

Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

- 1 (a) Fred lives in a house with a large garden. His friend Gerry lives nearby and he wants to buy Fred's house as it is much larger than his own. Gerry walks over to the house when he sees something shining on Fred's garden path. He picks it up and sees that it is a gold brooch. He shows it to Fred. Fred says if the true owner does not claim it he wants to claim it for himself because it was found in his garden. Gerry argues that, as he found the brooch, it belongs to him.
- Discuss who has a better right to the brooch, Fred or Gerry. [10]
- (b) Gerry travels to France the next day on a business trip. He waits at the station for his train and he finds some money in the waiting room. He hands the money in at the station office. He wants to know if he can keep the money if no one comes forward to claim it.
- Discuss. [10]
- (c) Gerry buys Fred's house but when he moves in he finds that Fred has unexpectedly taken the garden shed and several trees from the garden.
- Discuss whether Gerry has the right to make Fred return these items. [10]
- (d) How does a judge resolve uncertainty in any statute? [20]

SOURCES

s.205 (1)LPA 1925

Land includes ... mines and minerals, whether or not held apart from the surface, buildings or parts of buildings ... mines and minerals include any strata or seam of minerals or substances in or under any land, and power of working and getting the same.

Parker v British Airways Board [1982]

A passenger was able to keep a bracelet which he found on the floor of an executive lounge at Heathrow airport. No one came forward to claim the bracelet in response to an advertisement. The passenger's claim was based on the common law rule 'finders keepers'. The rule allows a finder to keep an item for himself unless the occupier of the land has shown that he intends to exert control over the land and any items found there. In this case there was some control exerted by checking tickets and entry into the lounge but there was no mention of what should be done with lost items.

Elitestone v Morris [1997]

A bungalow had been built on concrete pillars. The pillars were attached to the ground. As it was not attached directly to the ground it could technically be moved but only if it was first demolished and the court held that it was part of the property and could not be removed. If the bungalow could be moved without first taking it apart then the court may have held that it did not form part of the property.

- 2 Consider the following situations and decide in each case whether there has been a violation of human rights and if the claim will be successful.
- (a) Zia and Mike, two well known film actors, got married earlier this year. The ceremony was attended by several hundred guests, many of whom were also well known film stars. Zia and Mike claim that their human rights have been violated because a reporter gained entry and secretly filmed the wedding and published photographs in 'Hi There', a well known magazine. [10]
 - (b) The police believe that Basil is illegally supplying drugs and they decide to tap his phone in order to gain evidence of this. [10]
 - (c) Mrs Mahesh works at the local bank. Her employer believes that she uses the telephone to make calls to her family who live outside the country. They secretly intercept her calls while she is at work. [10]
 - (d) What effect has the Human Rights Act 1998 had on the law in the United Kingdom? [20]

SOURCES

Article 8 ECHR

Everyone has a right to respect for his private and family life, his home and his correspondence.

Douglas and others v Hello! Ltd [2001]

It was held that there was a breach of Article 8 when 'Hello!' magazine published photographs of the wedding of Catherine Zeta Jones and Michael Douglas without permission but this had to be balanced against the right to freedom of expression under Article 10. No injunction was granted because the couple had allowed photographs to be taken and published by another magazine.

The Interception of Communications Act 1985

It is an offence for any person to intercept telephone communications without permission from the Secretary of State. The Secretary of State can only issue a warrant on three grounds, national security, prevention or detection of serious crime and safeguarding the economic well being of the country.

Malone v UK [1984] 7 EHRR 14 ECHR

An antiques dealer P was convicted of handling stolen goods. At his trial the prosecution admitted that his telephone had been tapped under the authority of a warrant from the Home Secretary. The European Court held that UK law was in contravention of Article 8 of the European Convention on Human Rights; phone tapping itself may be justifiable in certain circumstances, but individuals had a right to privacy except where breach was expressly authorised by law.

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