



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

Unit 9 – Land Law

Question paper

January 2023

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 can use your own unmarked copy of the following designated statute book – ***Blackstone's Statutes on Property Law 30th edition, Meryl Thomas, Oxford University Press, 2022.***
- 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 assess how far the law relating to resulting and constructive trusts prioritises legal technicalities over social realities.

(25 marks)

2. Critically evaluate how likely it is that an easement to park a vehicle will be recognised by the court.

(25 marks)

3. Critically analyse the way the law balances the interests of lenders and borrowers in relation to:
 - (a) fetters on the right to redeem;

(10 marks)

 - (b) the circumstances in which a court can stay or suspend possession proceedings;

(8 marks)

 - (c) the duties of the selling mortgagee.

(7 marks)

(Total: 25 marks)

4. Critically analyse how far the Land Registration Act 2002 has successfully implemented:
 - (a) the “mirror principle”;

(15 marks)

 - (b) the “curtain principle”.

(10 marks)

(Total: 25 marks)

SECTION B

Answer at least one question from this section.

Question 1

Aliah retired early from her very well-paid job in 2017. With a lot of money in savings, Aliah decided to invest in property in order to provide her with a stable income for the rest of her life. Aliah bought two properties: 23 The Crescent, a two-bedroom house and Lookout Studio, an artist's studio.

Aliah rented Lookout Studio to Daryl, a local portrait artist, in 2017. The lease was for 10 years and was properly created and registered. In the lease agreement, the following covenants appear:

"23. The tenant will keep the premises in good repair.

24. The tenant will paint a portrait picture of the landlord once a year."

In 2019, Daryl moved away and assigned his lease to Ursula. Daryl entered into an authorised guarantee agreement with Aliah. In 2021, Ursula assigned the lease to Vikram. Ursula entered into an authorised guarantee agreement with Aliah.

Aliah rented 23 The Crescent to Bilal and Clarissa, a young couple, in late 2022. Aliah asked Bilal and Clarissa to each sign separate "licence agreements". The two documents were identical, purporting to grant a licence for a two-year duration. Both Bilal and Clarissa are expected to pay £350 as a "monthly licence fee". There is a clause in each document which states:

"Aliah has the right to enter the property between 6am and 7am every Friday to provide cleaning services and laundry."

Bilal and Clarissa have always slept in the same bedroom, using the spare room as a home gym. Aliah has never provided the services mentioned in the documents.

Vikram has failed to keep the studio in good repair or to paint the portrait of Aliah. Aliah wishes to terminate Bilal and Clarissa's agreement early, but Bilal and Clarissa are claiming that they have rights as tenants under a lease.

Advise Aliah as to whether any of the covenants discussed can be enforced.

(25 marks)

Turn over

Question 2

Erica is the registered owner of 45 Kempston Road. The property consists of a shop unit on the ground floor, which Erica uses for her interior design business, and two self-contained flats above the shop, one on the first floor and one on the second floor, where Erica lives.

Last year, Erica rented out the first floor flat to Faizal. The lease was for 10 years. While negotiating the lease, Faizal told Erica that he was only interested in renting the flat if it was fully furnished. Erica agreed to this term.

Erica created a document titled "Contract for Lease". The document set out the terms of the lease and was signed by Faizal.

A week after Faizal signed the document, Erica realised that the document did not include the term about the flat being fully furnished. She wrote a letter to Faizal, titled "Formal addition to Contract" which set out this term. Erica signed the letter.

In recent months, Gerry, who is the owner of the next-door property, has erected a large sign advertising his business. The edge of the sign almost touches Erica's building. Erica is also unhappy that Gerry flies his drone above their properties.

Erica has found out that a local property developer is interested in building on her land and is willing to make an offer substantially above market value for the land. The developer has told Erica that she will only go ahead with the purchase if Faizal can be evicted before the end of the full term of the lease.

