods sold or delivered or agreed to be sold or delivered or service provided or agreed to be provided is a member of such association or not;

one or more consumers, where there are numerous consumers having the same interest, with the permission of the District Forum on behalf of, or for the benefit of, all consumers so interested, or;

the Central Government or the State Government, as the case may be, either in its individual capacity or as a representative of interests of consumers in general.

(2) Every complaint filed under sub-section (1) shall be accompanied with such amount of fee and payable in such manner as may be prescribed.

(4) ..... Provided that where a complaint has been admitted by the District Forum, it shall not be transferred to any other court or tribunal or any authority set up by or under any other law for the time being in force.

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**Consumer Protection Act, 1986**

**S.13 (Procedure on admission of complaint):** .....

(4) For purposes of this section, the District Forum shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit .....

(5) Every proceeding before the District Forum, shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code (45 of 1860) and the District Forum shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974). .....

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**Information Technology Act, 2000**

**S.4 (Legal recognition of electronic records):** Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is:

- rendered or made available in an electronic form; and
- accessible so as to be usable for a subsequent reference.

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**Banker's Books Evidence Act, 1891**

**S.2-A (Conditions in the printout):** A printout of entry or a copy of printout referred to in sub-section (8) of S.2 shall be accompanied by the following, namely:

(a) a certificate to the effect that it is a printout of such entry or a copy of such printout by the principal accountant or branch manager, and

(b) a certificate by a person-in-charge of computer system containing a brief description of the computer system and the particulars of:

(A) the safeguards adopted by the system to ensure that data is entered or any other operation performed only by authorised persons;

(B) the safeguards adopted to prevent and detect unauthorised change of data;

(C) the safeguards available to retrieve data that is lost due to systematic failure or any other reasons;

(D) the manner in which data is transferred from the system to removable media like floppies, discs, tapes or other electro-magnetic data storage devices;

(E) the mode of verification in order to ensure that data has been accurately transferred to such removable media;

(F) the mode of identification of such data storage devices;

(G) the arrangements for the storage and custody of such storage devices;

(H) the safeguards to prevent and detect any tampering with the system; and

(I) any other factor which will vouch for the integrity and accuracy of the system.

(c) a further certificate from the person-in-charge of the computer system to the effect that to the best of his knowledge and belief, such computer system operated properly at the material time, he was provided with all the relevant data and the printout in question represents correctly, or is appropriately derived from, be relevant data.”

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## **Indian Partnership Act, 1932**

**S.4 (Definitions of “partnership”, “partner”, “firm” and “firm name”):** Partnership’ is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. ....

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## **Indian Partnership Act, 1932**

**S.4 (Definitions of “partnership”, “partner”, “firm” and “firm name”):** Partnership’ is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. ....

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**168, 169**

## **Sale Of Goods Act, 1930**

**S.2 (Definitions):** In this Act, unless there is anything repugnant in the subject or context- .....

### **Title to Goods**

(4) “Document of title of goods” includes a bill of lading, dock-warrant, warehouse-keeper’s certificate, wharfingers’ certificate, railway receipt, multimodal transport document, warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise, either by endorsement or by delivery, the possessor of the document to transfer or receive goods thereby represented. ....

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**170, 171**

## **Sale Of Goods Act, 1930**

### **Pledge of unpaid goods**

**S.53 (Effect of sub-sale or pledge by buyer):** ..... (2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

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## **Indian Contract Act, 1872**

**S.71 (Responsibility of finder of goods):** A person who finds goods belonging to another, and take them into his custody, is subject to the same responsibility as a bailee.

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## **Reserve Bank Of India Act, 1934**

### **Conduct of Government Business in Banks**

**S.45 (Appointment of agents):** (1) ..... the Bank may, having regard to public interest, convenience of banking, banking development and such other factors which in its opinion are relevant in this regard, appoint the National Bank, or the State Bank, or a corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank constituted under Section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980), or any subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), as its agent at all places, or at any place in India for such purposes as the Bank may specify.

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## **Indian Contract Act, 1872**

**S.127 (Consideration for guarantee):** Anything done, or any promise made, for the benefit of the principal debtor, may be a sufficient consideration to the surety for giving the guarantee.

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## **Indian Contract Act, 1872**

### **Guarantees for Running Accounts (OD/CC)**

**S.129 (Continuing guarantee):** A guarantee which extends to a series of transactions is called a “continuing guarantee”.

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## **Indian Contract Act, 1872**

**S.143 (Guarantee obtained by concealment invalid):** Any guarantee which the creditor has obtained by means of keeping silence as to material circumstances is invalid.

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## **Indian Contract Act, 1872**

**S.131 (Revocation of continuing guarantee by surety’s death):** The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions.

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## **Indian Contract Act, 1872**

**S.56 (An agreement to do impossible act):** An agreement to do an act impossible in itself is void.

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## **Indian Contract Act, 1872**

**S.137 (Creditor’s forbearance to sue does not discharge surety):** Mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him does not, in the absence of any provision in the guarantee to the contrary, discharge the surety.

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## **Indian Contract Act, 1872**

**S.134 (Discharge of surety by release or discharge of principal debtor):** The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

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## **Indian Contract Act, 1872**

**S.133 (Discharge of surety by variance in terms of contract):** Any variance, made without surety’s consent, in the terms of the contract between the principal (debtor) and the creditor, discharges the surety as to transactions subsequent to the variance.

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## **Indian Contract Act, 1872**

**S.44 (Effect of release of one joint promisor):** Where two or more persons have made a joint promise, a release of one of such joint promisors by the promisee does not discharge the other joint promisor or joint promisors; .....

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**Indian Contract Act, 1872**

**Borrower's and Guarantor's liabilities are co-extensive**

**S.128 (Surety's liability):** The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

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**Indian Contract Act, 1872**

**S. 132 (Liability of two persons, primarily liable, not affected by arrangement between them that one shall be surety on other's default):** Where two persons contract with a third person to undertake a certain liability, and also contract with each other that one of them shall be

liable only on the default of the other, the third person not being a party to such contract, the liability of each of such two persons to the third person under the first contract is not affected by the existence of the second contract, although such third person may have been aware of its existence.

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**Indian Contract Act, 1872**

**S.138 (Release of one co-surety does not discharge others):** Where there are co-sureties, a release by the creditor of one of them does not discharge the others; .....

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**Indian Contract Act, 1872**

**Surety should consent for change in Terms and Conditions**

**S.135 (Discharge of surety when creditor compounds with, gives time to, or agrees not to sue, principal debtor):** A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such contract.

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**187**

**Indian Contract Act, 1872**

**S.141 (Surety's right to benefit of creditor's securities):** A surety is entitled to the benefit of every security which the creditor has against the principal debtor at the time when the contract of suretyship is entered into, whether the surety knows of the existence of such security or not; and, if the creditor loses, or, without the consent of the surety, parts with such security, the surety is discharged to the extent of the value of the security.

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**Indian Contract Act, 1872**

**S.43 (Any one of joint promisors may be compelled to perform):** When two or more persons make a joint promise, the promisee may, in the absence of express agreement to the contrary, compel any one or more of such joint promisors to perform the whole of the promise.

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**Indian Contract Act, 1872**

**Joint and several Liability of Guarantors**

**S.42 (Devolution of joint liabilities):** When two or more persons have made a joint promise, then, unless, a contrary intention appears by the contract, all such persons, during their joint lives, and after the death of any of them, his representative jointly with the survivor, or survivors, and after the death of the last survivor, the representatives of all jointly, must fulfil the promise.

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**Transfer Of Property Act, 1882**

**S.3 (Interpretation clause):** ....., “immovable property” does not include standing timber, growing crops or grass; .....

“attached to the earth” means-

- a) rooted in the earth, as in the case of trees and shrubs;
- b) embedded in the earth, as in the case of walls or buildings; or
- c) attached to what is so embedded for the permanent beneficial enjoyment of that to which it is attached.

“actionable claim” means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, .....

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**Indian Contract Act, 1872**

**S.124 (“Contract of Indemnity” defined):** A contract by which one party promises to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person, is called a “contract of indemnity”.

