

INSTITUTE OF LEGAL EXECUTIVES

UNIT 4 –LAND LAW*

Time allowed: 1 hour and 30 minutes plus 15 minutes reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **The question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios in Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the ILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

SECTION A**(Answer ALL questions in Section A)**

1. Name in full **one** of the important Acts of Parliament included in the 1925 property legislation.

(1 mark)
2. What is the meaning of the phrase 'fee simple absolute in possession'?

(5 marks)
3. Describe the importance of the decision in the case of *Re Ellenborough Park* (1956).

(4 marks)
4. When land held on trust is sold:
 - (a) what is the minimum number of trustees to whom the purchase money should be paid?

(1 mark)
 - (b) what will be the result of such payment and how is protection given to the purchaser?

(4 marks)

(Total: 5 marks)
5. Name the **three** methods by which an easement can be acquired by **prescription**.

(3 marks)
6. Name **two** minerals which do not belong to a freeholder even though they lie below his land.

(2 marks)
7. Give **three** grounds on which the Lands Chamber of the Upper Tribunal (formerly the Lands Tribunal) can modify or discharge a covenant.

(3 marks)
8. Give **two** examples of different types of lease which, under the Land Registration Act 2002, must be registered with their own title numbers.

(2 marks)
9. In what years did the whole of England and Wales **first** become an area of compulsory registration:
 - (a) on sale of land

(1 mark)
 - (b) on gift by inheritance of land?

(1 mark)

(Total: 2 marks)

10. What are the ways in which land can be held by more than one person at the same time?
(2 marks)
11. Name **one** of the main types of mortgage used for domestic purchases and outline its main features.
(4 marks)
12. Name and describe briefly **one** remedy of a mortgage lender if the borrower fails in his obligations under the mortgage.
(4 marks)
13. What are the **two** essential elements of a constructive trust? Illustrate your answer with a decided case.
(3 marks)

(Total marks for Section A: 40 marks)

SECTION B

(There are three scenarios in Section B. Answer the questions relating to
ONE of the scenarios ONLY)

Scenario 1

Rosh has recently bought a freehold house, Greenroofs, from Adam. When she first viewed the house before buying it, she was impressed with the kitchen. This had two fitted worktops, with a washing machine and a dishwasher plugged in below. Adam had shown her the garage at the house, where he stored his three vintage cars. She forgot to ask Adam which of the items would be left.

Rosh intends to run her part-time business from a room in the house.

Since moving into the house she has found that Joe, who owns the neighbouring house, has installed a satellite dish on the side of his property which overhangs Rosh's roof. Joe has also just redesigned his garden, and in doing so accidentally dug under her garden as well.

Greenroofs had once belonged to Joe. He sold it to Adam. In the transfer to him, Adam agreed:

"for the benefit and protection of Joe's land,

- not to use Greenroofs for any business purpose and
- to maintain the fences around Greenroofs".

Joe has learned of Rosh's plans for the business use and says that he has a legal right to stop her. He also says that she must repair the fences.

Scenario 1 Questions

1. When Rosh viewed the house she saw fitted worktops, a washing machine and dishwasher in the kitchen and three cars in the garage. Explain if she can expect each of these separate items to be included in the sale.

(8 marks)

2. Explain in what circumstances Joe will be able to enforce his agreement with Adam directly against Rosh.

(10 marks)

3. Explain whether Rosh will be able to object to:

(a) Joe's satellite dish overhanging her roof;

(3 marks)

(b) Joe digging under her garden.

(2 marks)

(Total: 5 marks)

4. Greenroofs has registered title.

(a) What is the best grade of title for Rosh to receive and why?

(2 marks)

(b) Which part of the land register for Greenroofs will state any rights attached to her property?

(1 mark)

(Total: 3 marks)

5. The transfer of Greenroofs from Adam to Rosh was in the form of a deed. What makes a document into a deed?

(4 marks)

(Total marks for Scenario 1: 30 marks)

Scenario 2

Harry intends to buy a freehold house in the countryside from Emma. When he first viewed the house he realised that Emma's aunt lived there with him, although the house is registered in Emma's sole name. Emma said that her aunt had helped her by providing part of the initial purchase money.

