

## INSTITUTE OF LEGAL EXECUTIVES

### UNIT 10 – LANDLORD & TENANT 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 must comply with the ILEX Examination Regulations.
- Full reasoning must be shown in answers. 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 6 DIPLOMA IN LEGAL PRACTICE**

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

1. Critically assess the scope and effect of the implied covenants of quiet enjoyment and non-derogation from grant and assess the extent to which they protect the tenant's enjoyment and use of a property.

**(25 marks)**

2. "There are serious shortcomings in the law which governs the repair and maintenance of leasehold property."

Law Commission Report No.238

In the light of these comments critically consider:

- (a) The common law definition of repair and the importance of the definition;

**(12 marks)**

- (b) The scope and effect of a landlord's statutory obligations to repair.

**(13 marks)**

**(Total: 25 marks)**

3. Compare and contrast the operation of the enfranchisement provisions of the Leasehold Reform Act 1967 and the Leasehold Reform Housing and Urban Development Act 1993 and assess the extent to which long leaseholders of flats are in a less advantageous position than long leaseholders of houses.

**(25 marks)**

4. Compare and contrast the Rent Act 1977 with the Housing Act 1988 in relation to the rules governing:

- (a) rent review;

**(13 marks)**

- (b) succession.

**(12 marks)**

**(Total: 25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

As part of a buy to let enterprise John purchased a house, converted it into two self-contained flats, and let the properties to residential tenants.

John disliked the terms of the Standard Form Tenancy Agreement supplied by a local law stationer so, knowing a little about freedom of contract from his University days, he redrafted the agreement with the addition of two terms. The first granted the landlord "the right to terminate the tenancy with one month's notice" while the second allowed the landlord to "terminate and evict a tenant with immediate effect in extreme cases".

The ground floor flat was let to Ken in 1995. He lives in the flat during the week but rarely occupies it at weekends as he travels home to see his family in Ireland. The second floor flat was let to Sasha in 2005. Both Ken and Sasha signed John's modified tenancy agreement and their tenancies were initially granted for six months. No other paperwork changed hands.

Recently John received a number of complaints from Ken about Sasha's loud music. After some investigation John took the view that Sasha was acting unreasonably so he served her immediate notice in accordance with the modified tenancy agreement. Unfortunately, Sasha has refused to leave, she has changed the locks and has threatened to call the police for what she termed "harassment". The noise levels have worsened and as a result Ken refused to pay last month's rent. He has told John he will not pay any rent until the situation is resolved.

Advise John as to the type of tenancy under which the tenants occupy the flats and the steps he should take to recover possession.

**(25 marks)**

**Turn over**

## Question 2

Susan is the owner and managing director of Susan's Threads Ltd, a clothing retail business that trades from two premises.

The first of the premises is a warehouse let from National Property Holdings plc. It was let in 2006 for a term of 7 years. At the time she entered into the lease Susan knew very little about business tenancies but was advised by a business colleague to make sure that the agreement was subject to the Landlord and Tenant Act 1954. National Property Holdings plc reluctantly agreed as it was having trouble finding tenants at that time. The lease included an option to renew at an agreed rent subject to "the tenant following all the covenants in the lease". One of the covenants was to paint the interior of the premises every year. The ceiling of one of the store rooms was not painted in 2008. Susan's Threads Ltd has otherwise complied with the covenants in the lease.

Susan approached National Property Holdings plc to arrange the renewal but National Property Holdings plc refused on the basis that Susan's Threads Ltd had failed to honour the terms of the renewal clause. National Property Holdings plc also told Susan "not to bother trying to use the 1954 Act" as it was thinking of selling the site to developers anyway.

The second of the premises is a unit in a retail park which Susan's Threads Ltd has been using as a shop. The lease prevents alterations to the premises made without the Landlord's consent. Susan's Threads Ltd wishes to double the available floor space by putting in a suspended mezzanine floor. They approached the landlord, Oak Properties Ltd, for consent. Oak Properties Ltd is prepared to grant consent on condition that Susan's Threads Ltd pay it £5000 for its expenses and accept a 25% increase in rent in view of the increased floor space. Oak Properties Ltd has also insisted that Susan's Threads Ltd undertake to reinstate the premises to their previous condition at the end of the term.

