

Palgrave MacMillan Law Masters

麦克米伦法学精要丛书·影印本



【英】凯特·格林

【英】乔·克斯雷

Kate Green
& Joe Cursley



土地法

LAND LAW

第四版

4th edition



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出版说明

1843年,来自苏格兰的麦克米伦兄弟在英国创立了麦克米伦出版社,筚路蓝缕,以启山林。一百多年来,这家出版社早已发展成为国际知名的跨国出版集团,以出版学术著作和高等教育教材而享有盛誉,其包括法学在内的人文社会科学出版物更是广有嘉声。

麦克米伦法学精要丛书是麦克米伦近年来重点推出的一套法学教材。风格明晰简约,内容深浅适中。丛书以方便学生学习为目标,阐发原理,评介法律;析解制度,品读案例;引导思考,提供练习。既适用于专业课程的学习,也有助于职业技能的改进,受到学生与教师的广泛欢迎。对我们非英语国家的学生和研究者来说,这样一套教材恰好是学习、了解英语国家法学和提高法律英语水平的极好读物。

法律出版社作为中国最大的法律图书出版机构,一直致力于法律图书的全品种出版。2002年,成立专门的法律教育出版中心,将服务于中国法律教育事业的发展引为重责。在从事法律教育出版的过程中,我们一直认为,中国学子不仅应该阅读中文法学教材,通过母语了解本土或域外法学知识,同时也应该眼界高远,进一步阅读外文法学教材与文献,在原汁原味中学取域外知识,提升专业水平,适应日益全球化的现实需要。1999年,本社曾经出版英文影印本的美国法精要系列丛书,受到佳评。如今,我们再次引进这套麦克米伦法学精要丛书,影印出版,期冀于在中文教材之外,为广大学子和研究人员进一步提供优秀英文教材读物,谨献绵薄之力,给进步中的中国法治事业和进步中的中国年轻一代。

本书为《土地法》,介绍了英国基本的土地法规则,旨在提供一个关于土地法的易于理解的概括并为进一步研究该主题奠定基础。另外,本书还试图说明,土地法并非用玄妙莫测的语言讲述艰涩而抽象的论题,亦非现实生活总相脱节,而是具体地调整民众、社会组织与政府在土地方面的权利关系,与现实保持着鲜活的联系。

本书的两个特色：一是论述视域广阔。作者对 1998 年人权法案 (the Human Rights Act 1998)、1999 年契约法案 (the Contracts Act 1999)、共同共有与房屋租赁改革法案 (the Commonhold and Leasehold Reform Bill)、法律委员会关于注册土地体系的改革建议 (the law Commissions proposal for reform of the registered land system) 进行了评论。二是用平实的语言并附以表格与图表来论述相关主题，对一些重要判例着墨于全面的理解而非走马观花式的肤浅介绍。

本书在内容上具体分为五部分：第一部分是本书的导言，主要介绍了土地法的基本知识，例如如何学习土地法、土地法的基本规则、土地上的不动产以及其他地上权、土地的买卖、相反占有权。第二部分讲述土地上的不动产与其他地上权，主要讲述了土地的自由持有、租赁、抵押、地役权及其权益，以及土地自由持有的专门契约。第三部分土地转让，分为两部分：未注册土地上的冲突权利与注册土地的权益。第四部分为土地信托，专门介绍了土地的共有问题。第五部分重点讲述了土地的特许问题。

另外，该书在主体内容之前对涉及到的判例与法规作了详尽列举，以供读者参考。每章具体内容的组织也有比较详尽与周全：首先第一小节基本上也是该章的导论；然后详尽地介绍主干内容，接着是对本章内容的简评与言简意赅的总结；随后是相关的练习，最后还详细列举了所引用的书目、关键术语的索引。如是，读者可以根据自己的具体需求选择阅读。

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Preface to the Fourth Edition

The purpose of this book is to serve as an accessible introduction to land law and to form a foundation for the further study of the subject. As in previous editions, the intention has also been to show that land law is not a difficult, dry, abstract subject couched in arcane language and somehow detached from the reality of people's lives, but is vibrant and adaptable, essentially concerned with the relationships which people, organisations and the state have with each other about land.

The study of land law cannot really be undertaken in isolation from other law subjects such as contract, tort and equity, to which reference is made in the text where appropriate. In addition, much of the land law which appears in textbooks on the subject, including this one, is overlaid by a statutory framework (for example, in the areas of leasehold law and, increasingly, environmental law); readers may wish to direct themselves to relevant specialist textbooks.

This edition analyses the latest case law on the Trusts of Land and Appointment of Trustees Act 1996. It covers recent statutes, including the Human Rights Act 1998 and the Contracts (Rights of Third Parties) Act 1999, and considers the Commonhold and Leasehold Reform Bill which at the time of writing is before Parliament. It examines current proposals to reform the process of buying and selling land, and reviews the recommendations of the important Law Commission and Land Registry Consultation Paper ('Land Registration for the Twenty-First Century', Law Com. No. 254, 1998) in the context of the seemingly inevitable transition towards a universal system of registered land in England and Wales.

The syllabus of most land law courses is covered, but there is no detailed reference to the working of the Settled Land Act or analysis of future interests and the law against perpetuities.

My thanks are due to colleagues for comments on the draft of this edition. The law is stated as at 1 January 2001.

JOE CURSLEY

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