Examination Period 3: 2018/19

LAW301819N

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<th>Module Title</th>
<th>Land Law</th>
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<tr>
<td>Level</td>
<td>Six</td>
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<td>Time Allowed</td>
<td>Two hours</td>
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Instructions to students:

- Enter your student number **not** your name on all answer books.
- Answer **two** out of **six** questions.
- All questions are equally weighted.
- Begin each question in a separate answer book; label each answer book clearly with the number of the question you are answering.
- Students are permitted to bring an **unannotated** copy of the *Property Law Statute Book* into the examination. Highlighted text and index tabs/strips within the book are **permitted**.
- No other books or notes are permitted in the examination venue.

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Answer two out of six questions.

1. To what extent does the Landlord and Tenant (Covenants) Act 1995 seek to maintain a balance between the respective abilities of a landlord and tenant to enforce the terms of the lease?

How has the Act been implemented in subsequent cases?

2. “The effects of repossession are stark. The law also needs to protect the interest of a borrower so that he or she is given an opportunity to put things right and that repossession is only available to a lender as a last resort. These competing principles are one of the continuing tensions in mortgage law” Glover L and Campbell – Pilling K Land Law 2017 p236.

Discuss the courts’ approach in these cases.

3. How far can it be said that the definitions of land as expressed by the maxims “he who owns the land from the heavens to the depths of the earth” and “whatever is attached to the land becomes part of it” are fit for the 21st century?

4. You are consulted by a married couple Harry and Louise who are in their mid-70s and their son and daughter in law Neil and Maria. They want advice on their proposed purchase of a house in which they will all live. They are proposing to make equal contributions to the purchase price; the older couple through the sale of their home and the younger couple through a mortgage on the house which Neil and Maria will pay.

Harry and Louise have no other children and Neil and Maria have grown up children who don’t live with them. Despite their age, Harry and Louise are still very active in their local community.

Advise them on the following:

a. Who can be the legal owners of the house and what protection is available for those who chose not to be legal owners.

b. The options for the beneficial ownership of the house and what presumptions will arise if the transfer doesn't mention this.

Question 4 continues overleaf
They decide to buy the house in the joint names of all four of them and to hold as joint tenants in equity. A couple of years after the purchase Neil and Maria decide to split up after Maria had an affair. She left the house and moved in with her new partner Oliver and after a couple of months she wrote to Harry, Louise and Neil asking for her share of the house as she and Oliver wanted to travel round the world. Neil shredded the letter without showing it to his parents.

Three months later Maria died suddenly having made a will leaving everything to Oliver. He now claims to be entitled to a share of the house. Harry, Louise and Neil don’t want to sell as the older couple’s health has deteriorated rapidly since Maria left and they would struggle to cope with a move.

**Advise Harry, Louise and Neil** with reasons on the following:

**c.** Who the current legal owners of the property are.

**d.** Who the current beneficial owners of the property are.

**e.** Whether they can be forced to sell the house.

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5. Helen was the owner of a large area of land, in a rural setting. Three years ago, she sold two small plots of the land; the first to Ian and the second to John. As the area was peaceful and to preserve the value of her house which is on the part she retained, Helen imposed three covenants on each plot as follows:

- not to keep any other animals other than small domestic pets
- to build and maintain a fence between her land and each plot sold
- to build no more than one house and garage on the land

Ian and John each built a house and garage on their plots and lived in them. They each put up a fence between their land and Helen’s. Last year Ian sold his land to Kevin. Kevin has recently started to keep chickens and Helen is woken early every morning by a crowing cockerel which she finds really annoying.

Another neighbour has told her that Kevin plans to start keeping pigs and she has noticed that Kevin is busy constructing what appear to be pig pens on his land. When she spoke to him about it, he said that it was his land and he could do what he wanted and that he didn’t know anything about the covenants and he hadn’t agreed to them anyway.

Helen has also noticed that there are holes in the fence which have not been repaired and this morning found chickens in her garden. Kevin again has said that it is not his responsibility to maintain the fence.

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**Question 5 continues overleaf**
John recently sold his house to Lisa and Helen has also spotted a planning application by Lisa to build a second house on her land. Lisa told her that she is going to build a small bungalow for her mother who wants to live close to her.

Advise Helen giving detailed reasons for your advice on:

a. whether she can make Kevin mend the fence.

b. whether she can stop Kevin keeping the chickens and the pigs.

c. whether she can stop Lisa building the bungalow.

d. How would your answer to c. differ if Helen had sold the rest of her land to Paul last year?

6. Diane and Edward owned Hill Farm which consists of farm buildings and agricultural land, together with a large house where they live and a Paddock where they keep their horses. Hill Farm and the Paddock are at the bottom of the drive which leads to the road. At the top of the drive and close to the entrance to the main road is the house. Diane and Edward regularly used the drive to access Hill Farm and the Paddock as did delivery lorries and visitors. Last year they decided to retire. They sold Hill Farm to Fred, who was their farm manager but kept ownership of the house, Paddock and drive as it leads to the Paddock where they still keep their horses. The drive is in a poor state of repair and can be difficult to use in bad weather. Fred would like to repair the drive to make it easier to use.

There is a second entrance to Hill Farm which is down a narrow lane and is not suitable for vehicles making deliveries and collections to and from Hill Farm. Diane and Edward did not really use this much.

Diane and Edward have told Fred that they don’t want the delivery vehicles using the drive any longer as they are too noisy. Also, Fred and his family who work on the farm sometimes park on the drive to free up space in the farmyard. This can make it difficult for Diane and Edward to access the Paddock. Fred says that no one is doing anything different from when Diane and Edward owned Hill Farm when he and his family would regularly park on the drive.

There was no reference to access or parking in the transfer to Fred. Edward is adamant that Fred and his family no longer have permission to park on the drive or for delivery vehicles to use the drive.

Advise Fred giving detailed reasons for your advice:

a. Whether there is an easement for the delivery vehicles to use the drive to access the farm.

Question 6 continues overleaf
b. Whether he and his family have an easement to park their cars on the drive.

c. If Diane and Edward are not successful in stopping the delivery vehicles from using the drive, whether they can impose any restrictions on the number of vehicles using the drive or on the times when they can use the drive.

d. Whether he can repair the drive.