

# EVIDENCE LAWS (SPEEDY STUDY GUIDE)



The law of evidence encompasses the rules and legal principles that govern the proof of facts in a legal proceeding. These rules determine what evidence must or must not be considered by the trier of fact in reaching its decision and, sometimes, the weight that may be given to that evidence. The law of evidence is also concerned with the quantum (amount), quality, and type of proof needed to prevail in litigation.

The quantum of evidence is the amount of evidence needed; the quality of proof is how reliable such evidence should be considered. This included such concepts as hearsay, authentication, admissibility, reasonable doubt, and clear and convincing evidence.

There are several types of evidence, depending on the form or source. Evidence governs the use of testimony (e.g., oral or written statements, such as an affidavit), exhibits (e.g., physical objects), documentary material, or demonstrative evidence, which are admissible (i.e., allowed to be considered by the trier of fact, such as jury) in a judicial or administrative proceeding (e.g., a court of law).

When a dispute, whether relating to a civil or criminal matter, reaches the court there will always be a number of issues which one party will have to prove in order to persuade the court to find in his or her favour. The law must ensure certain guidelines are set out in order to ensure that evidence presented to the court can be regarded as trustworthy.

In Scots law the rule of corroboration in criminal cases, requires that there must be two pieces of evidence, to prove each essential fact. For example, DNA evidence could corroborate an eye witness testimony, proving person X committed a crime. This corroboration requirement no longer applied in civil cases, with the exception of some areas of family law, such as divorce, when another individual, not party to the marriage, must act as 'witness', however this is not referred to as corroboration.

## Relevance and social policy

Legal scholars of the Anglo-American tradition, but not only that tradition, have long regarded evidence as being of central importance to the law. In every jurisdiction based on the English common law tradition, evidence must conform to a number of rules and restrictions to be admissible. Evidence must be relevant – that is, it must be directed at proving or disproving a legal element. However, the relevance of evidence is ordinarily a necessary condition but not a sufficient condition for the admissibility of evidence. For example, relevant evidence may be excluded if it is unfairly prejudicial, confusing,

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