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**Income Tax Act, 1961**

**S.133(6) (Powers to call for information):** ..... require any person, including a banking company or any officer thereof, to furnish information in relation to such points or matters, or to furnish statements of accounts and affairs verified in the manner specified .....

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**Banking Regulation Act, 1949**

**Inspection by RBI**

**S.35 (Inspection):** (1) Notwithstanding anything to the contrary contained in Section 235 of the Companies Act, 1956, the Reserve Bank at any time may, and on being directed so to do by the Central Government shall, cause an inspection to be made by one or more of its officers of any banking company and its books and accounts; and the Reserve bank shall supply to the banking company a copy of its report on such inspection. ....

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**227**

**Married Women’s Property Act, 1874**

**Insurance for the benefit of wife is a Trust**

**S.6 (Insurance by husband for benefit of wife):** A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall ensure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed, and shall not, so long any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate. ....

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**230**

**Banking Regulation Act, 1949**

**S.21-A (Rates of interest charged by banking companies not to be subject to scrutiny of courts):** Notwithstanding anything contained in the Usurious Loans Act, 1918 (10 of 1918), or any other law relating to indebtedness in force in any State, a transaction between a banking company and its debtor shall not be reopened by any Court on the ground that the rate of interest charged

by the banking company in respect of such transaction is excessive.

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**Limitation Act, 1963**

**S.19 (Effect of payment on account of debt or interest on legacy):** Where payment on account of a debt or of interest on a legacy is made before the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made. ....

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**234**

**Indian Succession Act, 1925**

**S.290 (Grant of letters of administration to be under seal of Court):** When it appears to the District Judge or District Delegate that letters of administration to the estate of a person deceased, with or without a copy of the will annexed, should be granted, he shall grant the same under the seal of his Court in the form set forth in Schedule VII.

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**Limitation Act, 1963**

**S.18 (Effect of acknowledgement in writing):** (1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.

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**Indian Contract Act, 1872**

**S.170 (Bailee's particular lien):** Where the bailee has, in accordance with the purpose of the bailment, rendered any service involving the exercise of labour or skill in respect of the goods bailed, he has, in the absence of a contract to the contrary, a right to retain such goods until he receives due remuneration for the services he has rendered in respect of them.

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**241**

**Indian Contract Act, 1872**

**Banker's Lien**

**S.171 (General lien of bankers, factors, wharfingers, attorneys and policybrokers):**

Bankers, factors, wharfingers, attorneys of a High Court and policy brokers may in the absence of a contract to the contrary, retain, as a security for a general balance of account any goods bailed to them; but no other persons have a right to retain, as a security for such balance, goods bailed to them, unless there is an express contract to the effect.

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**Banking Regulation Act, 1949**

**Secured Loans/Advances**

**S.5 (Interpretation):**..... (n) "secured loan or advance" means a loan or advance made on the security of assets the market value of which is not at any time less than the amount of such loan or advance; and "unsecured loan or advance" means a loan or advance not so secured;.....

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## **Indian Majority Act, 1875**

**S.3 (Age of majority of persons domiciled in India):** ..... Every minor of whose person or property, or both, a guardian, other than a guardian for a suit within the meaning of Chapter XXXI of the Code of Civil Procedure (14 of 1882), has been or shall be appointed or declared by any Court of Justice before the minor has attained the age of eighteen years, and every minor of whose property the superintendence has been or shall be assumed by any Court of Wards before the minor has attained that age, shall, notwithstanding anything contained in the Indian Succession Act, 1865 (10 of 1865) or in any other enactment, be deemed to have attained his majority when he shall have completed his age of twenty-one years and not before.

Subject as aforesaid, every other person domiciled in India shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before.

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## **Married Women's Property Act, 1874**

### **Insurance for the benefit of wife is a Trust**

**S.6 (Insurance by husband for benefit of wife):** A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall ensure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them, according to the interest so expressed, and shall not, so long any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate. ....

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## **The Micro, Small & Medium Enterprises Development Act, 2006**

### **Classification of Enterprises, Advisory Committee and Memorandum of Micro, Small & Medium Enterprises**

**S.7** 1) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951, the Central Government may, for the purposes of this Act, by notification and having regard to the provisions of sub-sections (4) and (5), classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called, -

(a) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951, as

(i) a micro enterprise, where the investment in plant and machinery does not exceed twenty five lakh rupees;

(ii) a small enterprise, where the investment in plant and machinery is more than twenty five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

(b) in the case of the enterprises engaged in providing or rendering of services, as

(i) a micro enterprise, where the investment in equipment does not exceed ten lakh rupees;

(ii) a small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees; or

(iii) a medium enterprise, where the investment in equipment is more than two crore rupees but does not exceed five crore rupees.

**Explanation 1:** For the removal of doubt, it is hereby clarified that in calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other items as may be specified, by notification, shall be excluded.

**Explanation 2:** It is clarified that the provisions of section 29B of the Industries (Development and Regulation) Act, 1951, shall be applicable to the enterprises specified in sub-clauses (i) and (ii) of clause (a) of sub-section (l) of this section.

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**The Micro, Small & Medium Enterprises Development Act, 2006**

**Delayed Payments to Micro and Small Enterprises**

**S.15** Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

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**255**

**The Micro, Small & Medium Enterprises Development Act, 2006**

**Measures for Promotions, Development and Enhancement of competitiveness of Micro, Small & Medium Enterprises**

**S.10** The policies and practices in respect of credit to the micro, Small & Medium enterprises shall be progressive and such as may be specified in the guidelines or instructions issued by the Reserve Bank, from time to time, to ensure timely and smooth flow of credit to such enterprises, minimise the incidence of sickness among and enhance the competitiveness of such enterprises.

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(ii) a small enterprise, where the investment in plant and machinery is more than twenty five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

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### **The Micro, Small & Medium Enterprises Development Act, 2006**

#### **Measures for Promotions, Development and Enhancement of competitiveness of Micro, Small & Medium Enterprises**

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**258**

### **Indian Partnership Act, 1932**

#### **A minor cannot be a Partner**

**S.30 (Minors admitted to the benefits of partnership):** (1) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

.....

(5) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm.

Provided that, if he fails to give such notice, he shall become a partner in the firm on the

expiry of the said six months. ....

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**Indian Contract Act, 1872**

**Loans to Minors for necessities**

**S.68 (Claims for necessities supplied to person incapable of contracting, or on his account):** If a person, incapable of entering into a contract, or anyone whom he is legally bound to support, is supplied by another person with necessities suited to his condition in life, the person who has furnished such supplies is entitled to be reimbursed from the property of such incapable person.

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**Indian Contract Act, 1872**

**Minors/Lunatics cannot contract**

**S.11 (Who are competent to contract):** Every person is competent to contract who is of the age of majority according to the law to which he is subject, and who is of sound mind, and is not disqualified from contracting by any law to which he is subject.

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**Indian Evidence Act, 1872**

**Presumption as to a missing person**

**S.108 (Burden of proving that a person is alive who has not been heard of for seven years):** Provided that when the question is whether a man is alive or dead, and it is proved that he had not been heard of for seven years, by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is shifted to the person who affirms it.

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**Transfer Of Property Act, 1882**

**S.65 (Implied contracts by mortgagor):** In the absence of a contract to the contrary, the mortgagor shall be deemed to contract with the mortgagee-

(a) that the interest which the mortgagor professes to transfer to the mortgagee subsists, and that the mortgagor has power to transfer the same; .....

(c) that the mortgagor will, so long as the mortgagee is not in possession of the mortgaged property, pay all public charges accruing due in respect of the property; .....

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**263**

**Transfer Of Property Act, 1882**

**Redemption Right**

**S.60 (Right of mortgagor to redeem):** At any time after the principal money has become due, the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee (a) to deliver to the mortgagor the mortgage-deed and all documents relating to mortgaged property .....

