



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 recent decisions of the courts have provided clarity and certainty in the determination of trusts of the family home.

(25 marks)

2. Critically assess the extent to which the common law, statute and equity inhibit the enforcement of mortgages, and the terms of such mortgages, by mortgagees.

(25 marks)

3. Critically assess whether it is necessary to express the grant of easements in the transfer of a part of a freehold estate in the light of the variety of ways in which such easements will be implied.

(25 marks)

4. Critically assess the extent to which the owner of a freehold estate can resist claims by squatters if:

(a) that freehold estate is unregistered;

(10 marks)

(b) that freehold estate is registered.

(15 marks)

(Total: 25 marks)

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

Question 1

Rajni owned the freehold of Holiday Hotel. She granted a 25 year lease of Holiday Hotel to Steve.

The lease contained an option for the tenant to purchase the leasehold reversion at any time during the term.

The lease contains the following tenant's covenants:

- To keep the property in good repair;
- Not to assign the lease without the landlord's consent; and
- To purchase all cleaning services from a company owned by Rajni.

Five years later, Steve, with Rajni's consent, assigned the lease to Tanya. Tanya assigned the lease, again with Rajni's consent, to Una three years after that.

William purchased the freehold, and the cleaning company, from Rajni a month ago. He has discovered that Una has permitted the property to fall into disrepair and refused to purchase cleaning services from the company.

Last month, Una gave notice to purchase the reversion in accordance with the terms of the option.

Advise William as to the enforceability of the covenants and the option:

- (a) If the lease had been granted in 1990.

(13 marks)

- (b) If the lease had been granted in 2000.

(12 marks)

(Total: 25 marks)

Question 2

Chris owns a freehold comprising a large house with extensive grounds. In 2005 he sold a part of the garden to Duncan. The transfer of the freehold contained the following covenants (which are properly registered):

- To construct and maintain a six-foot stock-proof fence around the plot;
- To pay a reasonable proportion of the cost of servicing and maintaining the cesspit serving both the house and the plot; and
- Not to undertake any building work on the plot without the consent of Chris in writing.

Duncan, with Chris' written permission, built a house on the plot, which he had connected to mains drainage. In 2011 he sold the plot to Elizabeth.

Last year Chris sold his remaining estate to Fabian.

Fabian is concerned that Elizabeth has allowed the fence to fall into disrepair. Furthermore Elizabeth refuses to pay anything towards the cost of the cesspit as her property no longer uses it. Last month Elizabeth started building an extension to the house.

Advise Fabian whether he can insist that Elizabeth repairs the fence; pays towards the cost of the cess-pit; and whether he can prevent her from building the extension.

(25 marks)

Question 3

India, Jasper, Keith, Linda and Maurice are all students at Kempston University. At the end of their first year, they decide to pool their resources to buy a house for them all to live in.

They purchase Nuneaton House for £250,000, contributing equally to the purchase price. The transfer states that the property was transferred to them as "beneficial joint tenants".

Just before their second year is due to commence, India decides to withdraw from University and to go travelling. She sells her share in the property to Nirmal.

In September of the second year, Jasper is declared bankrupt. The next month Jasper and Keith are killed in a road traffic collision.

Linda, who was driving at the time of the collision, survives the accident, but is killed by Maurice, who blames her for the deaths of Jasper and Keith. Maurice is convicted of manslaughter on the basis of diminished responsibility.

Nirmal wants to sell the property to realise his investment, but Maurice refuses, as he wants somewhere to live on his release.

- (a) Advise the parties as to the devolution of the legal and beneficial estates.

(18 marks)

- (b) Advise Nirmal as to the steps he might take to compel the sale of the property.

(7 marks)

(Total: 25 marks)

Turn over

Question 4

Hussein Property Holdings Ltd recently purchased, at auction, the registered freehold of a block of four flats, and has been registered as proprietor.

The company's surveyor attends the block for the first time after the auction.

The surveyor finds Flat 1 occupied by Alan, who states, "I moved in five years ago. I've got squatters' rights and there's nothing you can do about it."

Flat 2 is occupied by Bambi, who shows the surveyor a properly constituted assured shorthold tenancy agreement entered into by the company's predecessor in title shortly before the auction.

Christina lives in Flat 3. She explains to the surveyor that it is her father's flat (which contains some of his personal effects) and that she is living there rent-free whilst he has been living and working abroad. She shows a properly constituted 125 year lease of the flat, granted five years ago. The lease was never registered.

Derek shows the surveyor a properly constituted lease of Flat 4, also for 125 years and granted five years ago. He lives in the flat. The lease was never registered.

Advise the company whether it is bound by the interests of any persons who may claim rights to Flats 1 to 4.

(25 marks)

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