



CHIEF EXAMINER REPORT

JANUARY 2025

LEVEL 6 UNIT 9 – LAND LAW

The purpose of the suggested points for responses is to provide candidates and Training Providers with guidance as to the key points candidates should have included in their answers to the January 2025 examinations.

The suggested points for responses sets out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

Chief Examiner Overview

Two part questions attracted a much lower mean mark for candidates. In A4(b) the mean mark was low. It was expected that part (a) would see higher mean performance than part (b), which was borne out. Performance in (b) was probably lower than expected but from having marked the responses, this was clearly a lack of knowledge. The other question was B1(b) but I would not see this as statistically significant because only 3 candidates attempted the question, making the mean mark very candidate-dependent.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance may be limited.

Section A

Question 1	25 marks
The question performed as expected, with over half of all candidates selecting this question.	
Suggested Points for Response:	
<ul style="list-style-type: none">• Explanation of doctrine of proprietary estoppel• Requirement for a promise/ assurance• Requirement for reliance upon that• Requirement for detriment• Overarching criterion of unconscionability• Relevant case law• Discussion of remedies for estoppel• Detailed consideration of recent higher court authority	

Question 2	25 marks
Certain candidates saw this as simply a question where they could write about easements as a general topic - easements created by prescription was the actual focus of the question (and was clearly stated as such).	
Suggested Points for Response:	
<ul style="list-style-type: none">• Definition of easement• Overview of methods of creating easement, noting various implied methods alongside express creation• Explanation of doctrine of prescription – long use• User as of right, <i>nec vi</i>, <i>nec claim</i>, <i>nec precario</i>• Prescription period at common law• Prescription period: lost modern grant• Prescription Act 1832• Relevant case law	

Question 3	25 marks
<p>This question was not particularly popular but achieved the highest mean mark across the paper. It is suggested this was self-selecting – covenants is considered a tricky area of law and so candidates were only likely to choose this question if they had a strong understanding (compared to e.g. A2 where candidates consistently over-estimate their understanding of easements).</p>	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Definition of freehold covenant • Explanation of issue of privity of contract between original parties • Explanation of rules relating to running of benefit/burden at common law • Explanation of rules relating to running of benefit/burden in equity • Exception to common law rule on burden, e.g. doctrine of mutual benefit/burden • Relevant statutory provisions e.g. LPA 1925 s56 • Detailed consideration of relevant case law • Consideration of proposals for reform in the area 	

Question 4a	17 marks
Performance on part (a) was fine but performance on part (b) was poorer.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Recognition of leasehold as an estate in land • Recognition of licence as an interest over land of another • Characteristics of a lease • Discussion of requirement for exclusive possession • Sham clauses and modern approach • Exceptions to usual rule of exclusive possession • Requirement for certainty of term • Discussion of requirement for certain term • Effect of distinction between lease and licence 	
Question 4b	8 marks
Suggested Points for Response:	
<ul style="list-style-type: none"> • Discussion of formalities for creation of lease • Parol lease exception under s54(2) Law of Property Act 1925 • Use of Walsh v Lonsdale to create equitable lease • Formalities required for equitable lease • Effect of distinction 	

Section B

Question 1a	13 marks
Only three candidates attempted this question.	
Suggested Points for Response:	
<ul style="list-style-type: none">• Explanation of immediate right to possession• Discussion of how right should be exercised in practice• Discussion of s36 Administration of Justice Act 1970• Discussion of when power of sale arises• Application to the scenario• Relevant law to support discussion	
Question 1b	6 marks
Suggested Points for Response:	
<ul style="list-style-type: none">• Registered interests rank in order of registration• Where both registered, irrelevant that earlier mortgage is equitable• Application to facts• Explanation as to why DMM mortgage is equitable and CCP mortgage is legal	
Question 1c	6 marks
Suggested Points for Response:	
<ul style="list-style-type: none">• Recognition of right to redemption• Principle of no clogs and fetters on right to regime• Distinction with postponement of right• Question as to whether fair bargain/genuine reason• Application to the scenario• Relevant law to support discussion	

Question 2	25 marks
Attempts too limited for feedback.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Use of trusts as mechanism to establish and govern co-ownership of land • Identification of trusts arising by operation of law (resulting and constructive) • Recognition of modern preference for constructive trust in domestic context and how such trusts can arise • Discussion of quantification of shares where all parties are on the title but beneficial interest is not identified • Discussion of mechanisms for co-ownership of equitable title • Effect of death of co-owner on joint tenancy • Discussion of severance by mutual agreement/mutual course of dealing • Effect of death of co-owner on tenant in common • Application of above points to facts • Relevant case law to support discussion 	

Question 3a	5 marks
Attempts too limited for feedback.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Distinction between realty and personalty • Fundamental principle that rights of finder are relative to those of true owner • Consideration of whether landowner has superior right vis-à-vis licensee finder 	
Question 3b	12 marks
Suggested Points for Response:	
<ul style="list-style-type: none"> • Distinction between fixtures and fittings/chattels • Test of degree of annexation • Test of purpose of annexation • Test of permanency • “Common sense” approach • Application of law to facts 	
Question 3c	8 marks
Suggested Points for Response:	
<ul style="list-style-type: none"> • Definition of land • Consideration of maxim <i>cuius est solum cuius est usque ad coelum et ad inferos</i> • Relevant case law on ownership below the surface • Relevant case law on ownership of airspace • Application of above law to facts 	

Question 4	25 marks
Candidates attempting this question performed very well. The question was about adverse possession which is an entirely self-contained area that is given a lot of weight in the way the unit specification is drafted. Candidates were well prepared for this area.	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Identification of relevant doctrine of adverse possession • Discussion of need to show factual possession • Discussion of need to show intent to possess • Law relating to unregistered land, particularly Limitation Act 1980 • Law relating to registered land, particularly Land Registration Act 2002 Sch 6 • Relevant case law to support the above • Application of law to facts 	