

WRITTEN EXAMINATION

PAPER I

10 NOVEMBER 2011

9.00am – 10.30am

Time Allowed – 1½ 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 **two** 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 **two** out of the three questions, ringing their numbers on the green sheet; where relevant state whether you are answering for England, Wales or Scotland.
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 I Q 1

Your principal has recently been instructed to act as managing agent to Lord S who has inherited an agricultural estate from his late uncle. In preparation for a meeting with Lord S you have been asked to prepare notes on **5** out of the following **8** specific issues raised by Lord S.

Please answer only five parts of this question. Each carries 4 marks.

a. Single Payment Scheme

Entitlements to the Single Payment Scheme (SPS) relating to Home Farm are still held in his late uncle's name – what does Lord S need to do in readiness to claim on these next May – Lord S plans to farm Home Farm himself and all the land is registered on the Rural Land Register. **(4 marks)**

b. Landlord/Tenant (Agricultural Holdings Act)

Answer only one of the parts to the question (stating which part)

- (i) **England/Wales** - One of the let farms with a house, range of traditional brick buildings and land is in a poor state of condition and repair. It is let on an AHA 1986 tenancy with repairing terms per SI1473.

What does this mean? Outline what Lord S's principal potential liabilities are. **(4 marks)**

- (ii) **Scotland** - One of the let farms with a house, range of traditional brick buildings and land is in a poor state of condition and repair. It is let on an AHA 1991 tenancy.

What are the basic responsibilities of the parties? **(4 marks)**

c. Landlord/Tenant (Agricultural Holdings Act)

Please state if you answering under the 1986 Act (England/Wales) or the 1991 Act (Scotland)

One of the farms has been let since February 1986 but there is no written tenancy agreement.

What can Lord S do to remedy this and on what terms can he insist? **(4 marks)**

d. Professional Practice

Your principal thinks that the firm's terms of business require updating prior to agreeing them with Lord S. He is particularly concerned about the lack of a Complaints Handling Procedure (CHP).

What should the firm's CHP include? **(4 marks)**

e. **Taxation**

Lord S is concerned as to whether or not he has any liability under Stamp Duty Land Tax as a result of inheriting the estate.

Advise Lord S when is it payable, by whom, and at what rates, whatever the tenure. **(4 marks)**

f. **Compulsory Purchase**

A new bypass around the local town opened 12 months ago and passes close to one of the estate farmhouses that is currently vacant but no estate land was required for the road scheme. Lord S's uncle didn't claim any compensation for the road scheme in respect of this house.

Lord S wonders if he still can make a claim. Please advise. **(4 marks)**

g. **Renewable Energy**

Lord S is worried about the cost of heating the Manor House on the estate and has heard about the Renewable Heat Incentive.

What is this and could it help him? **(4 marks)**

h. **Landlord/Tenant**

Lord S is considering letting the parkland on the Estate on an FBT (LDT in Scotland) to a local farmer and is wondering what to do about rent reviews.

Outline the relevant legislation and what options he has? **(4 marks)**

PAPER I Q 2

You have been instructed by the owner of an estate to let a 500 acre farm which is to become vacant on 1st September 2012.

Prepare a set of letting particulars for the farm assuming the following:

- The term of the proposed tenancy is 20 years
- There is a good farmhouse, one cottage, adequate buildings for a mixed arable/stock farm, although the principal general purpose building is a tenant's fixture

Candidates should set out the Letting Particulars for the farm on the basis of the above assumptions and should make their own reasonable assumptions on any other matters.

(20 marks)

pto Question 3 overleaf.../

PAPER 1 Q 3

You act for landlord of an agricultural estate, the principal farm on which is a 300 acre fully equipped holding let on a full Agricultural Holdings Act Tenancy with a 2nd February term date. Your client obtained planning permission in October 2011 for residential development on 20 acres of bare land on the holding. The tenancy agreement contains a clause which allows the landlord to serve a notice to resume possession on any part of the farm for non-agricultural development – but is otherwise silent.

Your client wishes to sell the 20 acres on the open market with vacant possession as soon as possible. Prepare notes in respect of the following specific questions assuming your advice is given as at today's date.

- a. Briefly explain how the landlord can obtain vacant possession under statutory procedures and by when he will be able to do so. **(5 marks)**
- b. Are there any steps that the tenant can take to resist his landlord's attempt to get vacant possession and are there any other options available to the tenant? **(5 marks)**
- c. Explain how the situation would differ if there was no part possession clause in the tenancy agreement and why. **(4 marks)**
- d. If, instead, there was no planning permission but the landlord was seeking possession of the entire holding on the ground of Greater Hardship, explain how the landlord can obtain vacant possession and how the tenant can resist the landlord's attempts to do so. **(4 marks)**
- e. What would happen in such a greater hardship application if the landlord was held to be acting unreasonably. **(2 marks)**