

WRITTEN EXAMINATION

PAPER II

15 NOVEMBER 2012

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, the number of the question and the page number in the top right-hand corner of each page.
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. 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 II Q1

- a) Your client has been asked to provide a Habitat Survey as part of a planning application he has lodged with the local planning authority for the conversion of an existing yard and buildings including a small woodland and pond. He has no idea what is required or what effect it might have on their proposed development.

Please outline in **note form** what you understand by the terms

- i. "Habitat Surveys"
- ii. what is required by them
- iii. what are their potential effects.

(10 marks)

- b) Your client has taken back in hand 200 acres of uncultivated land/semi natural area and wants to plough it up and crop it with cereals. He has heard that he needs an EIA but he has no idea what one is or what is required or what effect it may have.

With regard to an EIA, please make **notes** on the following:

- i) Outline the regulatory framework on which they are based.
(2 marks)
- ii) State the regulatory authority that oversees their implementation.
(1 mark)
- iii) Their application and requirements.
(5 marks)
- iv) Any penalties for not complying with them and what implementation and enforcement powers are available to the overseeing authority?
(2 marks)

PAPER II Q2

Arthur Bailey has recently passed away and as a bachelor, has left his Estate to his nephew who is seeking your advice on Inheritance Tax.

Arthur Bailey farmed Box Farm in hand. The farm comprises 50 hectares of arable land, with a large 6 bedroom farmhouse, range of modern farm buildings near to the house and a bungalow which has an Agricultural Occupancy Restriction but has been let on an Assured Shorthold Tenancy (Short Assured Tenancy in Scotland) for the last 10 years to a teacher.

The only other assets in Arthur's Estate are cash savings totalling £150,000.

The nephew wants to meet you. Please prepare **briefing notes** for that meeting setting out:

- a) The treatment of each of the assets within Arthur's Estate for Inheritance Tax purposes and schedule what reliefs each of the assets might qualify for and why.

(18 marks)

- b) What additional information would help you in providing this advice?

(2 marks)

PAPER II Q3

You act for both the Landowner and the Tenant of an arable farm subject to an Agricultural Holdings Act Tenancy. An annual Wayleave is in existence for an overhead electricity power line.

A request has been received from the Statutory Utility Company to convert the Wayleave into an Easement (Servitude in Scotland) and to put the power cable underground and in principle the parties are receptive to the proposal.

The Tenancy Agreement reserves all grants of Wayleaves and Easements/Servitudes to the Landlord.

Prepare **briefing notes** in preparation for a meeting with your clients on the following:

1. The essential differences between a Wayleave and an Easement/Servitude.
(5 marks)
2. The formal requirements for an Easement/Servitude to be granted including in circumstances where public utilities are not involved.
(1 mark)
3. Given this scenario, identify any relevant Statutory Codes applicable
 - i) to the Grant of the Easement to the Electricity Company and
 - ii) the right to claim compensation.**(2 marks)**
4. Set out the main Heads of Claim for the parties in this scenario.
(6 marks)
5. Set out what pre-entry matters need to be agreed with the Utility Company.
(6 marks)

PAPER II Q4

Your client owns 14 hectares of agricultural land on the edge of a small market town and has been approached by a national firm of house builders who wish to promote the site for residential development.

The builders have suggested that they are happy to take an Option Agreement over the land.

- a) Your client has no idea what this means and has asked you to set out in **note form** a basic outline of the terms of an Option Agreement.
(16 marks)

- b) The developers also mentioned a conditional contract. Set out in **note form** how this might differ and when would you use it.
(4 marks)

PAPER II Q5

Your Client is a 35 year old Stockbroker who has just bought a 150 acre block of let bare arable land. He wants to maximise his income and has sought your advice as to the prospect of and means to review the rent in his interest.

1. The land is subject to a five year tenancy (FBT in England and Wales; Short Limited Duration Tenancy in Scotland) with eighteen months to run.

Write a **letter** to your client explaining:

- a) *For England and Wales*

- (i) The statutory basis for a rent review, assuming there is no specific provision in this regard in the Agreement and its definition.

(4 marks)

- (ii) His options in respect of increasing the rent.

(8 marks)

OR

- b) *For Scotland*

The options available with regard to the SLDT and how they would allow the rent to be changed

(12 marks)

AND FOR ALL CANDIDATES

- c) What physical and other factors will influence the level of likely rent.

(4 marks)

2. Now assume that the land is subject to a 15 year Farm Business Tenancy (Limited Duration Tenancy in Scotland) of which three and a half years have run with a rent review due at year 5. Prepare **notes** on:

- a) The procedure to secure the review at year 5.

(2 marks)

- b) The provisions/options available if the parties are unable to reach agreement as to the new rent.

(2 marks)

PAPER II Q6

Your Principal is providing holiday cover for her business partner and needs to take instructions to sell 20 acres of bare land for one of his clients whilst he is on leave. Your Principal doesn't normally do this type of work and wants you to make a **checklist** in preparation for a meeting with the client outlining:

- a) list the regulatory regimes to be considered in accepting such an instruction and implementing the same up to the point of the property going to the market.

N.B. Please do not write a set of sales particulars.

(5 marks)

- b) What documentation and information are you required to collect or check by the regulatory regimes listed in a) above and why?

(15 marks)