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**264, 265, 266, 268, 269**

**Transfer Of Property Act, 1882**

**Mortgage is transfer of interest**

**S.58 (“Mortgage”, “mortgagor”, “mortgagee”, “mortgage-money”, and “mortgage-deed” defined)**

(a) A mortgage is the transfer of an interest in specific immovable property for the purpose of

securing the payment of money advanced or to be advanced by way of loan, an existing or future debt, or the performance of an engagement which may give rise to a pecuniary liability.

The transferor is called “mortgagor”, the transferee a “mortgagee” the principal money and interest of which payment is secured for the time being are called the “mortgage-money” and the instrument (if any) by which the transfer is effected is called a “mortgage-deed”.

**(b) Simple mortgage**

Where, without delivering possession of the mortgaged property, the mortgagor binds himself personally to pay the mortgage-money, and agrees, expressly or impliedly, that in the event of his failing to pay according to his contract, the mortgagee shall have a right to cause the mortgaged property to be sold and the proceeds of sale to be applied, so far as may be necessary, in payment of the mortgage-money, the transaction is called a simple mortgage and the mortgagee a simple mortgagee.

**(c) Mortgage by conditional sale**

Where the mortgagor ostensibly sells the mortgaged property- on condition that on default of payment of the mortgage-money on a certain date the sale shall become absolute, or on condition that on such payment being made the sale shall become void, or on condition that on such payment being made the buyer shall transfer the property to the seller, the transaction is called a mortgage by conditional sale and the mortgagee a mortgagee by conditional sale: provided that no such transaction shall be deemed to be a mortgage, unless the condition is embodied in the document which effects or purports to effect the sale.

**(d) Usufructuary mortgage**

Where the mortgagor delivers possession or expressly or by implication binds himself to deliver possession of the mortgaged property to the mortgagee, and authorises him to retain such possession until payment of the mortgage-money, and to receive the rents and profits accruing from the property or any part of such rents and profits and to appropriate the same in lieu of interest, or in payment of the mortgage-money, or partly in lieu of interest or partly in payment of the mortgage-money, the transaction is called an usufructuary mortgage and the mortgagee an usufructuary mortgagee.

**(e) English mortgage**

Where the mortgagor binds himself to repay the mortgage-money on a certain date, and transfers the mortgaged property absolutely to the mortgagee, but subject to a proviso that he will re-transfer it to the mortgagor upon payment of the mortgage-money as agreed, the transaction is called an English mortgage.

**(f) Mortgage by deposit of title-deeds**

Where a person in any of the following towns, namely, the towns of Calcutta, Madras and Bombay, and in any other town which the State Government concerned may, by notification in the official Gazette, specify in this behalf, delivers to a creditor or his agent documents of title to immovable property, with intent to create a security thereon, the transaction is called a mortgage by deposit of title-deeds.

**(g) Anomalous mortgage**

A mortgage which is not a simple mortgage, a mortgage by conditional sale, an usufructuary mortgage, an English mortgage or a mortgage by deposit of title-deeds within the meaning of this section is called an anomalous mortgage”.

**267**

**Transfer Of Property Act, 1882**

**S.67 (Right to foreclosure or sale):** In the absence of a contract to the contrary, the mortgagee has, at any time after the mortgage-money has become due to him, and before a decree has been made for the redemption of the mortgaged property, or the mortgage-money has been paid or deposited as hereinafter provided, a right to obtain from the Court a decree that the mortgagor shall be absolutely debarred of his right to redeem the property, or a decree that the property be sold.

A suit to obtain a decree that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for foreclosure. ....

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**270**

**Consumer Protection Act, 1986**

**S.21 (Jurisdiction of the National Commission):** (1) Subject to the other provisions of this Act, the National Commission shall have jurisdiction,

(a) to entertain:  
complaints where the value of goods or services and compensation, if any, claimed exceeds rupees one crore; and

appeals against the order of any State Commission; and .....

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**271**

**Consumer Protection Act, 1986**

**S.23 (Appeals):** Any person aggrieved by an order made by the National Commission in exercise of its power conferred by sub-clause (i) of clause (a) of section 21 may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order.  
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288

**Banking Regulation Act, 1949**

**S.45-ZA (Nomination for payment of depositors' money):** (1) Where a deposit is held by a banking company to the credit of one or more persons, the depositor or, as the case may be, all the depositors together may nominate in the prescribed manner, one person to whom in the event of the death of the sole depositor or the death of all the depositors, the amount of deposit may be returned by the banking company. ....

(3) Where the nominee is a minor, it shall be lawful for the depositor making the nomination to appoint in the prescribed manner any person to receive the amount of deposit in the event of his death during the minority of the nominee. ....

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**289**

**Banking Regulation Act, 1949**

**S.45-ZC (Nomination for return of articles kept in safe custody with banking company):**

(1) Where any person leaves any article in safe custody with a banking company, such person may nominate, in the prescribed manner, one person to whom, in the event of the death of the person leaving the articles in safe custody, such article may be returned by the banking company.

(2) Where the nominee is a minor, it shall be lawful for the person making the nomination to appoint in the prescribed manner any person to receive the article deposited in the event of his

death during the minority of the nominee.

(3) The banking company shall, before returning any articles under this section to the nominee or the person appointed under sub-section(2), prepare, in such manner as may be directed by the Reserve Bank from time to time, an inventory of the said articles which shall be signed by such nominee or person and shall deliver a copy of the inventory so prepared to such nominee or person. ....

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## **290**

### **Banking Regulation Act, 1949**

**S.45-ZE (Release of contents of safety lockers):** (1) Where an individual is the sole hirer of a locker from a banking company, whether such locker is located in the safe deposit vault of such banking company or elsewhere, such individual may nominate one person to whom, in the event of the death of such individual, the banking company may give access to the locker and liberty to remove the contents of the locker.

(2) Where any such locker is hired from a banking company by two or more individuals jointly, and, under the contract of hire, the locker is to be operated under the joint signatures of two or more of such hirers, such hirers may nominate one or more persons to whom, in the event of the death of such joint hirer or hirers, the banking company may give, jointly with the surviving joint hirer or joint hirers, as the case may be, access to the locker and liberty to remove the contents of such locker.....

(4) The banking company shall, before permitting the removal of the contents of any locker by any nominee or jointly by any nominee and survivors as aforesaid, prepare in such manner as may be directed by the Reserve Bank from time to time, an inventory of the contents of the locker which shall be signed by such nominee or jointly by such nominee and survivors and shall deliver a copy of the inventory so prepared to such nominee or nominee and survivors. ....

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## **291**

### **Reserve Bank Of India Act, 1934**

#### **Note Refund Rules**

**S.28 (Recovery of notes lost, stolen, mutilated or imperfect):** .....

Provided that the Bank may, with the previous sanction of the Central Government, prescribe the circumstances in and the conditions and limitations subject to which the value of such currency notes or bank notes may be refunded .....

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295

### **Banking Regulation Act, 1949**

#### **No loans on own shares**

**S.20 (Restrictions on loans and advances):** (1) Notwithstanding anything to the contrary contained in section 77 of the Companies Act, 1956, no banking company shall-

(a) grant any loans or advances on the security of its own shares, .....

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## **296**

### **Banking Regulation Act, 1949**

#### **Return of Paid cheques**

**S.45-Z (Return of paid instruments to customers):** (1) Where a banking company is required by its customer to return to him a paid instrument before the expiry of the period specified by

rules made under Section 45-Y, the banking company shall not return the instrument except after making and keeping in its possession a true copy of all relevant parts of such instrument, such copy being made by a mechanical or other process which in itself ensures the accuracy of the copy.

(2) The banking company shall be entitled to recover from the customer the cost of making such copies of the instrument.”

**Explanation:** In this section, “customer” includes a Government department and a corporation incorporated by or under any law.

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**297**

**Indian Partnership Act, 1932**

**S.4 (Definitions of “partnership”, “partner”, “firm” and “firm name”):** Partnership’ is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. ....

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**298**

**Indian Partnership Act, 1932**

**Each can act on behalf of the firm**

**S.2 (Definitions):** In this Act, unless there is anything repugnant in the subject or contest;

(a) “An “act of firm” means any act or omission by all the partners, or by any partner or agent of the firm which gives rise to a right enforceable by or against the firm. ....

