

## WRITTEN EXAMINATION

### PAPER II

8<sup>th</sup> NOVEMBER 2001

10.45am – 12.45pm

Time Allowed - 2 Hours

#### Instructions to Candidates:

1. Complete the Green Examination Information Sheet by stating your examination reference number (not your name) together with the area in which you are practising and the local Association of which you are a member. Attach the green sheet to the top of your answer pad and ring the numbers of the **three** questions that you have answered.
2. Write your reference number (not your name) on each page. Number each page in the top right hand corner.
3. Write on one side of the paper only, leaving the margin on the left hand side.
4. Start each answer on a separate sheet and place your answers in numerical order.
5. Time has been allowed for you to read through the Question Paper **AND PLAN** your answers.
6. You should attempt to answer **three** out of the five questions, listing them on the green sheet.
7. All questions carry equal marks: 20 each.
8. Questions are framed so as to minimise the need to make assumptions but state clearly any that you do make and the reasons for them.
9. Where appropriate, you will be expected to state the relevant Act, Statutory Instrument or case upon which you have based your answers.
10. You may use imperial or metric measurements in your answers. Please indicate which units you are using.
11. The presentation and clarity of your answers is important.

## QUESTION 1

You act for the landlord of a 250-hectare arable farm let on a 1986 Agricultural Holdings Act tenancy. The tenant died in June 2001. The tenancy includes a cottage (where the late tenant's son lives) and a range of traditional farm buildings. The landlord lives in the farmhouse which is outside the tenancy.

On the landlord's instructions you served a Notice to Quit on the late tenant's Personal Representatives. The landlord has now received notice of an application by the late tenant's son to the Agricultural Lands Tribunal for succession to the tenancy.

You have established that the farm has been contract-farmed for the last 15 years and that the son has his own, marginally profitable, garden maintenance business. He also runs a commercial shoot on the farm but has had little or nothing to do with managing the farm or discussing farming arrangements with the contractor, all of which was done by his late father.

*Write a letter to your client setting out under headed paragraphs the following:-*

- 1. The issues that the Agricultural Lands Tribunal will take into account in considering the application for succession.*
- 2. The Agricultural Lands Tribunal procedure for dealing with the application for succession.*

## QUESTION 2

Farmer William Blair, who is now 56 years old, has built up the family farming business over a period of years and now occupies the following:

1. A 200-hectare holding, tenanted since 1982 under the 1986 Agricultural Holdings Act and including farmhouse, two cottages and substantial landlord's and tenant's buildings which include a tenant's silage clamp and covered yard.
2. 80 hectares of owner-occupied land acquired in 1978 which includes a pair of cottages let on Assured Shorthold Tenancies and a semi-derelict cottage last occupied 20 years ago.
3. 100 hectares of bare land let to him on a 10-year Farm Business Tenancy held since 1997.

The majority of the farm is eligible for Arable Area Payments and Mr. Blair has 750,000 litres of Milk Quota registered in his trading name of which 150,000 litres has been acquired by him over the last five years.

Regrettably, due to the agricultural recession, accumulated borrowing has reached £300,000 including a £100,000 mortgage with AMC on the owner-occupied land.

*You are instructed to consider the options available to Mr. Blair to reduce his debt substantially and he has asked you to write to him setting out the possibilities that exist for achieving this objective, with particular regard to taxation considerations so that he can discuss your letter with his accountant.*

### **QUESTION 3**

Your landlord client owns a 120-hectare mixed farm held under the terms of a 1986 Agricultural Holdings Act agreement on “model clauses”. The majority of the holding is scheduled as arable. The tenant served a Notice to Quit and is due to vacate at Lady Day 2002. There is a small dairy enterprise of 30 cows and a flock of 40 ewes. Over the years, the tenant has carried out improvements with consent have unconditional consents and there are also tenant’s fixtures.

Your landlord client is anxious to know what heads of claim he might face at the end of the tenancy and how they may be offset by counter claims against the tenant.

*Prepare for yourself a briefing note in readiness for a meeting with the landlord to explain to him the procedures which apply at the end of the tenancy with regard to the actual claims by both landlord and tenant in these circumstances.*

*Include in your answer a brief commentary on the action your landlord client should take concerning repairs to “half cost” items under SI 1473 of 1973 (as amended) to ensure he is able to make a full claim at the termination of the tenancy. Cite any authority of which you are aware.*

### **QUESTION 4**

Your client has a traditional 500-hectare estate including a 20-hectare SSSI adjoining a river and 50 hectares of grazing marsh which is let on an annual grazing licence. The balance of the Estate is arable with an average field size of 6 hectares and well-maintained hedgerow boundaries. There are six small areas of unproductive arable land, each of approximately 1 hectare, which have not been planted for four years.

Farm buildings comprise a redundant brick and tile cattle court in sound structural repair and a 30m x 20m covered cattle yard with good access from the main road and a concreted apron which is no longer required. There is a worked out gravel pit of 1 hectare which is flooded and unused.

The farming operation has lost money for each of the last three years.

*Prepare a report outlining possible alternative uses to enhance the estate’s income, together with any grants available through alternative sources of funding.*

## QUESTION 5

A prospective new client, Mr. J. Button of Manor Farm, has asked for advice on the preparation of a new will in order to minimise his Inheritance Tax exposure and take advantage of available reliefs and allowances. Mr. Button tells you that he is over 60 years of age, in good health, is married with two sons and a daughter.

Manor Farm comprises 200 hectares of land including 20 hectares of woodland and he farms the farm as a sole trader, running dairy and arable enterprises together with a small livery business. He owns a further 50 hectares of adjoining river meadows let out since 1980 on an agricultural tenancy. The farm is well equipped with buildings, implements, stock and milk quota and trades profitably, albeit less so recently than in previous years.

Unusually, Manor Farmhouse is a Grade I Listed Building and there are three cottages, two occupied by farm workers and the other let out for holidays. Mr. Button has investments worth £350,000.

*Prepare a detailed file note identifying any additional information that you might require for a forthcoming meeting with Mr. Button, his Accountant and his Solicitor noting relevant reliefs available to him and a possible strategy to mitigate his potential Inheritance Tax liability.*