

## 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. (a) What is meant by the 'equity of redemption'?  
(1 mark)
- (b) Outline the main features of an endowment mortgage.  
(3 marks)  
(Total: 4 marks)
2. Give the meaning of the phrase 'fee simple absolute in possession'.  
(5 marks)
3. State **two** ways in which an easement can be ended.  
(2 marks)
4. Under the Land Registration Act 2002, what are the **two** ways used to place an entry on the land register to protect a third party interest in registered land?  
(2 marks)
5. Name and briefly describe **two** of the possible classes of registered freehold land.  
(4 marks)
6. To what extent does a freeholder have rights in the airspace above his land?  
(3 marks)
7. When trust land is sold:  
(a) how can the purchaser ensure that overreaching occurs?  
(2 marks)  
(b) how is the purchaser protected by overreaching?  
(3 marks)  
(Total: 5 marks)
8. What interest in land can be created under the rule in *Wheeldon v Burrows* (1879)?  
(2 marks)
9. Outline **one** method of severing a joint tenancy in equity.  
(2 marks)
10. Give an example of:  
(a) a fixture  
(1 mark)  
(b) a chattel/fitting  
(1 mark)  
(Total: 2 marks)

11. Outline **two** of the circumstances in which a freehold covenant is discharged by the Upper Tribunal (Lands Chamber) (previously known as the Lands Tribunal).  
**(4 marks)**
12. How does a resulting trust arise?  
**(2 marks)**
13. What is meant by the 'curtain principle' in relation to the land register for registered land?  
**(3 marks)**

**(Total Marks for Section A: 40 marks)**

**Turn over**

## SECTION B

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

### Scenario 1

Barbara owns a freehold house which she bought in 1980. It has unregistered title. She has just accepted Caroline's offer to buy it.

When Caroline viewed the house before making the offer, Barbara showed her a path through the wood belonging to Barbara's neighbour, Donald. The path was quite open, with no barriers at either end. Barbara said that from the time she bought her house she had used the path as a short cut at least once a week to reach the nearby village, even though she had never had permission to do so. There is no reference to the path in the title deeds to Barbara's property.

Caroline has obtained a loan from Kempston Bank plc to assist with her purchase. The loan will be secured on the house by a legal charge, and it will be on a capital repayment basis. However, Caroline is worried that in the future she might not be able to keep up the payments on the loan. She mentioned her worries to her brother Tom. He earns a high salary and has various property investments. He suggests to Caroline that to save her from having to take out this loan, he will pay a share of the purchase price and he and Caroline could then own the property together. Caroline is grateful to take part in this arrangement.

Barbara has agreed that she will accept the offer to buy from Caroline and Tom together.

### Scenario 1 Questions

1. At what stage will Caroline and Tom's offer and Barbara's acceptance become binding? In your answer state any necessary legal formalities.

**(6 marks)**

2. Explain:

(a) what, if any, legal right Barbara may have to use the path;

**(1 mark)**

(b) what are the essential characteristics of any such right which Barbara can claim;

**(7 marks)**

(c) how it is likely to have been acquired in the circumstances of the scenario.

**(4 marks)**

**(Total: 12 marks)**

3. The loan to Caroline was to be on a capital repayment basis. What are the main features of this type of mortgage?

**(4 marks)**

4. Explain what advice you would give to Caroline and Tom on the type of joint ownership they should choose.

**(6 marks)**

5. Explain to Caroline and Tom why, after the purchase is completed, application for first registration of the property must be made.

**(2 marks)**

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

**Turn over**

## Scenario 2

Robert owns a freehold house which is registered in his sole name. He is a widower with two children. After his wife died, he lived in the house for several years with his children who at that time were quite young. Then he met Joanna. She owned a flat which she was intending to sell.

Robert and Joanna became very friendly. He promised Joanna that he would marry her but said that, for tax purposes, it would be better for the marriage to take place after she had sold her flat.

However, Robert suggested that she could move into his house in the meantime as living costs would then be cheaper for both of them. Joanna acted on this suggestion and moved into Robert's house. She contributed towards the household bills for electricity, water, and some of the food and also helped to look after the children. She also redecorated several of the rooms.

