

## Section 65B of Indian Evidence Act, 1872

### Section 65(B). Admissibility Of Electronic Records-

(1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in the Sub-section (1) in respect to the computer output shall be following, namely:

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

(b) during the said period the information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities.

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation for that part of the period, was not such to affect the electronic record or the accuracy of its contents.

(d) The information contained in the electronic record reproduces or is derived from such information fed into computer in ordinary course of said activities.

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

(a) by a combination of computer operating over that period, or

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

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

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

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

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say,?

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

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

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

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

(5) For the purposes of this section,?

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

(b) whether in the course of activities carried on by any official information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

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

Explanation. ?For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

### **More on Section 65B of the Indian Evidence Act, 1965**

#### **1. [Anvar P.V vs P.K. Basheer & Others](#)**

[An electronic record by way of secondary evidence shall not be admitted in evidence unless the requirements under Section 65B are satisfied]

#### **2. [SC: Harpal Singh V. State of Punjab \(2016\) - Electronic Evidence](#) [November 2016]**

[Apparently the prosecution has relied upon the secondary evidence in the form of printed copy of the call details, even assuming that the mandate of Section 65B(2) had been complied with, in absence of a certificate under Section 65B(4), the same has to be held inadmissible in evidence]

#### **3. [K. Ramajayam V. The Inspector Of Police](#)**

[If an electronic record as such is used as primary evidence under Section 62 of the Indian Evidence Act, 1872 the same is admissible in evidence, without compliance with the conditions in Section 65B of the Evidence Act. In this case, DVR which contains the information is before the Court]