Advise Erica as to:

- (a) whether she has created a valid legal lease with Faizal; **(7 marks)**
 - (b) whether she has created a valid equitable lease with Faizal; **(9 marks)**
 - (c) whether Gerry is likely to have committed a trespass. **(9 marks)**
- (Total: 25 marks)**

Question 3

Harriet is the owner of a large piece of farmland in the countryside near Kempston. Harriet inherited the property from her father in 2015. When Harriet's father died suddenly, she returned home from living abroad. She was not familiar with the farm as it had been purchased after she moved away from the area.

Harriet has recently been approached by a large national supermarket chain who are interested in purchasing some of her land on which to build a new store. As part of the negotiations, the supermarket chain has asked Harriet about two particular areas: what she refers to as "the old paddock" and "the West field". After investigating the title of the property, the chain believe that these two areas are not part of the farm property.

The old paddock is a large open piece of land on the edge of the farmland owned by Harriet. In 2015 Harriet was assured by Ian, the family solicitor, that the old paddock was part of the farmland. According to Ian, who was a friend of her father's, "your dad kept three horses in that paddock for as long as I've known him". Since 2015, Harriet has used the land to race quad bikes and once a year to host a small music festival.

Harriet has spoken to her mother, who now lives in a care home in Kempston. Her mother has told her that "your father used to pick me the most beautiful wildflowers from the West field". Apparently, the field was otherwise undisturbed, but in 2011 Harriet's father began to use part of the field to store tractor parts. In 2014, after reports of trespassers, he enclosed the field with a wooden fence and placed "keep out" signs around the field. At this point he began to use the field to grow crops. Harriet has continued to use the field for growing crops.

It has been discovered that the old paddock was registered in 2004 as belonging to Lord Kelvin. The West field is unregistered but Leroy, Harriet's neighbour, has found an old title deed to the property. Leroy tells Harriet that "I told your dad to stop using that field back in 2015".

Advise Harriet as to any claim(s) in adverse possession she may have over the old paddock and the West field.

(25 marks)

Turn over

Question 4

Marcus and Naveen are married with four children; Opal, Petra, Robbie and Sally. Marcus and Naveen live at 34 Arcadia Avenue. They purchased the property together many years ago, with Marcus contributing two thirds of the purchase and Naveen paying the remaining third. By 2020, the three older children had all moved out, but Sally, who was not 18 until 2021, still lived with Marcus and Naveen.

After coming into an inheritance from a relative, the children decided to purchase a property in the local area, "The Gables". Opal and Petra, who worked nearby, planned to live in the property. Robbie, who was working abroad, had no interest in living at the property but considered buying it a good investment. Sally, who was frustrated at living with her parents, also agreed to put her inheritance toward the property. Sally was going to university in a different part of the country, but considered the property somewhere she could live in years to come when she finished her studies. All four children contributed £65,000 toward the £260,000 purchase price.

Opal and Petra moved into the new property in 2020. In late 2021, Robbie mortgaged his share of the property. Two months later, Robbie was involved in a serious accident and was killed. Under his will, his share in The Gables was left to Opal.

In February 2022, Sally spoke about her interest in The Gables with a friend at university, who was studying law. After their conversation, Sally sent a letter to Opal stating: "I want to have my share of this house and not have you or anyone else take it away from me. As of right now my share is mine alone." Sally also said similar words to Petra during a telephone conversation. Petra and Opal both replied to Sally asking her to think again and saying "we still consider you a joint owner".

Last week, Naveen accidentally hit Marcus with her car as she was reversing onto the driveway. She thought Marcus was at work, but in fact he had an unexpected day off and was crouched down weeding the driveway, below Naveen's line of sight. Marcus died of his injuries. Naveen was shocked to find Marcus had left a secret will leaving all his property to Zadie, who he was having an affair with.

Overcome with grief at the loss of both her father and her brother, Petra has decided to begin a new life in Canada. She has demanded that The Gables is sold to help finance her move. Opal still wants to live in the property although Sally is happy to sell.

Advise:

- (a) Naveen as to what share of 34 Arcadia Avenue she holds;

(12 marks)

- (b) Petra as to who owns The Gables, in what shares, and whether she can force a sale of the property.

(13 marks)

(Total: 25 marks)

End of the examination