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**299**

**Indian Partnership Act, 1932**

**Implied Authority - Conditional**

**S.19 (Implied authority of partner as agent of the firm):** Subject to the provisions of section 22, the act of a partner which is done to carry on, in the usual way, business of the kind carried on by the firm, binds the firm.

The authority of a partner to bind the firm conferred by this section is called his “implied authority”.

**Exclusions – Include Mortgage**

(2) In the absence of any usage or custom of trade to the contrary, the implied authority of a partner does not empower him to:

- (a) submit a dispute relating to the business of the firm to arbitration,
- (b) open a banking account on behalf of the firm in his own name,
- (c) compromise or relinquish any claim or portion of a claim by the firm,
- (d) withdraw a suit or proceedings filed on behalf of the firm,
- (e) admit any liability in a suit or proceedings against the firm,
- (f) acquire immovable property on behalf of the firm,
- (g) transfer immovable property belonging to the firm, or
- (h) enter into partnership on behalf of the firm.

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**300**

**Indian Partnership Act, 1932**

**S.34 (Insolvency of a partner):** (1) Where a partner in a firm is adjudicated an insolvent he

ceases to be a partner on the date on which the order of adjudication is made, whether or not the firm is thereby dissolved. ....

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### **301**

#### **Indian Partnership Act, 1932**

##### **Individual and joint responsibility**

**S.25 (Liability of a partner for acts of the firm):** Every partner is liable, jointly with all the other partners and also severally, for all acts of the firm done while he is a partner.

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### **302**

#### **Indian Partnership Act, 1932**

**S.35 (Liability of estate of deceased partner):** Where under a contract between the partners the firm is not dissolved by the death of a partner the estate of a deceased partner is not liable for any act of the firm done after his death.

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### **303**

#### **Indian Partnership Act, 1932**

##### **Partner is an agent of all the Partners (Firm)**

**S.18 (Partner to be agent of the firm):** Subject to the provisions of this Act, a partner is the agent of the firm for the purposes of the business of the firm.

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### **304**

#### **Indian Partnership Act, 1932**

##### **Signature only as a partner of the firm (not as an Individual)**

**S.22 (Mode of doing act to bind firm):** In order to bind a firm, an act or instrument done or executed by a partner or other person on behalf of the firm shall be done or executed in the firm name, or in any other manner expressing or implying an intention to bind the firm.

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### **305**

#### **Indian Partnership Act, 1932**

**S.4 (Definitions of “partnership”, “partner”, “firm” and “firm name”):** Partnership’ is the relation between persons who have agreed to share the profits of business carried on by all or any of them acting for all. ....

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### **306**

#### **Companies Act, 1956**

##### **Maximum number of persons**

**S.11 (Prohibition of associations and partnerships exceeding certain number):** (1) No company, association or partnership consisting of more than ten persons shall be formed for the purpose of carrying on the business of banking, unless it is registered as a company under this Act, or is formed in pursuance of some other Indian law.

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business .....

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### **307**

#### **Indian Partnership Act, 1932**

##### **A minor cannot be a Partner**

**S.30 (Minors admitted to the benefits of partnership):** (1) A person who is a minor according to the law to which he is subject may not be a partner in a firm, but, with the consent of all the partners for the time being, he may be admitted to the benefits of partnership.

.....

(5) At any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notice shall determine his position as regards the firm.

Provided that, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months. ....

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**308**

**Indian Partnership Act, 1932**

**S.38 (Revocation of continuing guarantee by change in firm):** A continuing guarantee given to a firm, or to a third party in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm.

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**309**

**Indian Partnership Act, 1932**

**S.42 (Dissolution on the happening of certain contingencies):** Subject to contract between the partners a firm is dissolved-

- (c) by the death of a partner; and
- (d) by the adjudication of partner as an insolvent.”

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**310**

**Indian Partnership Act, 1932**

**S.69 (Effect of non-registration):** ..... (2) No suit to enforce a right arising from a contract shall be instituted in any court by or on behalf of a firm against any third party unless the firm is registered. ....

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**311**

**Indian Partnership Act, 1932**

**S.38 (Revocation of continuing guarantee by change in firm):** A continuing guarantee given to a firm, or to a third party in respect of the transactions of a firm, is, in the absence of agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm.

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**312**

**Indian Contract Act, 1872**

**S.172 (“Pledge”, “pawnor” and “pawnee” defined):** The bailment of goods as security for payment of a debt or performance of a promise is called “pledge”. The bailor in this case called the “pawnor”. The bailee is called the “pawnee”.

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**313**

**Indian Contract Act, 1872**

**S.176 (Pawnee’s right where pawnor makes default):** If the pawnor makes default in payment of the debt, or performance, at the stipulated time of the promise, in respect of which the goods were pledged, the pawnee may bring a suit against the pawnor upon the debt or promise, and retain the goods pledged as a collateral security; or he may sell the thing pledged on giving the pawnor reasonable notice of the sale.

If the proceeds of such sale are less than the amount due in respect of the debt or promise, the pawnor is still liable to pay the balance. If the proceeds of the sale are greater than the amount so due, the pawnee shall pay over the surplus to the pawnor.

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**314**

**Indian Contract Act, 1872**

**S.172 (“Pledge”, “pawnor” and “pawnee” defined):** The bailment of goods as security for payment of a debt or performance of a promise is called “pledge”. The bailor in this case called the “pawnor”. The bailee is called the “pawnee”.

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**318**

**Indian Contract Act, 1872**

**Payment mistakes**

**S.72 (Liability of person to whom money is paid, or thing delivered by mistake or under coercion):** A person to whom money has been paid, or anything delivered, by mistake or under coercion, must repay or return it.

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**324**

**Reserve Bank Of India Act, 1934**

**S.58(B) (Penalties):** ..... (3) If any person contravenes the provisions of section 31, he shall be punishable with fine which may extend to the amount of the bill of exchange, .....

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**325**

**Indian Contract Act, 1872**

**S.172 (“Pledge”, “pawnor” and “pawnee” defined):** The bailment of goods as security for payment of a debt or performance of a promise is called “pledge”. The bailor in this case called the “pawnor”. The bailee is called the “pawnee”.

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**326**

**Sale Of Goods Act, 1930**

**Pledge of unpaid goods**

**S.53 (Effect of sub-sale or pledge by buyer):** ..... (2) Where the transfer is by way of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

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**327**

**The Preventive Of Money-Laundering Act, 2002**

**S.12 Banking companies, financial institutions and intermediaries to maintain records:**

(1) Every banking company, financial institution and intermediary shall -

(a) maintain a record of all transactions, the nature and value of which may be prescribed, whether such transactions comprise of a single transaction or a series of transactions integrally connected to each other, and where such series of transactions take place within a month;

(b) furnish information of transactions referred to in clause (a) to the Director within such time as may be prescribed;

(c) verify and maintain the records of the identity of all its clients, in such a manner as may

be prescribed.....

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### **328**

#### **The Preventive Of Money-Laundering Act, 2002**

**S.67 Bar of suits in civil courts:** No suit shall be brought in any civil court to set aside or modify any proceeding taken or order made under this Act and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything done or intended to be done in good faith under this Act.

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### **329**

#### **The Preventive Of Money-Laundering Act, 2002**

**S.14 No civil proceeding against banking companies, financial institutions, etc., in certain cases:** Save as otherwise provided in section 13, the banking companies, financial institutions, intermediaries and their officers shall not be liable to any civil proceedings against them for furnishing information under clause (b) of sub-section (1) of section 12.

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### **330**

#### **The Preventive Of Money-Laundering Act, 2002**

##### **S.13 Powers of the Director to impose fine**

(2) If the Director, in the course of any inquiry, finds that a banking company, financial institution or an intermediary or any of its officers has failed to comply with the provisions contained in section 12, then, without prejudice to any other action that may be taken under any other provisions of this Act, he may, by an order, levy a fine on such banking company or financial institution or intermediary which shall not be less than ten thousand rupees but may extend to one lakh rupees for each failure.

