



THE CHARTERED 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 2012-2013, 20th edition, Meryl Thomas, Oxford University Press, 2012.**
- 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 assess whether decisions of the courts have provided a workable scheme for the determination of trusts of the family home.

(25 marks)

2. (a) Critically assess the approach of the courts to determining what is included in the transfer of an estate in land.

(17 marks)

- (b) Critically assess the maxim that the owner of an estate in land owns that estate *ad coelum et ad inferos*.

(8 marks)

(Total: 25 marks)

3. Critically assess the approach of the courts to determining whether a binding tenancy exists.

(25 marks)

4. Critically evaluate the proposition that a claim for adverse possession of an unregistered estate is more likely to succeed than a claim for adverse possession of a registered estate.

(25 marks)

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

Question 1

Rex purchased 11 Anderson Terrace in June 1985 and has lived there ever since. Beyond the rear boundary of the property is an unadopted service road, the other side of which is an unfenced area of grassland.

Since moving in, Rex has used the service road to drive to the property. He parks his car on the grassland.

In 2010, following a campaign by local residents (but not supported by Rex), the area of grassland was declared Common Land. Rex was asked to desist from parking on it, but refused. In consequence, in December 2011, the local authority erected concrete bollards to prevent parking on the common.

Last November, the service road was purchased by Stonehouse Ltd, who has gated it, preventing vehicular access. Stonehouse Ltd has written to Rex offering him an easement over the service road in consideration of £15,000.

Advise Rex whether he can claim rights by way of easement to park on the common and to use the service road.

(25 marks)

Question 2

Yasmin is the legal and beneficial owner of a freehold estate, Leckenfold House.

Five years ago, Yasmin's neighbour, Zander, asked for a right of way over Leckenfold House. Yasmin agreed in conversation with Zander that he could drive over the estate provided that he paid for a track to be laid. Zander agreed. The track was made-up and he continues to use it.

More recently, Yasmin became ill. Her nephew, Ashraf, visited her every day to care for her. She told him, "You are a good boy. Your reward for your kindness will be this house when I am gone." Ashraf eventually moved in to Leckenfold House as Yasmin needed full-time care.

Yasmin recently died. She left her entire estate by will to Battersea Dogs Home.

Her executors have been advised that Zander's use of the track is capable of amounting to an easement.

Advise the executors as to whether they are bound by Zander's claim to a right of way and by Ashraf's claim to the estate.

(25 marks)

Question 3

Trevor was left Cold Spring Harbour House in the will of his late aunt. The estate was duly transferred to him and he is registered as proprietor.

Trevor lives at the house, and has charged it as security for a number of loans which he has used, unsuccessfully, to build his manufacturing business.

On 16 May 2008, Trevor contracted to grant a mortgage in favour of Uxbridge Finance Ltd. A loan was advanced but the mortgage deed was never executed. However, a notice of the contract was registered on 17 August 2008.

On 28 May 2008, Trevor executed a mortgage by deed in favour of his friend Victor. This charge was registered on 20 June 2008.

On 30 August 2008, Trevor executed a charge by deed in favour of Wagontrail Ltd. The charge remains to be registered.

On 19 September 2009, Trevor executed a charge by deed in favour of Xanadu Bank Ltd. This charge was registered on 30 September 2009.

Trevor has fallen out with Victor and has made no repayments to Victor since September 2012. Trevor's business is failing and is likely to go into liquidation in the near future.

(a) Advise the parties as to the priority of the charges affecting the property.

(12 marks)

(b) Advise Victor of the steps he might take to enforce the charge.

(13 marks)

(Total: 25 marks)

Question 4

Betta-Build plc has recently purchased and developed a two-acre freehold brownfield site, which now comprises twelve semi-detached houses served by private estate roads.

It wishes to ensure that the purchasers of the freehold houses and their successors:

1. Do not use the properties for business purposes;
2. Keep the private estate roads in good condition; and
3. Maintain the fences bordering each property.

Advise whether, and if so how, Betta-Build can achieve its aims.

(25 marks)

End of Examination Paper

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