The Principles of Land Law
Emma Lees

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12. Easements and Profits

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Author(s): Emma Lees

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This chapter examines mortgages, which are fundamental to the functioning of modern land law. They are the means by which most people finance the acquisition of their property. However, mortgages are more than simply a commercial transaction between a lender and a homeowner: They are also a property right in themselves and this brings with it a wide variety of options for the lender in terms of recovering their security. They also pose huge risks for the borrower. The chapter then explains the nature of the mortgage right and considers what terms can and cannot form part of a mortgage agreement. It also details the formal requirements of mortgages in terms of their creation, and identifies problems in the creation of a mortgage and the effects of these, looking in particular at the issues caused by undue influence. Moreover, the chapter describes the rights and obligations of the borrower in a mortgage (mortgagor), as well as that of the lender (mortgagee). Finally, it reflects on the third party effects of a mortgage, priorities, and land registration.