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### **331**

#### **Code Of Criminal Procedure, 1973**

**S.162 (Statements to police not to be signed – Use of statements in evidence):** (1) No statement made by any person to a police officer in the course of an investigation under this Chapter, shall, if reduced to writing, be signed by the person making it; .....

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### **332**

#### **Code Of Criminal Procedure, 1973**

**S.160 (Police officer's power to require attendance of witnesses):** (1) Any police officer making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required. ....

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### **333**

#### **Code Of Criminal Procedure, 1973**

**S.102 (Power of police officer to seize certain property):** (1) Any police officer may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence.

(2) Such police officer, if subordinate to the officer in charge of a police station, shall forthwith report the seizure to that officer.

(3) Every police officer acting under sub-section (1) shall forthwith report the seizure to the Magistrate having jurisdiction and where the property seized is such that it cannot be conveniently

transported to the Court, he may give custody thereof to any person on his executing a bond undertaking to produce the property before the Court as and when required and to give effect to the further orders of the Court as to the disposal of the same.

[CASE LAW: The bank account of the accused or any of his relation is “property” within the meaning of Section 102 of the Criminal Procedure Code and a police officer in course of investigation can seize or prohibit the operation of the said account if such assets have direct link with the commission of the offence for which the police officer is investigating into.]

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**334**

**Indian Evidence Act, 1872**

**Powers of Attorney Authentication**

**S.85 (Presumption as to power-of-attorney):** The court shall presume that every document purporting to be a power-of-attorney, and to have been executed before, and authenticated by, a Notary Public, or any Court, Judge, Magistrate, Indian Consul or vice-consul or representative of the Central Government, was so executed and authenticated.

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**352**

**Indian Contract Act, 1872**

**S.182 (“Agent” and “principal” defined):** An “Agent” is a person employed to do any act for another or to represent another in dealings with third persons. The person for whom such act is done, or who is so represented, is called the “principal”.

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**355**

**Indian Contract Act, 1872**

**S. 126 (“Contract of guarantee”, “surety”, “principal debtor” and “creditor”):** A “contract of guarantee” is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the “surety”; the person in respect of whose default the guarantee is given is called the “principal debtor”, and the person to whom the guarantee is given is called the “creditor”. A guarantee may be ether oral or written.

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**359**

**Transfer Of Property Act, 1882**

**S. 8 (Operation of transfer):** Unless a different intention is expressed or necessarily implied, a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing in the property, and in the legal incidents thereof.

Such incidents include, where the property is land, the easements annexed thereto, the rents and profits thereof accruing after the transfer, and all things attached to the earth;

and where the property is machinery attached to the earth, the movable parts thereof; and, where the property is a house, the easements annexed thereto, the rent thereof accruing after the transfer, and the locks, keys, bars, doors, windows and all other things provided for permanent use therewith;

and, whether the property is a debt or other actionable claim, the securities therefor (except when they are also for other debts or claims not transferred to the transferee), but not arrears of interest accrued before the transfer;

and, where the property is money or other property yielding income, the interest or income thereof accruing after the transfer takes effect”.

**360**

**Transfer Of Property Act, 1882**

**S.5 (“Transfer of Property” defined):** In the following sections “transfer of property” means an act by which a living person conveys property, in present or in future, to one or more other living persons, or to himself, or to himself and one or more other living persons; and “to transfer property” is to perform such act.

In this section “living person” includes a company or association or body of individuals, whether incorporated or not, but nothing herein contained shall affect any law for the time being in force relating to transfer of property to or by companies, associations or bodies of individuals.

**361**

**Transfer Of Property Act, 1882**

**S.6 (What may be transferred):** Property of any kind may be transferred, except as otherwise provided by this Act or by any of other law for the time being in force. ....

**372**

**Information Technology Act, 2000**

**S.3 (Authentication of electronic records):** (1) Subject to the provisions of this section any subscriber may authenticate an electronic record by affixing his digital signature.

(2) The authentication of the electronic record shall be effected by the use of asymmetric crypto system and hash function which envelop and transform the initial electronic record into another electronic record. ....

(3) Any person by the use of a public key of the subscriber can verify the electronic record.

(4) The private key and the public key are unique to the subscriber and constitute a functioning key pair.

**373**

**Indian Evidence Act, 1872**

**Digital Signatures and data integrity**

**S.85B (Presumptions as to electronic records and digital signatures):** (1) In any proceedings, involving a secure electronic record, the Court shall presume unless contrary is proved, that the secure electronic record has not been altered since the specific point of time to which the secure status relates.

(2) In any proceedings, involving secure digital signature, the Court shall presume unless the contrary is proved that:

(a) the secure digital signature is affixed by subscriber with the intention of signing or approving the electronic record;

(b) except in the case of a secure electronic record or a secure digital signature, nothing in this section shall create any presumption relating to authenticity and integrity of the electronic record or any digital signature.

**374**

**Information Technology Act, 2000**

**S.4 (Legal recognition of electronic records):** Where any law provides that information or any other matter shall be in writing or in the typewritten or printed form, then, notwithstanding anything contained in such law, such requirement shall be deemed to have been satisfied if such information or matter is:  
rendered or made available in an electronic form; and  
accessible so as to be usable for a subsequent reference.

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375

**Banking Regulation Act, 1949**  
**Preservation of Records**

**S.45-Y (Power of Central Government to make rules for the preservation of records):**  
The Central Government may, after consultation with the Reserve Bank and by notification in the Official Gazette, make rules specifying the periods for which-

- (a) a banking company shall preserve its books, accounts and other documents; and
- (b) a banking company shall preserve and keep with itself different instruments paid by it.

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**376**  
**Information Technology Act, 2000**

**S.7 (Retention of electronic records):** (1) Where any law provides that documents, records or information shall be retained for any specific period, then, that requirement shall be deemed to have been satisfied if such documents, records or information are retained in the electronic form, if:

- the information contained therein remains accessible so as to be usable for a subsequent reference;
- the electronic record is retained in the format in which it was originally generated, sent or received or in a format which can be demonstrated to represent accurately the information originally generated, sent or received;
- the details which will facilitate the identification of the origin, destination, date and time of despatch or receipt of such electronic record are available in the electronic record. ....

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**377**  
**Information Technology Act, 2000**

**S.6 (Use of electronic records and digital signatures in government and its agencies):**

- (1) Where any law provides for:
- the filing of any form, application or any other document with any office, authority, body or agency owned or controlled by the appropriate government in a particular manner;
  - the issue or grant of any licence, permit, sanction or approval by whatever name called in a particular manner;
  - the receipt or payment of money in a particular manner,

then notwithstanding anything contained in any other law for the time being in force, such requirement shall be deemed to have been satisfied if such filing, issue, grant, receipt or payment, as the case may be, is effected by means of such electronic form as may be prescribed by the appropriate government. ....

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**378**  
**Transfer Of Property Act, 1882**  
**Redemption Right**

**S.60 (Right of mortgagor to redeem):** At any time after the principal money has become

due, the mortgagor has a right, on payment or tender, at a proper time and place, of the mortgage-money, to require the mortgagee (a) to deliver to the mortgagor the mortgage-deed and all documents relating to mortgaged property .....

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**379**

**The Right To Information Act, 2005**

**Right to information and obligations of public authorities**

**S.3** Subject to the provisions of this Act, all citizens shall have the right to information.

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**380**

**The Right To Information Act, 2005**

**Miscellaneous**

**S.22** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

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**381**

**The Right To Information Act, 2005**

**S.23** No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

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**382**

**The Right To Information Act, 2005**

**S.5** (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

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**383**

**The Right To Information Act, 2005**

**S.4** (1) Every public authority shall—

(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act .....

