16. Trespass to land and nuisance

This chapter considers two ‘land torts’: trespass to land and private nuisance. Trespass to land protects a person in possession of land against direct invasion of his property. The right to sue includes not only those with a proprietorial interest in the land, such as owners and tenants, but also those who have exclusive occupation such as squatters. The fact that any invasion of land, however minute and whether it causes damage or not, is a trespass, indicates that the primary function of this tort is to protect rights in property, rather than simply to provide compensation. The chapter continues by distinguishing between public and private nuisance. It then discusses the interests protected in private nuisance; the standard of reasonable user; the person(s) liable for nuisance; remoteness of damage; statutory authority and planning permission; and the effect of the Human Rights Act 1998 on nuisance claims.

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