



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 10 – Landlord & Tenant Law**

**Question paper**

**January 2024**

**Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)**

**Instructions and information**

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- A calculator is provided should you require the use of one.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

***Turn over***

## SECTION A

Answer at least one question from this section.

1. Critically analyse:
  - (a) what distinguishes a lease from a licence; **(8 marks)**
  - (b) the principal consequences of that distinction; **(6 marks)**
  - (c) whether that distinction has always been consistently applied. **(11 marks)**

**(Total: 25 marks)**
  
2. Critically evaluate how the Rent Act 1977 regulates procedures for obtaining possession, succession and rent protection. **(25 marks)**
  
3. Critically analyse:
  - (a) the legal formalities for validly creating both: (i) an agreement for lease and (ii) a lease; **(14 marks)**
  - (b) how a lease that fails to satisfy the legal formalities might still be enforceable. **(11 marks)**

**(Total: 25 marks)**
  
4. "A tenant who has covenanted to keep the structure of the demised premises in repair cannot be required to repair damage which is caused by an inherent defect in the structure of those premises".  
  
Critically evaluate whether this statement is correct. **(25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

Annabelle owns a shopping parade consisting of three commercial units.

Unit 1 is let to Bilal for a term expiring on 24 March 2025. Bilal's lease requires him to pay his quarterly rent and estimated service charge by direct debit on the usual quarter days. However, Bilal habitually pays these sums by cheque, which he hands to Annabelle on the relevant quarter day. The cheques always clear on presentation but not until a few days after the relevant quarter day.

Unit 2 is let to Cassie, also for a term expiring on 24 March 2025. Cassie runs an off-licence from Unit 2. Annabelle has evidence that Cassie regularly sells alcohol to underage customers. Cassie also persistently refuses to allow Annabelle's agent to inspect Unit 2, despite the fact that the lease requires her to grant such access.

Unit 3 is let to Donovan. Donovan's original lease expired on 24 March 2020. He remained in occupation after that date while he and Annabelle attempted to agree the terms of a new lease. No formal agreement was ever reached and Annabelle was happy for Donovan to remain in occupation since it avoided the risk of the property becoming empty. Donovan has continued to pay rent at the same rate as was reserved under the expired lease.

Annabelle now wishes to recover possession of all three units.

Advise Annabelle as to whether, and if so on what basis, she can recover possession of the three units.

**In your answer, do NOT discuss whether Annabelle is entitled to forfeit any of the leases.**

***(25 marks)***

***Turn over***

## Question 2

Ethan owns a property that is currently let to Fergal, who runs a small independent grocery store, delicatessen and off-licence from the property.

For some time, Fergal has been thinking of selling up so that he can retire. He has recently been approached by a national supermarket operator that wishes to install one of their local convenience stores in the property.

Fergal's lease:

- prohibits any assignment of the property by the tenant unless the tenant has first obtained the landlord's written consent;
- states that, for the purposes of section 19(1A) of the Landlord and Tenant Act 1927, the landlord can impose a condition on any grant of such consent that the tenant enters into an authorised guarantee agreement (AGA) in favour of the landlord.

Fergal sent a written application to Ethan asking for Ethan's consent to the assignment of the lease to the supermarket operator. Ethan replied promptly, stating that he was willing to give his consent to the assignment if Fergal:

- (a) pays Ethan £12,000 (the equivalent of six months' rent); and
- (b) complies with the obligation to provide an AGA.

Fergal has consulted you for advice as to whether he must comply with Ethan's conditions. At the meeting, he provides you with copies of the supermarket operator's publicly available annual accounts for the last five years, which show that in each of those years the operator made a profit of at least £100 million pounds.

Advise Fergal as to whether he must:

- (a) make the payment of £12,000;
- (b) provide the AGA.

**(17 marks)**

**(8 marks)**

**(Total: 25 marks)**

### Question 3

Oscar is the landlord of a row of three cottages in Kempston. A few months ago, he received a very substantial offer for the cottages from a developer, who intends to demolish them and build a block of eight flats on the cleared site. Oscar decided that he therefore needed to obtain vacant possession of the cottages as soon as possible.

The first cottage was let to Priti three years ago on an assured shorthold tenancy (AST). Six months ago, Priti told Oscar that she was going away 'on business'; before she left, she paid Oscar a full year's rent in advance. Two weeks ago, Oscar heard reports that Priti had been killed in an accident overseas. Oscar therefore entered the property, removed Priti's belongings and changed the locks. Oscar then sold the property to the developer for a third of the amount that had been offered for all three cottages. The reports of Priti's death were untrue as last week she returned from abroad ready to move back into the cottage. However, the developer has refused to let her back in.

Two years ago, Oscar let the second cottage to Quinn on an AST for an original fixed term of 12 months. When Quinn took the original fixed-term AST, he paid a deposit to Oscar. Quinn asked what would happen to his deposit, to which Oscar replied "Don't worry, it will be quite safe with me.". Quinn has heard nothing more about his deposit since then. Oscar has now served a section 21 notice on Quinn, giving him three months' notice to quit.

Four months ago, Oscar let the third cottage to Renee on an AST for an original fixed term of 12 months. Oscar has recently given a section 8 notice to Renee on the basis that he will move back into the cottage for a few weeks before he then sells it to the developer.

Advise Priti, Quinn and Renee as to their rights against Oscar.

**(25 marks)**

**Turn over**

#### Question 4

Leroy owns a building in Kempston town centre. Originally constructed in the mid-19th century for use as a bank (over three floors), the building was subsequently converted into luxury residential apartments, except for two ground-floor units (located on either side of the main entrance door and the hallway) that are occupied by a jewellery shop and an art gallery respectively. Leroy let the jewellery shop to Marwan under a 10-year lease granted in March 2020. Marwan trades under the style 'Marwan's Jewellery'.

Over the years, the sandstone façade of the building has been badly affected by a combination of natural weathering and the effects of pollution. The stonework was severely discoloured and had started to flake away in several places. The roof was also in need of significant repair. Marwan was aware of the condition of the stonework, but not the state of the roof, when he took the lease of the jewellery shop.

The lease contains a covenant by the landlord to keep the structure and exterior of the building in good repair.

In early July 2023, Leroy engaged specialist contractors to repair the stonework and the roof. In order to carry out the works, the contractors:

- erected scaffolding across the entire frontage of the building, leaving only a six-foot wide gap to allow access to its front door;
- wrapped plastic sheeting over the scaffolding so that the jet washing of the stonework would not result in water spraying out onto the highway – this sheeting entirely obscured the windows of the jewellery shop.

The works were originally scheduled to take 8–10 weeks; however they have still not been completed. In late October 2023, Marwan complained to Leroy that the works were causing significant disruption to his business. Leroy replied: "I know, I know. On some days no-one turns up to do any work, and on other days only one or two of the workmen seem to be on site. I've tried getting them to hurry up but they're just a law unto themselves. There's not much more that I can do, but I will arrange for a sign to be placed on the street saying: 'Marwan's Jewellers is still open for business'".

Leroy provided the sign as promised but Marwan's business is now in severe financial difficulties. His turnover has fallen by 80% since the works began.

Advise Marwan as to whether he has any remedies against Leroy for the losses he has suffered.

**(25 marks)**

**End of the examination**

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