(b) publish within one hundred and twenty days from the enactment of this Act,—

- (i) the particulars of its organisation, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

(vi) a statement of the categories of documents that are held by it or under its control;

(vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

(viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(ix) a directory of its officers and employees;

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

(xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;

(xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

(xiii) particulars of recipients of concessions, permits or authorisations granted by it;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers;

(xvii) such other information as may be prescribed and thereafter update these publications every year;

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**384**

### **Income Tax Act, 1961**

**S.132 (Search and seizure):** (1) Where the ..... Joint Commissioner ....., in consequence of information in his possession, has reason to believe that-

(a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income Tax Act, ..... was issued to produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, .....

then, -

A) ..... the Chief Commissioner or Commissioner ..... may authorise ..... Income-tax Officer, .....

i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable

article or thing are kept;

ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

ii) (a) search any person who has got out of, or is about to get into or is in the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

ii) (b) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

(iii) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(iv) place marks of identification on any books of account or other documents or make or cause to be made extracts of or copies therefrom;

(v) make a note of an inventory of any such money, bullion, jewellery or other valuable article or thing. ....

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### **Code Of Criminal Procedure, 1973**

#### **S.94 (Search of place suspected to contain stolen property, forged documents, etc.):**

(1) If a District Magistrate, Sub-Divisional Magistrate or Magistrate of the first class, upon information and after such inquiry as he thinks necessary, has reason to believe that any place is used for the deposit or sale of stolen property, or for the deposit, sale or production of any objectionable article to which this section applies, or that any such objectionable article is deposited in any place, he may by warrant authorise any police officer above the rank of a constable:

(a) to enter, with such assistance as may be required, such place,

(b) to search the same in the manner specified in the warrant,

(c) to take possession of any property or article therein found which he reasonably suspects to be stolen property or objectionable article to which this section applies,

(d) to convey such property or article before a Magistrate, or to guard the same on the spot until the offender is taken before a Magistrate, or otherwise to dispose of it in some place of safety,

(e) to take into custody and carry before a Magistrate every person found in such place who appears to have been privy to the deposit, sale or production of any such property or article knowing or having reasonable cause to suspect it to be stolen property or, as the case may be, objectionable to which this section applies.

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**386**

### **The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002**

**S.7 (Issue of security by raising of receipts of funds by securitisation company or reconstruction company):** (1) Without prejudice to the provisions contained in the Companies

Act, 1965 (1 of 1956), the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and the Securities and Exchange Board of India Act, 1992 (15 of 1992), any securitisation company or reconstruction company, may, after acquisition of any financial asset under sub-section (1) of section 5, offer security receipts to qualified institutional buyers (other than by offer to public) for subscription in accordance with the provisions of those Acts.

(2) A securitisation company or reconstruction company may raise funds from the qualified institutional buyers by formulating schemes for acquiring financial assets and shall keep and maintain separate and distinct accounts in respect of each such scheme for every financial asset acquired out of investments made by a qualified institutional buyer and ensure that realisations of such financial asset is held and applied towards redemption of investments and payment of returns assured on such investments under the relevant scheme. ....

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**387**

### **The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002**

**S.13 (Enforcement of security interest):** (1) ..... any security interest created in favour of any secured creditor may be enforced, without the intervention of Court or tribunal, by such creditor .....

(2) Where any borrower, who is under a liability to a secured creditor under a security agreement, makes any default in repayment of secured debt or any instalment thereof, and his account in respect of such debt is classified by the secured creditor as non-performing asset, then, the secured creditor may require the borrower by notice in writing to discharge in full his liabilities to the secured creditor within sixty days from the date of notice failing which the secured creditor shall be entitled to exercise all or any of the rights under sub-section(4).

(3) The notice referred in the sub-section (2) shall give details of the amount payable by the borrower and the secured assets intended to be enforced by the secured creditor in the event of non-payment of secured debts by the borrower.

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely: -

(a) take possession of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

(b) take over the management of the secured assets of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset;

(c) appoint any person (hereafter referred to as the manager), to manage the secured assets the possession of which has been taken over by the secured creditor;

(d) require at any time by notice in writing, any person who has acquired any of the secured assets from the borrower and from whom any money is due or may become due to the borrower, to pay the secured creditor, so much of the money as is sufficient to pay the secured debt. ....

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**388**

### **The Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security**

## **Interest Act, 2002**

**S.8 (Exemption from registration of security receipt):** Notwithstanding anything contained in sub-section (1) of section 17 of the Registration Act, 1908 (16 of 1908):

(a) any security receipt issued by the securitisation company or reconstruction company, as the case may be, under sub-section (1) of section 7, and not creating, declaring, assigning, limiting or extinguishing any right, title or interest, to or in immovable property except in so far as it entitles the holder of the security receipt to an undivided interest afforded by a registered instrument; or

(b) any transfer of security receipts, shall not require compulsory registration.

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## **389**

### **Income Tax Act, 1961**

**S.132 (Search and seizure):** (1) Where the ..... Joint Commissioner ....., in consequence of information in his possession, has reason to believe that-

(a) any person to whom a summons under sub-section (1) of section 37 of the Indian Income Tax Act, ..... was issued to produce, or cause to be produced, any books of account or other documents, has omitted or failed to produce, or cause to be produced, such books of account or other documents as required by such summons or notice, .....

then,-

A) ..... the Chief Commissioner or Commissioner ..... may authorise ..... Income-tax Officer, .....

i) enter and search any building, place, vessel, vehicle or aircraft where he has reason to suspect that such books of account, other documents, money, bullion, jewellery or other valuable article or thing are kept;

ii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (i) where the keys thereof are not available;

ii) (a) search any person who has got out of, or is about to get into or is in the building, place, vessel, vehicle or aircraft, if the authorised officer has reason to suspect that such person has secreted about his person any such books of account, other documents, money, bullion, jewellery or other valuable article or thing;

ii) (b) require any person who is found to be in possession or control of any books of account or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of Information Technology Act, 2000 (21 of 2000), to afford the authorised officer the necessary facility to inspect such books of account or other documents;

(iii) seize any such books of account, other documents, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(iv) place marks of identification on any books of account or other documents or make or cause to be made extracts of or copies therefrom;

(v) make a note of an inventory of any such money, bullion, jewellery or other valuable article or thing. ....

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## **Sale Of Goods Act, 1930**

### **Seller's Risk unless ownership is transferred**

**S.26 (Risk *prima facie* passes with property):** Unless otherwise agreed, the goods remain at the sellers' risk until the property therein transferred to the buyer, but when the property therein is transferred to the buyer, the goods are at the buyer's risk whether delivery has been made or not:.....

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## **Consumer Protection Act, 1986**

**S.2 (Definitions):** ..... (d) 'consumer' means any person who: ..... (ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purpose; .....

(o) 'service' means service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service; .....

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## **Banking Regulation Act, 1949**

### **Limit on Shareholding in another Company**

**S.19 (Restriction on nature of subsidiary companies):** ..... (2) Save as provided in sub-section(1), no banking company shall hold shares in any company, whether as pledgee, mortgagee or absolute owner, of an amount exceeding thirty per cent of the paid-up share capital of that company or thirty per cent of its own paid-up share capital and reserves, whichever is less; .....

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## **Banking Regulation Act, 1949**

### **SLR**

**S.24 (Maintenance of a percentage of assets):** ..... (2-A) (a) Notwithstanding anything contained in sub-section(1), or in sub-section(2), after the expiry of two years from the commencement of the Banking Companies (Amendment) Act, 1962,-

i) a scheduled bank, in addition to the average daily balance which it is, or may be, required to maintain under section 42 of the Reserve bank of India Act, 1934, and .....  
[shall maintain in India,-

A) in cash, or

B) in gold valued at a price not exceeding the current market price or in unencumbered approved securities valued at a price determined in accordance with such one or more of, or combination of, the following methods of valuation, namely, valuation with reference to cost price, market price, book value or face value, as may be specified by the Reserve Bank from time to time,

an amount which shall not, at the close of business on any day, be less than twenty-five per cent or such other percentage not exceeding forty per cent as the Reserve bank may, from time to time, by notification in the Official Gazette, specify, of the total of its demand and time liabilities in India, as on the last Friday of the second preceding fortnight; ] .....

