

## 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 2011-2012, Meryl Thomas, Oxford University Press, August 2011.**
- 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 6 DIPLOMA IN LEGAL PRACTICE**

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

1. Critically assess the circumstances under which the Court will imply easement to park a car into the transfer of a freehold estate.

**(25 marks)**

2. (a) Critically explain the formalities required for a lease to be legal.

**(6 marks)**

- (b) The parties to a lease granted before 1996 are at a significant disadvantage in comparison to those entering into a leasehold agreement on or after 1 January 1996.

Critically analyse this statement in the light of the changes brought about by the Landlord and Tenant (Covenants) Act 1995

**(19 marks)**

**(Total: 25 marks)**

3. Registered land should reflect all interests held over land. However, there has been a 'crack in the mirror' ever since the commencement of the Land Registration Act 1925.

Critically assess the extent to which the provisions of paragraphs 1 to 3 of Schedule 3 of the Land Registration Act 2002 attempt to repair the cracked mirror.

**(25 marks)**

4. Critically assess whether the introduction of s2 Law of Property (Miscellaneous Provisions) Act 1989 failed to provide the evidential certainty to contracts for the sale and creation of estates and interests in land that was intended.

**(25 marks)**

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

**Question 1**

Thomas owns a large freehold estate on which he has built three houses. He intends to sell two of the houses as freehold estates and then to transfer the third to his son, Ulysses.

All three houses will require use of the roads on the estate and of the service utilities running under the roads.

Thomas wants to ensure that the value of his son's estate is maintained, and therefore wants to ensure that the purchasers of the other two houses, and anyone who buys from them, are bound by certain obligations:

- To pay a share of the cost of maintenance of the estate roads and service utilities;
- To maintain the gardens and fences of each estate in good condition;
- To use the estates only for residential purposes;
- Not to park trades vehicles or caravans on the property.

Advise Thomas whether it is possible to achieve these aims and, if so, how.

**(25 marks)**

**Turn over**

**Question 2**

Veronica and Walter, who are friends, both sell their houses, realising £20,000 and £80,000 respectively, which they contribute to the purchase of a shared house. The balance of the purchase price of £300,000 is provided by way of loan secured by mortgage over the property. The mortgage is in joint names. The transfer states that they hold the legal estate as joint tenants, but makes no mention of the beneficial estate.

For some years they both reside at the property. Both work and maintain separate bank accounts. The mortgage payments and household bills are paid from a joint account, to which each contributes equally.

Two years ago, Veronica became disabled. She had to give up her job. Her son from a previous relationship, Xander, moved into the property to care for his mother. Since then he has contributed equally, with Walter, to the payment of the mortgage and bills.

Recently Veronica died. Her will named Xander as the recipient of her estate. Walter has offered to buy-out Veronica's share of the property for 20% of its market value, claiming that is fair as it is equivalent to her contribution to the purchase price.

Xander claims that Veronica's share is worth considerably more, and that he is entitled to a share in his own right as he paid towards the mortgage for the last two years.

Advise Xander.

**(25 marks)**

### Question 3

Anwar and Sophia borrow £250,000 from Chobham Bank plc to fund the purchase of the freehold estate of "Happy Days Bed & Breakfast". The loan is secured by way of legal charge over the estate.

The bed and breakfast business is not successful. Anwar and Sophia are soon in arrears of mortgage repayments.

They decide to close the business, and sell much of the contents of the estate, including three valuable antique fire-surrounds, the stainless steel kitchen equipment (including work-surfaces, built-in oven, hob and fridges), and all of the bedroom furniture.

- (a) Advise Chobham Bank plc how it should enforce its security. **(14 marks)**
- (b) Advise Chobham Bank plc whether the various items removed by Anwar and Sophia were covered by its security. **(11 marks)**

**(Total: 25 marks)**

**Turn over**

#### Question 4

Fred inherited Frobisher Estate, a registered freehold, in 1990. He was registered as proprietor then. The register shows the estate as his address for service. Last month he had never visited the estate as he had been working and living abroad. His affairs in the UK were managed by his lawyer, who had a power of attorney.

Fred visited the property with his builder, as he intended to renovate the property and move in. He found a number of items of correspondence from the Land Registry, all delivered in the last week, in connection with adverse possession applications for parts of the estate.

The first application is from Ginger, a neighbouring farmer, who claims to have fenced two hectares of woodland on the estate in 1995 and has been using the land to raise pigs ever since.

The second application is from Hayley, who, in 1996, built a garage for two cars on a part of the estate adjacent to her own estate. She claims that her surveyor told her that the land on which she built the garage formed a part of her estate.

The third application is from Indira, who has been living in a cottage in the grounds of the estate since 1993. When she moved in, the cottage was derelict and she spent considerable monies renovating it. She first applied to be registered as proprietor by way of adverse possession in 2005, but was refused by the Registrar, as Fred's lawyer objected (although took no further action).

Advise Fred whether the applications will be successful, and of any steps he might take to recover the various parts of his estate.

**(25 marks)**

**End of Examination Paper**

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