

WRITTEN EXAMINATION

PAPER II

11 NOVEMBER 2010

10.45am – 12.45pm

Time Allowed – 2 Hours

Instructions to Candidates:

1. Complete the Green Examination Information Sheet by stating your examination candidate 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 candidate number (not your name) on each page. Put the number of the question and the 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 six questions, ringing their numbers on the green sheet.
NB Question 3 offers an alternative option for Welsh candidates.
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.

PAPER II Q 1

Your client, Colonel T Wit, has recently inherited Manor Farm. He has no knowledge of agriculture and needs to raise capital.

Manor Farm comprises:

- Manor Farmhouse a 5 bedroom grade II listed dwelling
- Manor Farm Cottages – a pair of 3 bedroom semi-detached dwellings
- A range of modern farm buildings suitable for the holding
- 700 acres of arable land

The holding is surrounded by other farm land and is at least 1 mile from the nearest village or other settlement.

The farm is let to Victor Smart who is aged 65 and was granted a written tenancy agreement in 1975. Mr Smart farms the holding in partnership with his son, Alec. Alec has worked exclusively on the holding since he left agricultural college over 10 years ago. They do not farm any other land and the rent was recently reviewed and is now £45,000 per annum.

In an initial meeting between your client and the Smarts the subject of the tenant buying the farm was briefly discussed. Victor Smart stated he would be interested provided the price was right.

Colonel T Wit has asked for your advice. Please draft a letter to:

- a) Outline to your client, with reasoning, the legal position of both parties.
(10 marks)
- b) Outline in valuation terms what price your client should ask the tenant to pay for the farm. Show your workings and reasons and state any assumptions. Value to your own area.
(10 marks)

PAPER II Q 2

You have recently been introduced to a potential new client, Mr Lotterdosh. He has been advised by others that investing in agricultural property could be a sensible option in these turbulent economic times and that it could be advantageous in passing on his wealth to his children. Mr Lotterdosh is happily married and has two adult children. Mr Lotterdosh has no knowledge of agricultural investments and generally favours investments that he can easily dispose of.

Having received this advice Mr Lotterdosh made some informal enquiries and has recently been offered a small estate. The estate comprises:

- 300 acres of arable land with a modern grain store farmed in hand by the current owner
- 200 acres of arable land which is let on an Agricultural Holdings Act tenancy. There are no dwellings or buildings on the holding
- An industrial estate which has planning permission for B1/B8 use. The buildings are all let and the total rent is £30,000 per annum. The tenants pay all rates and outgoings.

Please write to Mr Lotterdosh setting out:

- a) The advantages and disadvantages of Mr Lotterdosh adding the estate to his existing investments. This should include advice regarding his long term tax position. **(8 marks)**
- b) What price he might expect to pay for the estate and the returns he might expect to receive from the various investments. Value to your own area. **(8 marks)**
- c) Your fees and terms of business for acting on his behalf in buying the estate. **(4 marks)**

PAPER II Q 3

DEPENDING ON YOUR EXPERIENCE, PLEASE CHOOSE EITHER:

3A(a, b & c) (for either England or Scotland)

OR

3B(a, b & c) (for Wales)

and state clearly whether you are basing your answer on the English, Scottish or Welsh scheme as appropriate

Alternative 3A (English or Scottish System - answer all parts)

You have been approached by Mr. Rex Less (RL), the new owner of Blooming Fields Farm, a 50 hectare lowland farm with a range of habitats. RL purchased the farm to downsize with a view to cutting down his workload and has heard that agri-environment schemes offer payments for extensive management.

The farm is subject to an Entry Level Stewardship (ELS)/Rural Stewardship agreement* (*as appropriate to whether your answer is based upon a scheme in England or Scotland) which is due to come to an end on 30 November 2011. Special conditions were included in the sales contract obliging RL, as the new owner, to take on the existing agri-environment agreement. The agreement relates to Blooming Fields Farm only and was transferred in its entirety.

RL is not that familiar with such agri-environment schemes but has indicated that he would wish to continue with an enhanced agri-environment agreement relating to the holding after November 2011 and now requires your advice.

- a) Outline to RL in broad terms only what his obligations are under the **current** agri-environment scheme agreement and the penalties if he does not meet those obligations. **(4 marks)**
- b) RL has asked you to prepare a short briefing note on the proposed **new** agri-environment scheme agreement in terms of entry requirements, brief management details and possible payment levels for his consideration.
If answering based on England assume the new agri-environment scheme agreement would be Higher Level Stewardship (HLS) or in Scotland Rural Priority. **(8 marks)**
- c) Assuming that RL does wish to pursue a **new** agri-environment scheme agreement when the existing agreement expires in November 2011 he requires your assistance with preparing the application. Write a short letter to your client outlining the application process and timescales for each of the stages.
If answering based on England assume the new agri-environment scheme agreement would be Higher Level Stewardship (HLS) or in Scotland Rural Priority. **(8 marks)**

PAPER II Q 3

Alternative 3B (Wales - answer all parts)

(NB: Answer either 3A on previous page or this 3B, not both)

You have been approached by Mr Steven Campion (SC), who purchased Green Meadow Farm in spring 2010. Green Meadow is a 50 hectare lowland farm with a range of habitats. SC downsized by purchasing the holding with a view to cutting down his workload and has heard that agri-environment schemes offer payments for extensive management.