Advise Susan as to:

2 (a) whether she will be able to enforce the option to renew in these circumstances.

**(5 marks)**

2 (b) the effect of the Landlord and Tenant Act 1954 and whether National Property Holdings plc can avoid the provisions of the Act by selling the warehouse.

**(10 marks)**

2 (c) whether Oak Properties Ltd's conditions in relation to the new floor in the shop are reasonable.

**(10 marks)**

**(Total: 25 marks)**

**Question 3**

Commercial Property Holdings plc is the landlord of two industrial units. Both leases contain a restriction on assignment or parting with possession without the consent of the landlord and both reserve a right of re-entry for breach of covenant.

Unit One is let to Auto-Parts Traders Ltd which supplies car accessories. In recent months it has faced increasing financial difficulties and has fallen behind with the rent. Originally it proposed a plan to clear the arrears but has failed to make significant payments. In a recent conversation the Accounts Director of Auto-Parts told Commercial Property Holdings plc that there was no point in suing the company for the arrears as it will simply force it into liquidation.

Unit Two is let to Shoebiz Ltd, a discount shoe distributor. The lease was granted for 15 years in 2005. Last year Shoebiz Ltd expressed a wish to move to larger premises. Commercial Property Holdings plc stated that it was not opposed to an assignment in principle, so long as a suitable assignee could be found and Shoebiz Ltd paid any legal expenses. Two weeks ago, Commercial Property Holdings plc received a written request from Shoebiz Ltd in relation to assignment. It has not yet responded as it is in the process of taking up references of the proposed assignee.

Commercial Property Holdings plc has discovered, however, that Shoebiz Ltd has already assigned the lease without waiting for consent. When telephoned, the managing director of Shoebiz Ltd was unapologetic. It was his belief that Commercial Property Holdings plc had taken too long to process its request for consent so Shoebiz Ltd was within its rights to assign.

Advise Commercial Property Holdings plc as to:

3 (a) whether Shoebiz Ltd is within its legal rights to assign;

**(12 marks)**

3 (b) the steps Commercial Property Holdings plc should adopt to recover possession of the two properties from the respective tenants and its chances of success.

**(13 marks)**

**(Total: 25 marks)**

**Turn over**

**Question 4**

David purchased a remote country estate as part of a long term project to relocate to the country. The estate included the main house, a worker's cottage, a collection of greenhouses and a workshop.

David was assisted in the refurbishment by his retired brother-in-law, Eddie, who lived in London. The work was intermittent, so Eddie would travel from London and stay for several days. As the worker's cottage was unoccupied, David said to Eddie he could "stay in the cottage for as long as you want". Eddie insisted that he pay David for gas and electricity usage as David was paying him for his labour.

Shortly after moving in David was approached by a neighbouring farmer, Paul, who asked David if he would be prepared to let him use the greenhouses in exchange for "as much produce as David and his family could eat". David let Paul use the greenhouses until such time as he "needed them back". Of his own volition, Paul refurbished the greenhouses, replacing many of the glass panes and renovating the Victorian water heating system.

In relation to the workshop, David leased the premises to a local printing firm, Q-Print, for six months, in exchange for a lump sum payment of £3000.

After eight months the refurbishment of the house is complete and David wants to regain possession of the other parts of the estate. Unfortunately Eddie is refusing to vacate the worker's cottage as he claims to have a tenancy; Paul is insisting David compensate him for the improvements he made and Q-Print claim that they have a statutory right to renew their lease.

Advise David.

**(25 marks)**

**End of Examination Paper**

© 2011 Institute of Legal Executives

Page 4 of 9

BLANK PAGE

StudentBounty.com

BLANK PAGE

StudentBounty.com