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### **395**

#### **The Micro, Small & Medium Enterprises Development Act, 2006**

##### **Classification of Enterprises, Advisory Committee and Memorandum of Micro, Small & Medium Enterprises**

**S.7** 1) Notwithstanding anything contained in section 11B of the Industries (Development and Regulation) Act, 1951, the Central Government may, for the purposes of this Act, by notification and having regard to the provisions of sub-sections (4) and (5), classify any class or classes of enterprises, whether proprietorship, Hindu undivided family, association of persons, co-operative society, partnership firm, company or undertaking, by whatever name called, -

(a) in the case of the enterprises engaged in the manufacture or production of goods pertaining to any industry specified in the first schedule to the Industries (Development and Regulation) Act, 1951, as

(i) a micro enterprise, where the investment in plant and machinery does not exceed twenty five lakh rupees;

(ii) a small enterprise, where the investment in plant and machinery is more than twenty five lakh rupees but does not exceed five crore rupees; or

(iii) a medium enterprise, where the investment in plant and machinery is more than five crore rupees but does not exceed ten crore rupees;

(b) in the case of the enterprises engaged in providing or rendering of services, as

(i) a micro enterprise, where the investment in equipment does not exceed ten lakh rupees;

(ii) a small enterprise, where the investment in equipment is more than ten lakh rupees but does not exceed two crore rupees; or

(iii) a medium enterprise, where the investment in equipment is more than two crore rupees but does not exceed five crore rupees.

**Explanation 1:** For the removal of doubt, it is hereby clarified that in calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other items as may be specified, by notification, shall be excluded.

**Explanation 2:** It is clarified that the provisions of section 29B of the Industries (Development and Regulation) Act, 1951, shall be applicable to the enterprises specified in sub-clauses (i) and (ii) of clause (a) of sub-section (1) of this section.

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### **396**

#### **The Micro, Small & Medium Enterprises Development Act, 2006**

**Measures for Promotions, Development and Enhancement of competitiveness of Micro, Small & Medium Enterprises**

**S.10** The policies and practices in respect of credit to the micro, Small & Medium enterprises shall be progressive and such as may be specified in the guidelines or instructions issued by the Reserve Bank, from time to time, to ensure timely and smooth flow of credit to such enterprises, minimise the incidence of sickness among and enhance the competitiveness of such enterprises.

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**397**

**The Micro, Small & Medium Enterprises Development Act, 2006**

**Delayed Payments to Micro and Small Enterprises**

**S.15** Where any supplier supplies any goods or renders any services to any buyer, the buyer shall make payment therefor on or before the date agreed upon between him and the supplier in writing or, where there is no agreement in this behalf, before the appointed day:

Provided that in no case the period agreed upon between the supplier and the buyer in writing shall exceed forty-five days from the day of acceptance or the day of deemed acceptance.

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**398**

**Consumer Protection Act, 1986**

**S.19 (Appeals):** Any person aggrieved by an order made by the State Commission in exercise of its power conferred by sub-clause (i) of clause (a) of section 17 may prefer an appeal against the such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed. ....

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**399**

**Consumer Protection Act, 1986**

**S.17 (Jurisdiction of the State Commission):** (1) Subject to the other provisions of this Act, the State Commission shall have jurisdiction,

(a) to entertain:  
complaints where the value of goods or services and compensation, if any, claimed, exceeds rupees twenty lakhs but does not exceed rupees one crore; and

appeals against the order of any District Forums within the State; and .....

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**400**

**Consumer Protection Act, 1986**

**S.8 (Objects of the State Council):** The objects of every State Council shall be to promote and protect within the State the rights of the consumers laid down .....

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**401**

**Consumer Protection Act, 1986**

**S.7 (The State Consumer Protection Councils):** (1) The State Government shall, by notification, establish with effect from such date as it may specify in such notification, a Council to be known as the Consumer Protection Council (hereinafter referred to as the State Council).

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**402**

**Sale Of Goods Act, 1930**

**Pledge of unpaid goods**

**S.53 (Effect of sub-sale or pledge by buyer):** ..... (2) Where the transfer is by way

of pledge, the unpaid seller may require the pledgee to have the amount secured by the pledge satisfied in the first instance, as far as possible, out of any other goods or securities of the buyer in the hands of the pledgee and available against the buyer.

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## 403

### **Code Of Criminal Procedure, 1973**

**S.91 (Summons to produce document or other thing):** (1) Whenever any Court or any officer in charge of a police station considers that the production of any document or other thing is necessary or desirable for the purposes of any investigation, inquiry, trial or other proceeding under this code by or before such Court or officer, such court may issue a summons, or such officer a written order, to the person in whose possession or power such document or thing is believed to be, requiring him to attend and produce it, or to produce it, at the time and place stated in the summons or order.

(2) Any person required under this section merely to produce a document or other thing shall be deemed to have complied with the requisition if he causes such document or thing to be produced instead of attending personally to produce the same.

(3) Nothing in this section shall be deemed-

a) to affect Section 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), or the Bankers' Books Evidence Act, 1891 (13 of 1891), or

b) to apply to a letter, postcard, telegram or other document or any parcel or thing in the custody of the postal or telegraph authority.

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## 404

### **Indian Contract Act, 1872**

**S. 126 ("Contract of guarantee", "surety", "principal debtor" and "creditor"):** A "contract of guarantee" is a contract to perform the promise, or discharge the liability, of a third person in case of his default. The person who gives the guarantee is called the "surety"; the person in respect of whose default the guarantee is given is called the "principal debtor", and the person to whom the guarantee is given is called the "creditor". A guarantee may be ether oral or written.

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## 405

### **Indian Contract Act, 1872**

**S.137 (Creditor's forbearance to sue does not discharge surety):** Mere forbearance on the part of the creditor to sue the principal debtor or to enforce any other remedy against him does not, in the absence of any provision in the guarantee to the contrary, discharge the surety.

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## 406

### **Indian Contract Act, 1872**

**S.134 (Discharge of surety by release or discharge of principal debtor):** The surety is discharged by any contract between the creditor and the principal debtor, by which the principal debtor is released, or by any act or omission of the creditor, the legal consequence of which is the discharge of the principal debtor.

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## 407

### **Indian Contract Act, 1872**

**S.133 (Discharge of surety by variance in terms of contract):** Any variance, made without surety's consent, in the terms of the contract between the principal (debtor) and the creditor,

discharges the surety as to transactions subsequent to the variance.

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**408**

**Indian Contract Act, 1872**

**Borrower's and Guarantor's liabilities are co-extensive**

**S.128 (Surety's liability):** The liability of the surety is co-extensive with that of the principal debtor, unless it is otherwise provided by the contract.

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**409**

**Indian Contract Act, 1872**

**S. 132 (Liability of two persons, primarily liable, not affected by arrangement between them that one shall be surety on other's default):** Where two persons contract with a third person to undertake a certain liability, and also contract with each other that one of them shall be liable only on the default of the other, the third person not being a party to such contract, the liability of each of such two persons to the third person under the first contract is not affected by the existence of the second contract, although such third person may have been aware of its existence.

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**410**

**Indian Contract Act, 1872**

**S.138 (Release of one co-surety does not discharge others):** Where there are co-sureties, a release by the creditor of one of them does not discharge the others; .....

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**411**

**Indian Contract Act, 1872**

**S.131 (Revocation of continuing guarantee by surety's death):** The death of the surety operates, in the absence of any contract to the contrary, as a revocation of a continuing guarantee, so far as regards future transactions.

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**412**

**Indian Contract Act, 1872**

**Surety should consent for change in Terms and Conditions**

**S.135 (Discharge of surety when creditor compounds with, gives time to, or agrees not to sue, principal debtor):** A contract between the creditor and the principal debtor, by which the creditor makes a composition with, or promises to give time to, or not to sue, the principal debtor, discharges the surety, unless the surety assents to such contract.

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**413**

**Indian Contract Act, 1872**

**S.141 (Surety's right to benefit of creditor's securities):** A surety is entitled to the benefit of every security which the creditor has against the principal debtor at the time when the contract of suretyship is entered into, whether the surety knows of the existence of such security or not; and, if the creditor loses, or, without the consent of the surety, parts with such security, the surety is discharged to the extent of the value of the security.

