

Other Legal Issues for Today's Farming Families

Our specialist Solicitors will be offering advice for the farming community on:

- Family Law
- Wills & Succession Planning
- Economic Impact on Farms

Preparing for your Private Consultation

If you require more in-depth legal advice then we would advise you set up a private consultation with a Solicitor.

When coming to see us:

Please do the following to help us give you the best service we can when you are attending the office:

- Make an appointment in advance
- Bring an I.D: passport, driving licence etc
- Bring important contact details: telephone number, fax number, address and your email address
- Bring your PPS number (formerly RSI)
- Bring copies of marriage certificates separation agreements or divorce decrees, if relevant.

Malcomson Law's Charity of the Year for 2010 is **Headway**, supporting people with Acquired Brain Injury

Family Law, Commercial Law & Private Client Department

We have a wealth of experience in all aspects of Family Law, Commercial Law & Private Client issues. If you require advice or further information then please contact us on 059 9131745

Additional Services

Health Law (Medical Negligence)

Litigation

Employment Law

Commercial Law

Property & Conveyancing

Property Development

Malcomson Law

Iceland House

Arran Court

Smithfield

Dublin 7

Tel: 01 8744422

Malcomson Law

Court Place

Carlow

Ireland

Tel: 059 9131745

www.mlaw.ie

**MALCOMSON
LAW**



Changes in the Law

- **Rights of Way**
- **Rights to use pipes**
- **Rights to Water**
- **Rights to Light**

Malcomson Law Solicitors

Malcomson Law have the expertise to assist you with numerous legal issues that the farming community are faced with in today's society. We have a specialist Family Law Department, Private Client Department and Commercial Law Department that can cater to your every need.

Easements

Do not risk being landlocked and losing the right to existing rights and entitlements due to a change in law.

What are easements?

An easement is a right for one land owners to do something on a neighbours land or to prevent a neighbour from doing something on the neighbours land. Examples of easements are a right to travel across private land of another to access your own land or to have a water pipe laid across private land of another to bring water to your own land.

How are these acquired?

These can be acquired by a deed whereby one party grants rights to another over that first party's property. In many cases, however, there will be no deed but the rights may have been in existence for many years. These rights were established by continuous use of the land over a long period of time, by what is known as by 'Prescription'. The user establishing the right would, until the passing of the Land and Conveyancing Law Reform Act 2009 ("the Act"), have used the land without force, without secrecy and without the oral or written

consent of the owner of the land and the required period of use was generally 20 years for an easement (other than for land in State ownership).

How has the law changed?

An easement may now be acquired by prescription after only 12 years continuous use of the right in question (other than for land in State ownership). Any person claiming such rights over land are now required to obtain a court order declaring the existence of the easement and then to register the Court Order in the Land Registry or the Registry of Deeds (as appropriate) so that all parties are on notice of the rights.

What are the transitional arrangements?

Any person claiming such rights under the old pre 2009 law are now required to obtain such a court order within three years from the 1st of December 2009. After that three year period the old law will no longer apply and yet it will not be possible to establish rights under the new law for a further period of nine years. During this intervening period there will be considerable risk for a person claiming to own an easement acquired by long use that the easement may be disputed, changed and ultimately lost.

For further information please:

- visit our website at www.mlaw.ie or
- call us on 059 9131745 (Carlow)
- call us on 01 8744422 (Dublin)

What should be done to protect such existing easements?

This is something that all farmers and others enjoying such rights should be aware of and take immediate action to protect their interests given the serious implications of failure to do so. Accordingly we would suggest you contact your solicitor immediately as the clock is ticking and so the risk of the rights being potentially challenged or lost is increasing as the deadline of November 2012 looms ever closer.

Help is at hand:

At Malcomson Law we have realised that this change in legislation could potentially have a serious impact upon farming families. We have set up a dedicated team to pursue Court Applications to protect your existing rights and entitlements.

Therefore if you wish to protect among others an existing Right of Way, right to use pipes, right to water, right to light etc. Please contact us now.

Malcomson Law can provide you with cost-effective, efficient and professional legal services

Disclaimer

This information is for guidance purposes only and does not constitute legal or professional advice. Accordingly legal or professional advice should be obtained before taking or refraining from taking any action as a result of the contents of this brochure. No legal Responsibility is accepted by Malcomson Law for any action or inaction taken or omitted to be taken in reliance of anything contained herein and the information herein is subject to change.