

## 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. When registered land is sold who, out of the buyer or seller, is responsible for registering the transaction at the Land Registry?  
(1 mark)
2. Give **three** of the factors which a court can take into account under s.15 of the Trusts of Land and Appointment of Trustees Act 1996 when an application is made to it for the grant of an order for sale under that Act.  
(3 marks)
3. Outline **one** of the tests used to distinguish between a fixture and a chattel, illustrating your answer with a decided case.  
(3 marks)
4. What formalities are required under s.2 Law of Property (Miscellaneous Provisions) Act 1989 for a valid contract for the sale of land?  
(4 marks)
5. (a) Give an example of an easement.  
(1 mark)
- (b) Name **two** of the essential characteristics of an easement as stated in the case of *Re Ellenborough Park [1956]*.  
(2 marks)  
(Total: 3 marks)
6. In what **three** circumstances can a mortgage lender exercise the power of sale?  
(6 marks)
7. What are the possible classes of registered leasehold title?  
(4 marks)
8. Explain the meaning of the phrase 'term of years absolute'.  
(5 marks)
9. (a) What is meant by the 'burden' of a covenant in relation to freehold land?  
(1 mark)
- (b) State **three** ways in which a freehold covenant can be ended.  
(3 marks)  
(Total: 4 marks)
10. Name **two** of the items included in the definition of 'land' under s.205 (1)(ix) Law of Property Act 1925.  
(2 marks)

11. What is meant by the 'insurance principle' in relation to the land for registered land?

(2 marks)

12. (a) To what do the 'four unities' apply?

(1 mark)

(b) Outline **one** of the 'four unities'.

(2 marks)

**(Total: 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

Jack and his mother Wendy bought a house together. Most of the purchase price was provided by Jack and Wendy each paying an equal share from their individual savings. The rest was borrowed from the Kempston Bank plc. The loan was secured by a legal charge on the house and was on a capital repayment basis. The house, which had registered freehold title, was conveyed to them as beneficial joint tenants and they were jointly registered as owners. They moved into the house and for some time lived there happily together.

After some years, Jack and Wendy quarrelled. Wendy moved out and went to stay with her other son Alan, who lived in another town. Jack remained in the house. Wendy then wrote to Jack notifying him that she wanted her share of the value of the house immediately and insisted that the house be sold. Jack received the letter the next day when the post was delivered to the house. He read the letter but was so angry that he did nothing about it. He told friends that, as Wendy had moved out, so far as he was concerned he was now the sole owner.

Wendy died suddenly six months after these events. A week before her death she had made a valid will which said 'I leave all my property to my son Alan'.

Jack has now decided to sell the house. He has found a buyer. The proceeds will be sufficient to pay off in full the loan by Kempston Bank plc and leave a surplus. Jack is surprised to hear that the buyer has been advised by his solicitor not to pay the purchase money to Jack alone.

## Scenario 1 Questions

1. Outline the main features of the type of mortgage taken out by Jack and Wendy.

**(4 marks)**

2. With reference to the events in the scenario, explain with reasons:

(a) who will be entitled to the surplus proceeds of sale of the house;

**(8 marks)**

(b) how, if at all, your answer would differ if Wendy had written the letter but had never sent it to Jack or said anything about wanting her share.

**(4 marks)**

**(Total: 12 marks)**

3. What was the reason for the advice given to the buyer by his solicitor about payment of the purchase money?

**(6 marks)**

4. (a) Why is it necessary for a deed to be used to transfer the house to the new owner?

**(2 marks)**

(b) (i) What formalities make a document into a deed?

**(4 marks)**

(ii) What section of which Act states those formalities?

**(2 marks)**

**(Total: 8 marks)**

**(Total Marks for Scenario 1: 30 marks)**

**Turn over**

## Scenario 2

Ruth bought a registered freehold house, (Rose Cottage Meadow Way) and a field adjoining it. Rose Cottage had a very large garden at the back. Ruth divided the garden in two halves and built a new house (Cherrytrees) on one half. She sold Cherrytrees to Alec, while retaining ownership of Rose Cottage, the other half of the garden and the field.

