



INSTITUTE OF LEGAL EXECUTIVES

UNIT 9 – LAND LAW*

Time allowed: 3 hours 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.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. The question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Property Law 2010-2011 by Meryl Thomas, Oxford University Press.**
- 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 6 CERTIFICATE IN LAW LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 4 DIPLOMA IN LEGAL**

SECTION A
(Answer at least one question from this section)

1. (a) Explain the characteristics of a lease.

(10 marks)

- (b) Is an equitable lease as good as a legal lease as between both the original parties and assignees of the lease reversion?

(15 marks)

(Total: 25 marks)

2. "[I]n virtually every case, the claim founded on prescription at common law...adds nothing to the claim of presumed lost grant. They stand or fall together."

Dillon LJ in *Mills & another -v- Silver & another* [1991] 1 All ER 449

Does the Prescription Act 1832 render common law prescription and the doctrine of lost modern grant redundant?

(25 marks)

3. "[D]ifficulties in running the burden of covenants with freehold land [mean that] reform is long overdue...restrictive covenants have been the subject of some eight Law Commission reports and working parties. It is, perhaps, a pity that the recommendation of the first of these – that positive covenants be made to run with the land, has not been implemented."

Diane Chappelle, "Land Law", Longman

- (a) Critically evaluate the rules for the running of freehold covenants.

(20 marks)

- (b) Assess how successful the Commonhold and Leasehold Reform Act 2002 is in satisfying the Law Commission's recommendations that positive covenants be made to run with the land.

(5 marks)

(Total: 25 marks)

4. How has the doctrine of Proprietary Estoppel been evolved by the courts to avoid the provisions of s2 of the Law of Property (Miscellaneous Provisions) Act 1989?

(25 marks)

SECTION B

(Answer at least one question from this section)

Question 1

Astrid, who wishes to set up a restaurant business, views "The Old Stag", a freehold pub owned by Ben.

She notes that the bar is decorated with a number of stuffed deer which are mounted on the walls, and contains an antique "feature" fire surround. She is particularly impressed with the pub's kitchen, which contains modern equipment, including fitted stainless steel work surfaces, two double ovens and a gas range. The pantry contains two fridges and three freezers, as well as a washing machine.

She agrees to purchase "The Old Stag" from Ben for £670,000. On the day of completion, Ben hands the keys to Astrid, and asks her to keep an eye out for his wife's wedding ring, which she dropped whilst packing up.

On entering the pub, Astrid sees that the stuffed deer, fire surround, and all of the kitchen and pantry equipment, including the work surfaces, has been removed.

A couple of days later, a builder, Colin, contracted to do some renovation work, finds the wedding ring: he refuses to hand it to Astrid when she asks.

Advise Astrid as to any rights she has in respect of the items removed from the pub and as to any rights she has to recover and keep the wedding ring.

(25 marks)

Turn over

Question 2

Derek and Edward are civil partners who purchase a house. They each contribute £100,000 towards the purchase of 36 Green Street. Edward explained to Derek that he considered the property to be "theirs". Derek did not want his name to appear on the title deeds as he was likely to be declared bankrupt in the near future due to the recent collapse of his business. The property is registered in Edward's sole name.

Shortly after they move in, Derek's elderly father, Frank, falls ill. The three of them agree that the property should be extended to accommodate Frank, so that they can look after him more easily. Frank pays with his life savings for the extension to be built and moves in.

2. (a) Advise the parties as to whether Derek and/or Frank have a beneficial interest in the property.

(20 marks)

- (b) Explain how your answer would be different if Edward was Derek's son, rather than his civil partner.

(5 marks)

(Total: 25 marks)

Question 3

Ghafur and his wife, Henaa, own the freehold of their home. Ghafur wants to set up as a self-employed motor mechanic. In order to finance the equipment for his workshop, he seeks loan finance from Icarus Bank plc. Icarus is willing to advance £100,000 provided that the loan is secured by way of mortgage on Ghafur's and Henaa's home. Ghafur persuades Henaa that the business will be a success, despite Henaa's doubts (as his earlier businesses have failed).

Icarus requires Henaa to be advised by an independent solicitor, who must provide the bank with a certificate confirming the advice was given, before it will advance the funds and take a mortgage.

Icarus sends the relevant paperwork to Henaa's appointed solicitor, Jamie. Jamie, without bothering to read the paperwork, tells Henaa that, "your home is at risk if you miss any repayments". Henaa then signs the mortgage deed and Jamie confirms in writing to the bank that he has advised her.

The mortgage is completed. Some months later, Ghafur's business fails in the recession and he falls into arrears on the loan.

3. (a) Advise Icarus Bank plc of the ways it might enforce its security.

(15 marks)

- (b) Advise Henaa whether she might be able to resist any attempt to enforce security.

(10 marks)

(Total: 25 marks)

Turn over

Question 4

Kerwenshire County Council has a large property portfolio. The last unregistered estates was registered at the Land Registry in 1995. In an effort to raise capital funds, Kerwenshire County Council has a number of redundant properties valued. One such property is Connor's Manor, a freehold of about three hectares comprising a large house, two cottages and grounds.

The Council's valuer visits the property and finds both cottages are occupied. The first is occupied by Lauren, who claims to have purchased the cottage from the Council in 1999. She shows the valuer a copy of the contract for sale and a receipt for the purchase price.

The second cottage is occupied by Monty, who says, "I've lived here since 1998 and I've got squatter's rights. You can't kick me out now."

The valuer notes that the boundary wall with the neighbouring property, Fallowfield Farm, appears some distance from where it is shown on the plans, resulting in a small part of Connor's Manor being the wrong side of the wall. He contacts the owner of Fallowfield Farm, Nigel, who explains that he rebuilt the boundary wall in 2000, and put it where his surveyor, who had consulted the plans, said it should go.

Advise the Council as to whether Lauren, Monty or Nigel might successfully apply to be registered as proprietors of the parts of Connor's Manor they occupy.

(25 marks)

End of Examination Paper

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