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**415**

**Income Tax Act, 1961**

**S.203A (Tax-deduction account number):** (1) Every person deducting tax in accordance with the provisions ..... if he has not been allotted any tax deducted account number, shall within such time as may be prescribed, apply to the Assessing Officer for the allotment of a tax-deduction account number.

(2) Where a tax-deduction account number has been allotted to a person, such person shall quote such number,

(a) in all challans for the payment of any sum in accordance with the provisions of section 200;

(b) in all the certificates issued in accordance with the provisions of section 203;

(c) in all the returns delivered in accordance with the provisions of section 206, 206A and 206B to any income-tax authority; and

(d) in all other documents pertaining to such transactions as may be prescribed in the interests of revenue.

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## **416**

### **Income Tax Act, 1961**

#### **TDS**

**S.194A (Interest other than 'Interest on securities'):** (1) Any person, not being an individual or a Hindu undivided family, who is responsible for paying to a resident any income by way of interest other than income by way of interest on securities, shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force. ....

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## **417**

### **Income Tax Act, 1961**

**S.203 (Certificate for tax deducted):** (1) Every person deducting tax in accordance with the provisions of ..... shall, within such period as may be prescribed, from the time of credit or payment of the sum, or, as the case may be, from the time of issue of a cheque ..... furnish to the person to whose account such credit is given ..... or the cheque ..... is issued, a certificate to the effect that tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted and such other particulars as may be prescribed.

(2) Every person, being an employer, referred to in sub-section 1A of section 192 shall, within such period, as may be prescribed, furnish to the person in respect of whose income such payment of tax has been made, a certificate of the effect that tax has been paid to the Central Government, and specify the amount so paid, the rate at which the tax has been paid and such other particulars as may be prescribed.

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## **418**

### **Income Tax Act, 1961**

**S.201 (Consequences of failure to deduct or pay):** If any such person ..... does not deduct (the whole or any part of the tax) or after deducting fails to pay the tax as required by or under this Act, he or it shall, without prejudice to any other consequences which he or it may incur, be deemed to be an assessee in default in respect of the tax: .....

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## **419**

### **Income Tax Act, 1961**

**S.200 (Duty of person deducting tax):** Any person deducting any sum in accordance with the provisions ..... shall pay within the prescribed time, the sum so deducted to the credit of the

Central Government or as the Board directs.

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**420**

**Income Tax Act, 1961**

**S.197A (No deduction to be made in certain cases):** ..... the tax on his estimated total income of the previous year in which such income is to be included in computing his total income will be nil. ....

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**421**

**Indian Contract Act, 1872**

**Promises to compensate and pay a time barred Debt valid**

**S.25 (Agreement void, if made without consideration):** (1) An agreement made without consideration is void, unless it is in writing and registered. ....

(2) or it is a promise to compensate for something done. ....

(3) or is a promise to pay a debt barred by limitation law.....

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**422**

**Indian Trusts Act, 1882**

**S.6 (Creation of trust):** ..... a trust is created when the author of the trust indicates with reasonable certainty by any words or act

(a) an intention on his part to create thereby a trust,

(b) the purpose of the trust,

(c) the beneficiary, and

(d) the trust-property, and (unless the trust is declared by will or the author of the trust is himself to be the trustee) transfers the trust-property to the trustee. ....

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**Indian Trusts Act, 1882**

**S.4 (Lawful purpose):** A trust may be created for any lawful purposes. ....

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**Indian Trusts Act, 1882**

**S.77 (Trust how extinguished):** A trust is extinguished-

(a) when its purpose is completely fulfilled; or

(b) when its purpose becomes unlawful; or

(c) when the fulfilment of its purpose becomes impossible by destruction of the trust-property or otherwise; or

(d) when the trust, being revocable, is expressly revoked.

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**Indian Trusts Act, 1882**

**S.3 (Interpretation clause—"trust"):** A "trust" is an obligation annexed to the ownership of property, and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another, or of another and the owner.

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426

**Indian Trusts Act, 1882**

**S.78 (Revocation of trust):** A trust created by will may be revoked at the pleasure of the

testator. A trust otherwise created can be revoked only-

- a) where all the beneficiaries are competent to contract – by their consent;
- b) where the trust has been declared by a non-testamentary instrument or by word of mouth – in exercise of a power of revocation expressly reserved to the author of the trust; or
- c) where the trust is for the payment of the debts of the author of the trust, and has not been communicated to the creditors – at the pleasure of the author of the trust. ....

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**427**

**Indian Trusts Act, 1882**

**S.9 (Who may be beneficiary):** Every person capable of holding property may be a beneficiary. ....

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**428**

**Indian Trusts Act, 1882**

**S.10 (Who may be trustee):** Every person capable of holding property may be a trustee; but, where the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.

No one is bound to accept a trust: No one is bound to accept a trust.

Acceptance of a trust: A trust is accepted by any words or acts of the trustee indicating with reasonable certainty such acceptance. ....

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**429**

**Indian Trusts Act, 1882**

**S.7 (Who may create trusts):** A trust may be created –

- (a) by every person competent to contract, and
- (b) with the permission of a principal Civil Court of original jurisdiction, by or on behalf of a minor. ....

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**430**

**Indian Trusts Act, 1882**

**S.73 (Appointment of new trustees on death, etc.):** Whenever any person appointed a trustee disclaims, or any trustee, either original or substituted, dies, or is for a continuous period of six months absent from India, or leaves India for the purpose of residing abroad, or is declared an insolvent, or desires to be discharged from the trust, or refuses or becomes, in the opinion of a principal Civil Court of original jurisdiction, unfit or personally incapable to act in the trust, or accepts an inconsistent trust, a new trustee may be appointed in his place by-

- (a) the person nominated for that purpose by the instrument of trust (if any), or
- (b) if there be no such person, or no such person able and willing to act, the author of the trust if he be alive and competent to contract, or the surviving or continuing trustees or trustee for the time being, or legal representative of the last surviving and continuing trustee, or (with the consent of the Court) the retiring trustees, if they all retire simultaneously, or (with the like consent) the last retiring trustee. ....

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**431**

**Indian Trusts Act, 1882**

**S.47 (Trustee cannot delegate):** A trustee cannot delegate his office or any of his duties to a

co-trustee or to a stranger, unless

- (a) the instrument of trust so provides, or
- (b) the delegation is in the regular course of business, or
- (c) the delegation is necessary, or
- (d) the beneficiary, being competent to contract, consents to the delegation. ....

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**432**  
**Indian Trusts Act, 1882**

**S.15 (Care required from trustee):** A trustee is bound to deal with the trust-property as carefully as a man of ordinary prudence would deal with such property if it were his own; and, in the absence of a contract to the contrary, a trustee so dealing is not responsible for the loss, destruction or deterioration of the trust-property.

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**Indian Trusts Act, 1882**

**Joint operations by Trustees**

**S.48 (Co-trustees cannot act singly):** When there are more trustees than one, all must join in the execution of the trust, except where the instrument of trust otherwise provides.

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**434**  
**Indian Trusts Act, 1882**

**Filling vacancy**

**S.74 (Appointment by Court):** Whenever any such vacancy or disqualification occurs and it is found impracticable to appoint a new trustee under section 73, the beneficiary may, without instituting a suit, apply by petition to a principle Civil Court of original jurisdiction for the appointment of a trustee or a new trustee, and the Court may appoint a trustee or a new trustee accordingly. ....

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**435**  
**Indian Trusts Act, 1882**

**S.44 (Power of several trustees of whom one disclaims or dies):** When an authority to deal with the trust-property is given to several trustees and one of them disclaims or dies, the authority may be exercised by the continuing trustees, unless from the terms of the instrument of trust it is apparent that the authority is to be exercised by a number in excess of the number of the remaining trustees.

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**436**  
**Indian Trusts Act, 1882**

**S.10 (Who may be trustee):** Every person capable of holding property may be a trustee; but, where the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.

No one is bound to accept a trust: No one is bound to accept a trust.

Acceptance of a trust: A trust is accepted by any words or acts of the trustee indicating with reasonable certainty such acceptance. ....

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