

Characteristic	Legislation	Case Law
Burden v Standard of Proof	<p>s140 – Civil Proceedings – Standard of Proof must be proved on balance of probabilities and court must take into account: the nature of the cause of action/defence, nature of the subject-matter and gravity of matters alleged</p> <p>s141 – Criminal Proceedings – Standard of Proof must be proved beyond reasonable doubt by prosecution and on balance of probabilities by defendant.</p>	<p>Woolmington v DPP – the duty of the prosecution is to prove the accused is guilty on balance of probabilities (civil) and beyond reasonable doubt (criminal)</p> <p>Briginshaw v Briginshaw – in all criminal cases, it is essential to a verdict of condemnation that the guilt of the accused should be fully proved. All matters in s140(2) must be satisfied.</p>
Inferences/Circumstantial		Shepherd v The Queen – case based on circumstantial evidence. The question for the jury is whether the inference has been made beyond reasonable doubt, not whether the particular fact has been proved beyond reasonable doubt.
Judicial Notice	s144 – proof not required for common knowledge which is reasonably open to question, capable of verification through document, etc...	
Presumption of evidence produced by machine	s146 – considered to be ordinarily producing document as it is meant to be	
Presumption of evidence produced from proper custody	s152 – extracted from proper custody, then it is presumed that the document is what it purports to be and is executed by the person	
Presumption of evidence published by authority of Parliament	s154 – document purporting to have been printed by Australian parliament is what it purports to be	
Utilising decision to evidence fact in issue	s91 – exclusion of evidence of judgments/convictions to prove the existence of a fact in issue for the proceeding	

Utilising decision to evidence fact in issue	<p>EXCEPTION: s92 – does not prevent grant of probate, letters of administration to prove death, execution of testamentary document.</p> <p>EXCEPTION s93 – does not affect the operation of judgment in rem or law relating to res judicata or issue estoppel</p>	Ainsworth v Burden – s91 does not prevent the tender of judgments which contain findings as to the existence of facts in relation to the trial. It merely prevents the judgments being tendered from evidence.
Relevance	s55 – Relevance – evidence is relevant if it can directly or indirectly affect the assessment of probability of the existence of a fact in issue. Evidence cannot be taken as irrelevant, just because it relates to the credibility of a witness, admissibility of other evidence or failure to adduce evidence	<p>R v Buchanan – B charged with manslaughter – was found driving on wrong side of road 35 minutes before accident. Held irrelevant what he was doing 35 minutes before.</p> <p>R v Hovarth – caused death by driving on wrong side of the road. 'where acts of driving are substantially separated in time and place, evidence of negligence of other in the absence of some connecting link' – held irrelevant.</p> <p>Hollingham v Head – lead evidence that plaintiff had given other buyers the same price for the same quality. Held irrelevant as the similar transactions could not have shown that it was probable that the plaintiff did the same thing to others.</p>
Logical Relevance		Smith v R – police alleged that person in the photographs was Smith. Held that because there was no other evidence to prove the identity which was different from what the jury had available does not provide any logical reasoning. "The process of reasoning from one fact (the

		<p>depiction of a man in the security photographs) taken with another fact (the observed appearance of the accused) to the conclusion (that one is the depiction of the other) is neither assisted, nor hindered, by knowing that some other person has, or has not arrived at the conclusion".</p> <p>R v Marsh – robbery, police published pictures in the newspaper. Marsh's sister recognised him and contacted police because of his facial features, stance and denim jacket. Was held this was direct evidence and admissible.</p> <p>Papakosmas v R – relevant in two ways: hearsay purpose (to show what happened) and for non-hearsay purpose (credibility of the witness)</p>
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