

GCE

LAW: Torts connected to land Trespass

SUGGESTED IDEAS FOR TEACHING AND LEARNING



Teacher /Lecturer:	
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Course:	A Level Law
Topic:	Torts connected to land
Session:	Trespass

Component:	Component 2 and 3
Ref. to specification:	The law of tort
Suggested time allocation:	2-3 hours

Aims & Objectives: At the end of these sessions the student will be able to:

- **Define** trespass to land
- **State** the essential elements of a trespass to land
- **Explain** the requirement for direct interference with the land
- **Explain** the requirement for voluntary interference
- **Explain** that trespass can be innocent
- **Explain** that trespass is actionable *per se*
- **Explain** the main defences to trespass
- **Explain** the main remedies to trespass
- **Identify** the introduction of trespass to criminal law

Main Teaching and Learning Activities

Teacher/Lecturer Activities:

- Introduce the topic with reference to the aims and objectives set out above.
- Define the meaning of a trespass: **Trespass to land is the unjustifiable interference with land which is in the immediate and exclusive possession of another.**
- Explain that there are **four essential elements** for a trespass to land – discuss these with reference to the key supporting cases:
 - a) there is direct interference with the land – *Southport Corporation v Esso Petroleum (1954)*
 - b) the interference must be voluntary – *Stone v Smith (1647)*
 - c) no need for the defendant to be aware that (s)he is trespassing – *Conway v George Wimpey & Co (1951)*
 - d) no need for the claimant to experience harm or loss.
- **Activity: Class Discussion** – is it trespass if someone takes an aerial photo of your land from an aircraft?

Use the principle of *cuius est solum, eius est usque ad coelom et ad inferos* to explain that ‘who owns the land, owns to the heavens and down to hell’.

Airspace (‘the heavens’): *Bernstein v Skyviews and General Ltd (1977)*.

Below the surface (‘hell’): *Star Energy Weald Basin Limited v Bocardo SA (2010)* and the *Infrastructure Act 2015*.

Activity: Class Discussion – why might s43 of the *Infrastructure Act 2015* be controversial?

- Explain the concept of *Trespass Ab Initio*: **this occurs when a person enters land with authority given by law rather than with the permission of the person possessing the land and then abuses that authority.**

- Discuss the main defences available to trespass to land:
 - Legal authority (justification by law)
 - Consent
 - Necessity – *Rigby v Chief Constable of Northamptonshire (1985)*.
 - The main remedies available for trespass are damages and injunctions and these are dealt with under the topic of 'Remedies'.
 - Explain that criminal trespass has also crept into the law in recent years and learners should have a general awareness of this, but detailed knowledge of this is not necessary.
- Activity: Application** – consider the scenarios in the Teacher Guide and apply the law of trespass to these scenarios.

Student Activities:

- Group work – explaining and illustrating what is meant by 'trespass to land'.
- Scenarios – apply the law of trespass to the given scenarios. This is good examination practice for the problem style questions.

Suggested links / resources:

- PowerPoint presentation
- Teacher Guide

Assessment of Learning

During the lesson

Group exercises and direct questioning show how much the students have understood the law relating to trespass to land.