In the transfer to him Alec, as owner of Cherrytrees, promised as follows:

'For the benefit and protection of Rose Cottage, Meadow Way:

- Not to make any alterations to Cherrytrees without the permission in writing of the owner for the time being of Rose Cottage Meadow Way;
- Not to park any caravan or boat on any part of Cherrytrees;
- To contribute to the cost of maintaining the driveway across the garden of Rose Cottage which gives access to Cherrytrees.'

Recently Ruth sold Rose Cottage and the field to Charles. He is most concerned to see that Alec is adding an extension to Cherrytrees and has parked a boat in the front garden there. Alec has not responded to several letters from Charles, asking for his share of payment for necessary repairs to the driveway.

Charles has also noticed that every weekend Joe, a farmer who lives 10 miles away, brings sheep to the field so that they can graze there. When Charles protested, Joe said that Ruth had granted him the right to do this.

A friend of Charles has suggested that they could go together on a world cruise lasting for six months and that Charles could let Rose Cottage to a tenant while he is away. This should give Charles some income to cover part of the cost of the cruise.

## Scenario 2 Questions

1. Explain whether Charles can enforce directly against Alec the promises which Alec made to Ruth.  

**(10 marks)**
  
2. (a) What type of right over land is Joe claiming?  

**(2 marks)**

(b) How can Charles check whether Joe's claim is binding on him?  

**(1 mark)**

**(Total: 3 marks)**
  
3. When Ruth sold Rose Cottage and the field to Charles:  

(a) How did she prove her right to do so;  

**(2 marks)**

(b) What information is contained in the proof and in which part can it be found?  

**(8 marks)**

**(Total: 10 marks)**
  
4. Charles is now planning to let Cherrytrees for a period of one year starting on the day when the lease is signed. Explain whether it will be necessary to register the lease at the Land Registry.  

**(5 marks)**
  
5. While digging in the field, Charles found a box of ancient gold coins. Explain whether he is entitled to keep them?  

**(2 marks)**

**(Total marks for Scenario 2: 30 marks)**

**Turn over**

### Scenario 3

Fatima is the sole registered owner of a freehold house. She bought it five years ago. From the windows and garden of the house there is a magnificent view of the surrounding countryside. The view was a major reason for Fatima's purchase. A friend told Fatima that, since the house was built in 1985, Fatima has a legal right to the view which she could enforce by obtaining a court order if necessary.

Fatima bought the house with the assistance of a loan from Kempston Bank plc. The loan was secured by a legal charge on the house. Fatima spent part of the loan on installing a new fireplace in the living room and buying new carpets and curtains for all the bedrooms.

Derek lives in the house next door. He has started to build a high wall at his property with the intention of fixing a flagpole to it. Fatima is shocked to find that part of the wall will completely block the view from her house and garden. The flagpole will also overhang her garden. Fatima protested to Derek, saying that she had a legal right to the view and that Derek was not entitled to block it or to overhang her garden. Derek said that as a freeholder he could do what he liked with his own property. Fatima was most upset about this.

In addition Fatima has recently lost her job and is concerned that she may not be able to keep up with the mortgage instalments. For this reason she decided to sell the house. She soon found a buyer and is about to exchange contracts. She intends to remove the fireplace, carpets and curtains before completion of the sale.



### Scenario 3 Questions

1. Explain whether or not Fatima can:
  - (a) Rely on her friend's advice and claim a legal right to the view;  
**(6 marks)**
  - (b) Object to the flagpole overhanging her garden and, if so, what legal remedy she may have.  
**(5 marks)****(Total: 11 marks)**
  
2. If Fatima's house had unregistered title when she bought it, explain:
  - (a) Why it was necessary for her solicitor to apply for first registration;  
**(2 marks)**
  - (b) What is the best class of registered title for Fatima to hold and why?  
**(4 marks)****(Total: 6 marks)**
  
3. If Fatima sells her house, is she entitled to remove the fireplace, carpets and curtains as she intends?  
**(8 marks)**
  
4. Assume that, instead of selling her house, Fatima decided to stay there but later was unable to make her mortgage repayments. List the remedies which Kempston Bank plc could use in these circumstances.  
**(5 marks)**

**(Total marks for Scenario 3: 30 marks)**

**End of Examination Paper**

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