



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 10 – LANDLORD AND TENANT*

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 CILEX 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 CILEX 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 examine the regulation of qualified covenants against assignment in relation to commercial property and determine the extent to which the regulations ensure a landlord can prevent his premises from being occupied "in an undesirable way or by an undesirable tenant" as per *International Drilling Fluids Ltd v Louisville Investments (Uxbridge) Ltd* [1986].

(25 marks)

2. Compare and contrast the provisions of the Rent Act 1977 and the Housing Act 1988 in relation to the conditions that must be met to qualify for protection under each Act.

(25 marks)

3. Assess the scope and effectiveness of the common law covenants of quiet enjoyment and non-derogation from grant.

(25 marks)

4. "It has long been recognised that leasehold, whilst it suits some, has many drawbacks for long-term residential occupiers in England and Wales. An investment in a home steadily loses value as the lease approaches the end of the term."

Commonhold and Leasehold Reform Consultation Paper No. 4383 (2000).

In the light of this statement critically consider the extent to which this "drawback" has been mitigated by:

- a) Leasehold Reform Act 1967; and

(12 marks)

- b) the Leasehold Reform Housing and Urban Development Act 1993 (as amended).

(13 marks)

(Total: 25 marks)

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

Question 1

Terry runs a company that refits lorries and vans to comply with vehicle emission regulations. He trades from a garage and yard he has let from Fern Wood Holdings Ltd ("Fern Wood") since March 2009. The lease was expressed to run for seven years and included a qualified covenant in relation to improvements.

Terry's brother-in-law, Luke, is an engineer and inventor who spends much of his spare time developing various devices and machines. Six months ago, following representations from his sister, Terry agreed to let Luke house his engineering projects in a disused, pre-fabricated shed which is situated in the garage yard. Terry did not think it proper to accept payment for the arrangement, but he did accept a gift from Luke, an annual subscription to the trade magazine Emission Workshop. To keep his inventions secret, Luke always padlocked the door when he was not on site.

To cater for a recent increase in business, Terry wishes to make changes to the premises, namely the installation of an additional ramp, the digging of a second maintenance pit and the installation of a wash room and kitchenette. The improvements will involve the removal of the pre-fabricated shed.

Terry has approached Fern Wood for permission to undertake the changes. Fern Wood has informed Terry that it will allow Terry to install the additional ramp and maintenance pit on condition he pay a £3000 premium and provide an undertaking to reinstate the premises at the end of the term. In relation to the wash room and kitchenette, however, Fern Wood has refused to grant its consent on grounds that such changes do not amount to improvements and may encourage Terry to breach the commercial use restriction in the lease.

Terry has asked Luke to vacate the shed but Luke has refused and claims to have a lease.

Advise Terry as to:

(a) whether Luke has a lease, and if so, what effect it may have on Terry's plans.

(10 marks)

(b) whether Terry will be able to make the changes to the premises as desired.

(15 marks)

(Total: 25 marks)

Turn over

Question 2

Wetherill Properties Ltd ("Wetherill") converted a large Georgian Mansion (the House') into residential apartments. The House is in an exclusive part of London and is valued in excess of £14 million. Wetherill lease their apartments furnished for an initial term of six months after which time the leases are renewed monthly.

Alison moved into one of the apartments three weeks ago. Shortly afterwards, she sent a letter of complaint to Wetherill alleging that the apartment was infested with bed bugs. She has since demanded Wetherill take remedial action.

Beatrice is Alison's immediate neighbour. Her lease was granted five years ago. Beatrice was also affected by an infestation of bed bugs but she fumigated the apartment at her own expense. She has sent a copy of the invoice to Wetherill and has informed it that she intends to deduct the costs from the rent.

Charles has been a tenant of the penthouse apartment for three months. He has asked Wetherill to remove graffiti that has appeared on the front garden wall. Wetherill is reluctant to clean the wall, whenever it has done so in the past the graffiti has reappeared.

Wetherill recently sent a proposal to tenants outlining its intention to replace the original window frames in the shared hallways with cheap, modern, plastic frames on the ground that they are easier to maintain. Charles has expressed his concern about Wetherill's proposal to replace the window frames in the shared hallway. He alleges that the proposed replacement windows are not in keeping with the standard of the property.

Douglas has been a tenant of an apartment for six months. Two weeks ago he telephoned Wetherill to express his concern that the gas central heating system was making odd noises. A representative of Wetherill told Douglas that there was "no need to worry" as Wetherill had only recently had a contractor check the gas and the annual Gas Safety Certificate had another eight months to run.

Advise Wetherill.

(25 marks)

Question 3

Deerfield Ltd ("Deerfield") owns two shops in a parade. The leases it grants contain covenants preventing assignment and subletting and reserve a right of re-entry in the event of breach.

Shop one has been let to Chris, a sole trader, who has run a fish and chip shop from the site for over 30 years. The lease was last renewed in 2005 and was expressed to run for 14 years. Deerfield has recently discovered that Chris retired and assigned the lease to Anthony, in breach of covenant.

Shop two is let to a charity, which runs a retail shop from the site. The lease was signed just over seven years ago and is due to expire in seven months. The trustees of the charity have expressed an interest in acquiring a new lease. Deerfield, however, do not wish to grant a new lease as they wish to demolish both shops and build an enterprise park. Deerfield has consulted an architect and made enquires of a local Councillor as to whether the Council will grant planning permission.

Advise Deerfield as to its chances of gaining possession of the two shops and any steps it should take to obtain such possession.

(25 marks)

Turn over

Question 4

Lester lets a house to Claudine and her two young children by virtue of an Assured Shorthold Tenancy Agreement signed in May 2010.

Last month Lester, a self employed painter and decorator, telephoned Claudine to inform her that he intended to redecorate the interior of the house. Claudine stated that she was uncomfortable with the arrangement, partly because the paint fumes would exacerbate her youngest son's asthma and partly on account of a loss of privacy. Claudine refused to grant permission and changed the locks on the front door.

Lester sent a letter to Claudine giving her one month's notice of his intention to terminate the tenancy. It expressed the view that as Claudine had changed the locks, Lester will have no option to gain entry to the premises other than by force and that she will be accountable for any resultant damage to the property. In response Claudine has refused to leave or enter further communication with Lester.

Advise Lester as to:

- (a) the potential liability he may face if he continues with his proposed course of action;

(18 marks)

- (b) the steps he should adopt to gain possession of the premises.

(7 marks)

(Total: 25 marks)

End of Examination Paper

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