As the children grew older, she took a part-time job in a shop. The pay was low but she used it to pay for family holidays and clothes for the children.

After three years of this arrangement Joanna sold her flat. However, Robert has now refused to marry her. He has formed a new relationship with a colleague at work to whom he has become engaged. As a result Robert has told Joanna to leave his house immediately.

Robert is also concerned about some trees growing in a neighbouring garden. The trees overhang Robert's garden and he is concerned that branches may fall off and injure his children.

## Scenario 2 Questions

1. Explain on what basis Joanna can claim any interest in Robert's house.

**(10 marks)**

2. (a) On what basis, if at all, could Robert object to the neighbour's trees?

**(3 marks)**

- (b) If he can object, what remedies might be available to him?

**(2 marks)**

**(Total: 5 marks)**

3. Joanna's flat is leasehold and has registered title. She has a mortgage on it from Kempston Bank plc secured by a legal charge on the flat.

- (a) How should Kempston Bank plc have ensured that its loan is protected against future buyers of Joanna's flat?

**(2 marks)**

- (b) What is the best class of registered leasehold title for a purchaser to buy and why?

**(2 marks)**

- (c) Explain **three** benefits, to either seller or buyer, of a property having registered title rather than unregistered title.

**(6 marks)**

**(Total: 10 marks)**

4. (a) The land registry transfer used on completion of Joanna's sale was in the form of a deed. Why was a deed necessary?

**(1 mark)**

- (b) What makes a document into a deed?

**(4 marks)**

**(Total: 5 marks)**

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

**Turn over**

### Scenario 3

Abdul wishes to buy from Soraya her freehold house, Number 5A Meadow Road Oldcastle and has agreed a price with her. The Kempston Bank plc has offered a loan to Abdul in connection with the purchase. The loan will be secured by a legal charge on the property.

Malcolm owns and lives at the neighbouring house Number 5 Meadow Road. Some years ago he built Number 5A on part of the garden of Number 5 and then sold 5A to Soraya. Malcolm wanted to maintain the market value of Number 5 both at the time of sale and for the future and this would depend upon maintaining the residential nature of the area. In order to preserve the market value, in the transfer of 5A to Soraya a clause was included under which Soraya agreed with Malcolm:

“for the benefit of Number 5 Meadow Road Oldcastle

- to use Number 5A only as a private residence
- not to park more than two vehicles at any one time on any part of Number 5A”.

Abdul is very keen to buy the house as he wants to use part of it for his computer business. Although the business is mainly operated on-line, there could be extra visitors to the house arriving by car. When he mentioned this to Soraya she said that he need not take any notice of her agreement with Malcolm. She explained that, as the agreement was between herself and Malcolm, if Abdul used the house for a business, Malcolm would not be able to take any action against him.

She also told Abdul that her lawyer had sent her a Fixtures and Fittings Form to complete and had asked her to return it quickly as a preliminary to the sale.



### Scenario 3 Questions

1. Soraya's lawyer asked her to complete a Fixtures and Fittings Form.

What is a Fixtures and Fittings form and why was Soraya asked to complete it?

**(5 marks)**

2. Soraya told Abdul that, if he buys the house and uses part of it for a business, Malcolm could not take any action against him despite Soraya's agreement with Malcolm.

Explain the nature of the agreement between Soraya and Malcolm and whether, in the circumstances of the scenario, Soraya is correct.

**(10 marks)**

3. In connection with the loan from the Kempston Bank plc, advise Abdul:

(a) of the circumstances in which the Bank could exercise a power of sale under the legal charge;

**(6 marks)**

(b) of the duty of the Bank when exercising the power of sale.

**(3 marks)**

**(Total: 9 marks)**

4. Number 5A has registered title. Which part of the land register entries shows:

(a) a description of the property?

**(1 mark)**

(b) the class of title?

**(1 mark)**

**(Total: 2 marks)**

5. If Number 5A had unregistered title, how would Soraya prove her ownership for the purpose of the sale?

**(4 marks)**

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

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