When Harry viewed the house for the second time, he noticed Kevin, the owner of the house next door, walking across the bottom of Emma's garden as a short cut to reach the nearby village. Emma said that Kevin had been in the habit of doing this for the past 30 years. So far as she knew this was without permission.

Harry reported these matters to his lawyer, who has told him that:

- It is lucky that the house has registered title as, if the title had been unregistered, that could have caused delay and added extra complexity to the conveyancing process;
- Full enquiries would need to be made about the nature of any interest Emma's aunt may have in the property;
- Kevin is likely to have a legal right to walk across the garden.

Scenario 2 Questions

1. Give **three** reasons why unregistered conveyancing is likely to be slower and more complex than registered.

(3 marks)

2. (a) Explain why enquiries must be made about any interest that Emma's aunt may have in the property.

(7 marks)

- (b) If she does have an interest, what action can Harry's lawyer take to avoid any problems for Harry?

(3 marks)

(Total: 10 marks)

3. (a) (i) Identify the legal right which Kevin may have to walk across the garden.

(1 mark)

- (ii) Describe its essential characteristics.

(7 marks)

- (b) Explain how such a right is likely to have been acquired in the circumstances described in the scenario.

(4 marks)

(Total: 12 marks)

4. Before buying the house, Harry will be exchanging contracts with Emma.

- (a) Which section, of which Act, lists the requirements for a valid contract for the sale and purchase of land?

(2 marks)

- (b) What are those requirements?

(3 marks)

(Total: 5 marks)

(Total marks for Scenario 2: 30 marks)

Scenario 3

Ashok is a student at Kempston University. During the first year of his course he became friendly with two other students, twin brothers Mark and Neil.

As the students approached the end of the first year, they decided to share living accommodation for the second year. After searching they could not find anything suitable to rent within their price range. They told their parents of their difficulties.

Farouk is Ashok's father, while Rita is the mother of Mark and Neil. Farouk suggested to Rita that they should jointly buy a small house near the University as a place for Ashok, Mark and Neil to live while they completed their studies. This would be cheaper than renting and could also be an investment for the future. Rita thought it was a good plan and agreed.

A freehold house was found which was conveyed to Farouk and Rita and registered in their joint names. The purchase was financed by their equal contributions and a small loan from Kempston Bank plc. The loan was secured by a first legal charge on the house. The charge was guaranteed by Rita's brother Simon.

The three students, Ashok, Mark and Neil, moved in. At the end of the second year, Mark and Neil both failed their examinations and decided to leave the University. Ashok passed and intends to remain. Rita now wants to sell the property as Mark and Neil have both moved out but Farouk has refused. He wants to keep it as a home for Ashok now and for Ashok's sister Dina. She is aged 17. She is now occupying the house with Ashok while she completes a course at a sixth-form college.

Scenario 3 Questions

1. Explain what advice should have been given, in the circumstances, to Farouk and Rita about how they could own the house jointly and the type of ownership which would be most suitable in this case.

(8 marks)

2. (a) Rita wants to sell but Farouk does not. What assistance could Rita seek from the court to force a sale?

(2 marks)

(b) What statutory factors will the court apply in her case when considering whether to grant assistance?

(5 marks)

(Total: 7 marks)

3. (a) Name **three** types of mortgage which could have been used for the purchase.

(3 marks)

(b) When the legal charge was created, what conveyancing step did Kempston Bank plc need to take to protect it against future purchasers?

(3 marks)

(Total: 6 marks)

4. If Farouk and Rita failed to maintain payments on the loan, explain whether Kempston Bank plc would have any remedy against Simon.

(4 marks)

5. If the house had unregistered title before the purchase by Farouk and Rita:
 - (a) what legal step would have been required as a result of their purchase?

(2 marks)
 - (b) within what time limit should this have been done?

(1 mark)
 - (c) what would be the consequence of failure to do this in time?

(2 marks)

(Total: 5 marks)

(Total marks for Scenario 3: 30 marks)

End of Examination Paper

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com