

Mortgages

Module Status: Mandatory Elective

Credit Rating: Credit Level:

Pre-requisite Modules:	Co-requisite Modules:
Modules 1-10 or equivalent	
Total Contact Hours:	
Lecture: 24 hours	Independent Study: 116hours
Total Student Effort: 140	

Module Aims

This module aims to:

- Outline the nature of a mortgage and the historical background;
- Demonstrate the role of a mortgage in a typical conveyancing transaction;
- Provide students with an understanding of bank practices in commercial and residential mortgage lending;
- Ensure that students understand basic mortgage documents;
- Explain how a mortgage is created over registered and unregistered land;
- Explain the differences between a legal and an equitable mortgage;
- Outline the rights and duties of a mortgagor, including redemption;

- Outline the rights and duties of a mortgagee, including discharge;
- Explain the priorities between successive mortgages; and
- Explain the creation and effect of judgment mortgages.

Module Learning Outcomes

On successful completion of this module, students should be able to:

- Discuss the nature of a mortgage and the historical background;
- Explain the role of a mortgage in a typical conveyancing transaction;
- Describe bank practices in commercial and residential mortgage lending;
- Describe the purpose and contents of basic mortgage documents;
- Discuss the creation of a mortgage over registered and unregistered land;
- Discuss the differences between a legal and an equitable mortgage;
- Describe the rights and duties of a mortgagor and mortgagee;
- Analyse the priorities between successive mortgages; and
- Discuss the creation and effect of a judgment mortgage.

Indicative Module Content

TOPIC	DESCRIPTION
Introduction	A mortgage as security for a loan; historical development of mortgages at common law and equity.
Mortgage Transaction	Loan approval, drawdown and completion of purchase; payment of deposit and balance of purchase price; roles of lender, broker (if any), solicitor and borrower(s); post-completion procedures, incl. compliance with any undertakings.
Bank Practices	Credit policy and lending criteria; terms and conditions of loan approval; requirements for drawdown; security requirements and completion.
Mortgage Documents	Mortgage deed, incl. Family Home Protection Act consent and deed of confirmation; role and content of statutory declarations; stamping and registration of documents.

Creation of Mortgages	Land Registry requirements for registered land; Registry of Deeds requirements for unregistered land; distinction between a mortgage and a charge.
Legal and Equitable Mortgages	Registered and unregistered land; freehold and leasehold land; methods of creation of legal and equitable mortgages.
Rights and Duties of the Parties	Mortgagee - duty of care re title documents and power of sale; powers of insurance, enforcement and sale; Mortgagor – possession, equity of redemption, mode and effect of redemption, and sale. Rights and duties in common.
Priorities between Mortgages	registered and unregistered land; equitable and legal mortgages affecting unregistered land; tacking.
Judgment Mortgages	history and nature of judgment mortgages; registration; priorities.

Teaching / Learning Methodology

This module will be delivered through a series of lectures; through tutorial-style discussions, group work sessions and exercises; and supplemented by structured web-based resources and reading.

Assessment

Theoretical knowledge will be assessed at the end of the module by examination (100%). The examination will consist of a mixture of descriptive, analytical and application questions, taking the form of essay-style questions, which place emphasis on the students' demonstrating analytical skills; and problem-style questions which assess the student's ability to apply the law to factual scenarios.