**Legal and Evidential Burdens**

The concept of evidential burdens refers to the obligation of presenting evidence that demonstrates a reasonable possibility that the matter exists or does not exist in a court of law. In essence, it involves adducing evidence to support a fact or facts in an issue. On the other hand, legal burden means the duty of showing the existence of the matter or issue that is before the court of law[[1]](#footnote-1). In criminal proceedings, it is the duty of the prosecution to prove beyond a reasonable doubt that all elements of the alleged offence are real or factual[[2]](#footnote-2). Usually, it is the prosecution that bears legal and evidential burdens. In lieu of this, disputed issues of fact in a case form the center of legal and evidential burden.

The allocation of the burden of proof by the court or tribunal, be it legal or evidential, determines whether it is the prosecution or defendant that duty to prove particular issue or facts exists[[3]](#footnote-3). The legal and evidential burdens are critical to helping the court determine the innocence or guiltiness of the accused person. In *Lynch v DPP [2002*], that court determined that section 5(2) of the *Road Traffic Act 1988* places a legal burden on respondent[[4]](#footnote-4). In a nutshell, the allocation of legal and evidential burdens varies according to the applicable law and circumstance of the case or issues in dispute.

Bibliography

R v Lambert [2001] UKHL.

Lynch v DPP | [2002] 3 WLR 863.

Sheldrake v Director of Public Prosecutions; Attorney General’s ( 2004) HL 14.

section 5(2) of the Road Traffic Act 1988 imposes a legal burden on an accused

1. R v Lambert [2001] UKHL. [↑](#footnote-ref-1)
2. Lynch v DPP | [2002] 3 WLR 863. [↑](#footnote-ref-2)
3. Sheldrake v Director of Public Prosecutions; Attorney General’s ( 2004) HL 14. [↑](#footnote-ref-3)
4. section 5(2) of the Road Traffic Act 1988 imposes a legal burden on an accused [↑](#footnote-ref-4)