



**CILEX Level 3 Certificate in Law and Practice/
CILEX Level 3 Professional Diploma in Law and Practice**

Unit 4 – Land Law

Question paper

January 2023

1 hour and 45 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.
- You must answer **all** questions from Section A.
- There are three scenarios in Section B — you must choose **one** scenario and answer **all** questions relating to that scenario.
- This question paper is out of 70 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.
- 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 all questions

1. Explain whether a landowner is entitled to everything under their land. **(3 marks)**
 2. Explain **one** of the tests to distinguish between a fixture and a fitting (chattel). Illustrate your answer with a decided case. **(3 marks)**
 3. Explain what is meant by the 'four unities' and what they refer to. **(5 marks)**
 4. Explain what is meant by the 'mirror principle' in relation to the land register for registered land. **(3 marks)**
 5. Explain **three** advantages, for a buyer or for a seller, of registered title to land compared with unregistered title. **(3 marks)**
 6. (a) Identify the type of land to which the Land Charges Register relates. **(1 mark)**
(b) Give **one** example of an interest that could be registered on the Land Charges Register. **(1 mark)**
(Total: 2 marks)
 7. When land is held in trust who, out of the trustee and the beneficiary, has:
(a) the legal title; **(1 mark)**
(b) the equitable title. **(1 mark)**
(Total: 2 marks)
 8. Explain how a resulting trust arises. **(5 marks)**
 9. Identify the requirements to establish an easement by prescription. **(5 marks)**
 10. Describe a 'profit à prendre.' **(2 marks)**
 11. Explain **one** ground by which a freehold covenant can be varied or terminated under s.84 Law of Property Act 1925, stating which body has the power to do this. **(3 marks)**
 12. Identify the main features of a capital repayment mortgage. **(4 marks)**
- (Total for Section A: 40 marks)**

SECTION B

There are three scenarios — you must choose one scenario and answer all questions relating to that scenario.

Scenario 1

Annabel and her elderly mother, Mary, bought a house to live in together. The freehold house, 'Treetops', was registered in both of their names as 'legal and beneficial joint tenants'. Mary contributed two-thirds of the purchase price and Annabel the other third.

They moved in, taking out a mortgage on the house to pay for some improvements to it. Subsequently, Mary thought she had been unfair to her son Oliver (Annabel's brother) by investing nearly all of her capital in the house. So, she told Oliver that she would leave him half her remaining money and her share in the house in her will.

Mary wrote a letter for Annabel to find after her death, explaining her reasons for the gift to Oliver in her will and her wish to be fair to both children. She placed the letter in an envelope marked 'To be opened after my death' and put the envelope in her desk.

The following year, Mary died. Her will left 'to Oliver my share in Treetops and half my remaining money and to Annabel the other half of my remaining money'. When Annabel then looked through Mary's papers, she found the letter and read it. She was extremely disappointed. Her lawyer confirmed that the will was valid.

After Mary's death, Annabel had difficulty paying the mortgage by herself. She became friendly with Carl. She invited him to leave his rented flat and share her home in return for help with household expenses. He moved in. From time to time, he tended the garden or gave Annabel small sums of money, which she used to pay some of the mortgage instalments. Later, they quarreled. Annabel told Carl to leave. He did so, but said: "You invited me to share with you; so surely I have a claim to a share in the house."

Meanwhile, Oliver had demanded that the house should be sold, so that he could receive his share under Mary's will.

Turn over

Scenario 1 Questions

1. Explain whether Oliver can claim a share in the house under Mary's will.

(9 marks)

2. Explain whether Carl can claim a share in the house.

(8 marks)

Assume for the purposes of Question 3 that Carl is able to claim a share in the house and wishes it to be sold.

3. (a) Identify the statute and section number for him to make the claim.

(1 mark)

- (b) Identify any **one** factor that the court is obliged to take into account and how it will be relevant to Carl's application.

(2 marks)

(Total: 3 marks)

4. Before Carl left, Annabel was considering a sale of the house to John, a prospective buyer.

- (a) John's lawyer told John that it was a good thing that the house had the best form of registered title. Explain what this form of registration was and why the lawyer said it was a good thing.

(4 marks)

- (b) John's lawyer also said that it was necessary to investigate carefully whether Carl had any interest in the house. Explain why this was.

(3 marks)

(Total: 7 marks)

5. After Carl left, instead of a sale, Annabel decided to let the house on a tenancy for six months to start immediately. Explain whether, under the Land Registration Act 2002, this would need protection by an entry on Annabel's Land Registry entries.

(3 marks)

(Total for Scenario 1: 30 marks)

Scenario 2

Fred owned 3 Silver Strand, a freehold house with registered title. When Fred bought the house, it had a large side garden. Later, he found that the garden was too large for him to manage. He considered selling the house and moving elsewhere but was reluctant to leave the district.

