

## Example essay questions with suggestions for a good answer Chapter 9 – The law of easements and profits

The Law Commission has stated that ‘the law of implication [of easements] ... is a useful safeguard, enabling the creation of rights that would have been created expressly but for inadvertence or ignorance and thereby preventing land from falling into disuse or becoming unmarketable.’ How far do you agree that this explains the scope of the current law as to the implication of easements?

- Begin by considering the various methods of implication of easements: necessity; common intention; *Wheeldon v Burrows* (1879); s. 62 of the LPA 1925.
- Key cases should be examined for each method of implied creation: *Manjang v Drammeh* (1991); *Sweet v Sommer* (2004); *Pwllbach Colliery Co Ltd v Woodman* (1915); *Wong v Beaumont Property Trust Ltd* (1965); *Wood v Waddington* (2015); *Wright v Macadam* (1949). In exploring these cases, draw on the facts of each to consider whether, as the question suggests, the reason for a failure to expressly create an easement was ‘inadvertence or ignorance’. Does this hold up?
- Explore the principles on which implied creation of easements is based: presumed intention and non-derogation from grant.
- How far does the Law Commission’s assertion that easements are implied to prevent land falling into disuse hold water? How has this view influenced the Law Commission’s proposals for reform to implied easements?
- What does the Law Commission mean by ‘unmarketable’? How important is this consideration in land law more widely? Does this justify the implication of easements under each of the four methods?
- Unpack Douglas’ article that holds that reform to the law of easements is not necessary.
- Conclude by drawing together your thoughts and returning to the core of the title set.