The farm is not subject to any Agri-environment schemes at present and SC has no previous experience of such schemes. SC registered an expression of interest to join Glastir the new agri-environment scheme as part of the 2010 Single Application Form (SAF) return for Green Meadow. He has now received an application pack and requires your advice.

- a) SC has asked you to prepare a short briefing note giving an outline of the new scheme to include entry requirements, brief management details and possible payment levels for his consideration. **(10 marks)**
- b) SC requires your assistance with submitting his All Wales Element (AWE) application. Write a short letter to your client outlining the stages in the application process and timetable for these stages, together with an outline of what will be expected by the Welsh Assembly Government at each stage from submission of application through to signature of contract. **(6 marks)**
- c) The farm contains a small hay meadow which is notified as a Site of Special Scientific Interest (SSSI). Outline to SC what the scheme rules are in respect of SSSI and what considerations he will need take in relation to the application. **(4 marks)**

PAPER II Q 4

You act for the Golightly family who are owner occupiers of Minerva Farm, a 200 acre farm comprising farmhouse, buildings and land. In the 1950s the family sold a limestone quarry they owned adjoining their property to Jones Quarries who worked the quarry until the quarry closed in 1975, since when it has not been used for any purpose.

Jones Quarries now propose to make a planning application to use the quarry as a land-fill site for inert fill only but no longer have a suitable means of access other than through Minerva Farm. Advance discussions with the local planning authority indicate that the proposed use and access will be recommended for approval and that the proposed landfill operation from commencement to completed reinstatement will last 10 years.

Jones Quarries have approached your clients to acquire a temporary right of way over their land for a period of 10 years to facilitate the planning application for and use of their quarry for landfill and your clients have accepted in principle that this is how the matter should be dealt with.

Please write a letter to your clients setting out your advice to include:

- a) How in principle should a right be granted. **(3 marks)**
- b) The terms and issues that such an agreement should cover. **(13 marks)**
- c) A brief outline of any alternative mechanisms that could be used. **(4 marks)**

PAPER II Q 5

Your longstanding client, Mrs Meg Watts, is the owner/occupier of Windy Ridge Farm, a 200 hectare mixed holding supporting a 500 ewe flock, 75 single suckler cows and growing 80 hectares of cereals. Following the death of her husband some 15 years ago she has been farming in partnership with her son. However, following her recent 65th birthday she would now like to take life a little easier but is not sure how the farming business will finance her semi-retirement. The farm is free of any borrowing.

Mrs Watts called you yesterday morning to say that she had received a visit from a smart young man who worked for a company called Green Generation Ltd. Apparently, he explained “part of Windy Ridge Farm may be ideally situated for wind power generation and Green Generation Ltd would like to carry out a site survey to develop a 1MW wind farm.” Your client has also been reading in the farming press that renewable energy production is being encouraged by both the European Union and UK central government and, following the visit from Green Generation Ltd, thinks wind turbines may be the answer to her dilemma.

“The young man said something about Feed-in Tariffs and an option”, Mrs Watts relayed to you over the telephone, “but I don’t really understand what he meant.” She went on to say that she and her son were a bit tied up with lambing at the moment but could you look into it for her?

- a) Prepare briefing notes in readiness for a meeting with your client at which you will:
 - i) provide an explanation of Feed-in Tariffs. **(4 marks)**
 - ii) outline the criteria for making an initial assessment of a potential wind turbine site. **(2 marks)**
 - iii) make your client aware of the advantages and disadvantages of the two principal approaches to wind turbine development (in-hand, farmer owned versus grant of lease to renewable developer). **(4 marks)**

- b) Prepare, on behalf of your client, draft Heads of Terms, including headings with brief explanatory text, for an Option Agreement for a Lease with Green Generation Ltd. **(10 marks)**

PAPER II Q 6

Your Principal of three years has decided to resign and set up his own firm of Chartered Surveyors and Property Consultants. He has offered you the opportunity to work with him and you have accepted. Having arrived at the new office the first item on your desk is to assist in preparing the new Office Procedures Manual.

Make notes on what you consider to be the main issues to be included within the Office Procedures Manual on the following issues:

- a) Professional Indemnity Insurance. **(5 marks)**
- b) Clients' complaints procedure. **(5 marks)**
- c) Principal points of the office health and safety policy in relation to employees within the office. **(5 marks)**
- d) Money laundering and clients' money procedures. **(5 marks)**