He consulted his lawyer who told him that, should he decide to sell the house, he would first need to complete a Fixtures and Fittings Form. Alternatively, Fred could sell part of the garden, retaining the rest of the garden and the house. Fred was concerned that the sale might interfere with the privacy of his property, so affecting its value. His lawyer reassured him that a covenant could be imposed on the sale, to protect his retained property from the activities of future owners of the part of the garden sold.

Fred acted on this suggestion. He sold half the garden to Ellen, his next door neighbour at 2 Silver Strand. The deed transferring the land to Ellen included this clause:

‘for the benefit of 3 Silver Strand to use the land hereby transferred (‘the Plot’) as a private garden only and not for any business purpose’.

Following this sale, Fred continued to live at 3 Silver Strand. Some years later, Ellen sold 2 Silver Strand, including the ‘Plot’, to Bob. Ellen told Bob about the clause in the deed. At first, Bob used the Plot as his own garden. Then, after creating a more elaborate garden on the Plot, he opened it to the public. Bob charged for entry and sold plants from there. Fred complained to Bob, reminding him of the clause in the deed.

Bob said that the clause did not bind him, as he was not a party to the deed. He also said he wanted to enlarge his garden and offered to buy 3 Silver Strand, but Fred refused.

Turn over

Scenario 2 Questions

1. Fred's lawyer had mentioned the need to complete a Fixtures and Fittings Form before any sale of the house at 3 Silver Strand. Explain the reasons for this.

(5 marks)

2. When Ellen sold 2 Silver Strand to Bob, they entered into a binding contract for the sale. Identify the statutory formalities required for a valid contract.

(5 marks)

3.

- (a) Explain the conditions necessary for the clause in the deed between Fred and Ellen to be binding on Bob.

(7 marks)

- (b) Explain whether those conditions are present in the circumstances of the scenario.

(5 marks)

- (c) Explain if those conditions are present, what remedies a court could award to Fred in respect of Bob's business activities.

(2 marks)

(Total: 14 marks)

4. Bob wants to remain at 2 Silver Strand and continue his business activities. If the clause in the deed between Fred and Ellen is binding on Bob, explain what possible actions Bob could take to stop being bound by it, without involving any legal proceedings.

(6 marks)

(Total for Scenario 2: 30 marks)

Scenario 3

Ahmed purchased 23 Rose Drive, a house with registered freehold title, 10 years ago. 23 Rose Drive is in the middle of a terrace of houses. The house next door, 24 Rose Drive, is owned by Denis.

Access to the front door of 23 Rose Drive is directly from the main road. Access to the back door of 23 Rose Drive is by a small pathway, which crosses the rear garden of 24 Rose Drive. Ahmed occasionally uses the small pathway to gain access to the back door of 23 Rose Drive. Denis has told Ahmed that he intends to erect a gate blocking the small pathway, as he would like his garden to be private.

Ahmed recalls that when he bought 23 Rose Drive, his solicitor informed him that something had been put in writing about Ahmed being able to use the small pathway. However, Denis has told Ahmed that he can stop Ahmed using the pathway anytime that he wishes.

Denis recently built a large summerhouse in his garden. Although this does not block the pathway, Ahmed is concerned, as the roof of the summerhouse overhangs into Ahmed's garden by approximately two metres. Ahmed has not objected to the branches of two large oak trees, belonging to Denis, which have been overhanging 23 Rose Drive for months. Ahmed is annoyed, because the summerhouse is so large that it is affecting the light that he receives through his lounge window and to part of his garden. Ahmed now has to keep his lounge lamp on during the day.

Ahmed feels that with both the tree branches and the summerhouse roof overhanging into his garden, he must do something about this.

Turn over

Scenario 3 Questions

1. (a) Identify the legal right that Ahmed is claiming in respect of the small pathway and the light.
(1 mark)
- (b) Identify the essential characteristics of the legal right you have identified in 1(a) and name the case that defines these characteristics.
(6 marks)
- (c) Explain whether the rights that Ahmed wishes to claim in respect of the pathway and the light satisfy these characteristics.
(7 marks)
- (Total: 14 marks)*
2. (a) Identify how the legal right to use the small pathway may have been created in this case.
(2 marks)
- (b) Explain to Ahmed whether, if nothing had been put in writing, he could claim a legal right to use the small pathway, based on necessity.
(3 marks)
- (Total: 5 marks)*
3. Assuming that a legal right to use the small pathway has been created, identify how the right could be ended.
(4 marks)
4. (a) Explain whether Ahmed has any legal grounds to object to the summerhouse roof and the tree branches overhanging his garden.
(4 marks)
- (b) Assuming that Ahmed can object, identify the legal remedies available to him.
(3 marks)
- (Total: 7 marks)*
- (Total for Scenario 3: 30 marks)*

End of the examination

© 2023 The Chartered Institute of Legal Executives