



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 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. Fraud apart, there is no law against letting a tumble-down house.

In the light of this statement 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. Explain the practical difficulties posed by granting long leaseholders of flats a right to acquire freehold ownership and assess the extent to which the collective enfranchisement provisions of the Leasehold Reform (Housing and Urban Development) Act 1993 has successfully addressed these difficulties.

(25 marks)

4. Consider whether occupiers of residential property are sufficiently protected from eviction and harassment by statute.

(25 marks)

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

Question 1

Following a disagreement with her letting agents, Lona decided to take over the running of her family's property portfolio. One of the properties, located near the centre of the City, comprises three self-contained flats, one on each floor of the block. The flats are let to residential tenants and the rent for each flat is paid monthly. None of the tenants signed a written tenancy agreement.

The top floor flat, which has good views over the City, has been let to Arun since 1987. Arun lives in the flat during the week but returns to the family home in the Forest of Dean on the weekends. Arun recently lost his job as an accountant and has only been able to find part-time work since. He has failed to pay the full rent for the last three months. When Lona contacted him he was very apologetic and explained that he had a number of job interviews arranged. Lona is keen to evict Arun. Not only does she think that the rent Arun pays is far too low but she also envisages using the flat as a base for her shopping trips in the City.

The second floor flat has been let to Briti since 1995. Briti is a freelance writer who has recently experienced problems with one of her publishers. As a result, Briti has not paid rent for the last three months. Nevertheless, Briti has shown Lona evidence of a compromise agreement which appears to demonstrate that Briti will be able to clear the arrears in two months time.

The ground floor flat has been let to Chayla since 2009. Arun and Briti are long term friends but have taken a dislike to Chayla and complain about her to Lona on every available occasion. Their most recent allegation is that Chayla must be smoking cannabis on the premises as strange smells have been coming from her flat.

Lona has written to all three tenants terminating their tenancies with immediate effect.

Advise Lona as to:

- (a) the type of tenancy each of them is likely to hold,
(10 marks)
- (b) the procedures Lona should adopt to obtain possession and the chances of success.
(15 marks)

(Total: 25 marks)

Turn over

Question 2

Tara is the owner and managing director of Silly Old Bags Ltd. ("Silly Old Bags"), a company that manufactures bags to customers' special orders. Silly Old Bags occupies two premises: a factory and a shop.

The shop is let from Lazarus Ltd ("Lazarus"). The lease was granted in 2006 for the duration of 12 years and included a qualified covenant against assignment. In the last couple of years Silly Old Bags' main source of sales has been from the Internet with the result that the shop is now operating at a loss. For this reason Tara is keen to assign the lease. She has found a prospective assignee, a national property management firm, looking to expand in the local area. Lazarus has told Tara that while it is not, in principle, opposed to an assignment, it will not grant consent in this instance as the proposed assignee's references have proved unsatisfactory. Lazarus also made it clear that it expects to be paid a premium if it is to grant consent in any case.

The factory is let from Melvin Associates Ltd. ("Melvin"). It was let in 2006 for a term of eight years. Tara has approached Melvin to inquire as to the terms of a renewal. Unfortunately Melvin has informed Tara that it has made preliminary plans to demolish and reconstruct the site. Melvin has offered to grant her a tenancy when the redevelopment is complete but that is not expected to be before October 2015. Silly Old Bags has only recently installed an expensive network of custom built conveyor belts inside the factory. These will not be able to be salvaged if the factory is demolished.

Advise Tara.

(25 marks)

Question 3

Lylith is the freehold owner of four industrial units. One of the units is let to Roland, one is let to Tannis and two are let to Maya under a single lease. Lylith leaves the day to day management in the hands of her agent, Axton. Each lease was let for a term of three years. The tenancies were specifically excluded from the provisions of the Landlord and Tenant Act 1954.

Each lease contains a proviso for re-entry on breach of covenant. In addition they include the following covenants:-

- i. that the tenant shall not assign, sublet or otherwise part with possession without the landlord's consent in writing;
- ii. that the tenant shall not alter the premises in any way.

Roland used the unit he let to store his collection of classic cars. Roland paid the rent directly into Axton's account each month. Unbeknown to Axton or Lylith, Roland recently emigrated to Spain and assigned the lease of the garage to one of his former work colleagues, Bob. Bob has continued to pay the rent into Axton's account.

Tannis is currently five and a half months behind with her rent.

Maya trades in imported ornaments and rare artefacts. Initially she used one of the units as a showroom and the other unit to store her stock. More recently her business has focused on antique furniture with the result that she needed a larger showroom. She demolished the adjoining wall between the two units that she lets to create a single area. Axton noticed the change on a routine inspection but failed to take any action or pass the information on to Lylith. Axton has continued to collect the rent from Maya.

Lylith now wishes to sell the freehold of the units and has been told she will obtain a better price if she can sell with vacant possession.

Advise Lylith as to the procedures she should adopt to forfeit the three leases and her chances of success.

(25 marks)

Turn over

Question 4

Lawfords Ltd. ("Lawfords") was established for the express purpose of converting a dilapidated country estate into residential apartments. The estate comprised a manor house, various outbuildings and an old Victorian market garden, lost to weeds. Lawfords envisaged that the redevelopment could cause some animosity within the local village.

To generate some immediate capital, Lawfords let one of the outbuildings to a haulage firm, Epoc Ltd. ("Epoc") for an initial period of six months. Epoc made a one off payment of £12,000. During the initial written negotiations Lawfords suggested Epoc would be allowed to renew the agreement beyond the initial term.

After refurbishments began, Lawfords were approached by a local Charity, the express purpose of which was to assist the long term unemployed. The Charity offered to restore the market garden on condition that it could use one of the estate's outbuildings as a tea shop to generate profits to fund the restoration and give their clients work experience. Lawfords, regarded the proposal as an ideal opportunity to improve community relations so accepted, subject to the proviso that the Charity would "not interfere with the landlords' rights of possession" and that Lawfords' sub-contractors would be entitled to a discount in the tea shop. The agreement was never committed to writing. Lawfords always believed that the Charity would leave once the redevelopment was complete.

After suffering criticism in the local paper for appointing foreign sub contractors, Lawfords employed a local electrician, Mark, to undertake the wiring in the main house. During the job, Mark was evicted by his landlord and could not find an affordable place to live in the area. Fearful of adverse publicity, Lawfords allowed Mark to occupy one of the finished apartments until he had completed his contract. Lawfords asked Mark to pay a small monthly contribution towards the running costs of the apartment.

Lawfords now want to regain possession of all the parts of the estate but Epoc, the Charity and Mark each claim to have a tenancy.

Advise Lawfords.

(25 marks)

End of Examination Paper

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