

## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 4 – LAND LAW\*

**Time allowed: 1 hour and 30 minutes 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 this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- 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 ballpoint 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

## SECTION A

### (Answer ALL questions in Section A)

1. (a) Describe the differences between a fixture and a fitting.  
**(2 marks)**  
  
(b) Explain how the purpose of attachment test is used in deciding whether an object is a fixture or a fitting, with reference to case law.  
**(3 marks)**  
**(Total: 5 marks)**
2. Explain what is meant by 'term of years absolute'.  
**(4 marks)**
3. Give **one** example of an incorporeal hereditament.  
**(1 mark)**
4. Identify the requirements of a valid deed under s.1 Law of Property (Miscellaneous Provisions) Act 1989.  
**(4 marks)**
5. Explain **two** of the four unities of a joint tenancy.  
**(4 marks)**
6. Identify any **two** ways for co-ownership of land to end.  
**(2 marks)**
7. Explain when an easement may be acquired by necessity, with reference to case law.  
**(3 marks)**
8. (a) Identify which body would hear an application to discharge a restrictive covenant.  
**(1 mark)**  
  
(b) Identify **one** ground on which an application could be made to this body to discharge a restrictive covenant.  
**(2 marks)**  
**(Total: 3 marks)**
9. Identify the main features of an endowment mortgage.  
**(5 marks)**
10. Identify any **two** duties of a mortgagee on the sale of a property that has been repossessed.  
**(2 marks)**
11. (a) Identify **one** class of title other than freehold absolute title.  
**(1 mark)**  
  
(b) Identify the interests that will bind the purchaser of a property with freehold absolute title.  
**(2 marks)**  
**(Total: 3 marks)**

12. (a) Explain what is meant by an 'overriding interest'.

**(1 mark)**

(b) Explain when a lease will override first registration.

**(3 marks)**

**(Total: 4 marks)**

**(Total Marks for Section A: 40 marks)**

## **SECTION B**

**(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)**

### **Scenario 1**

Arwen bought Rose Cottage in 1973. Rose Cottage is a detached freehold house. The title to Rose Cottage is unregistered.

Rose Cottage adjoins the public highway at the front, and Arwen has access from this public highway to the front of Rose Cottage by vehicle and on foot. Since her purchase of Rose Cottage, Arwen has also walked across a field at the rear of Rose Cottage ('the Field') as a short cut to a nearby village. The Field is owned by Jenny and the title to the Field is also unregistered. Arwen has used the short cut across the Field a couple of times every month since her purchase of Rose Cottage. Arwen has not followed a defined route across the Field and has always taken care to ensure that Jenny did not see her doing so.

Jenny has recently told Arwen that she has plans to build some houses on the Field. Arwen is worried that if Jenny does so, she will not be able to walk across the Field anymore. Arwen has therefore told Jenny that she has a right of way over the Field and that Jenny cannot stop her from continuing to cross it.

There is no reference in the title deeds of Rose Cottage or the title deeds of the Field to any right of way for Rose Cottage over the Field. Rose Cottage and the Field have never been in common ownership.

On a separate matter, Arwen has been told by her lawyer that it would be a good idea to have the title of Rose Cottage registered at HM Land Registry.

## Scenario 1 Questions

1. Explain whether Arwen walking across the Field is capable of being an easement.

**(10 marks)**

Assume, for the purposes of Question 2, that Arwen walking across the Field is a valid easement.

2. (a) Identify the requirements for an easement to be acquired by prescription.

**(5 marks)**

- (b) Explain whether Arwen is likely to have acquired an easement by prescription to walk across the Field.

**(6 marks)**

**(Total: 11 marks)**

3. (a) Explain why the title of Rose Cottage is unregistered.

**(3 marks)**

- (b) Apart from a sale, identify any **two** other triggers for compulsory first registration of land.

**(2 marks)**

- (c) Identify any **four** reasons why Arwen's lawyer told her that it would be better for the title of Rose Cottage to be registered.

**(4 marks)**

**(Total: 9 marks)**

**(Total Marks for Scenario 1: 30 marks)**

## Scenario 2

Mark and his girlfriend Lucy bought a freehold house, The Hideaway, in 2012 for £100,000. Mark and Lucy each contributed £50,000 towards the purchase price of The Hideaway and both of their names were registered on the Land Registry title. They purchased The Hideaway as beneficial joint tenants and moved in together.

In 2015, Mark and Lucy argued. Mark wrote a letter to give to Lucy, in which he said that he wanted to sell The Hideaway immediately and claim his share of it. However, Mark never gave the letter to Lucy because they made up and continued their relationship. However, their relationship did not last and, in 2016, Lucy moved out of The Hideaway. Lucy has never seen the letter that Mark wrote to her in 2015.

In 2017, Mark's new girlfriend, Saba, moved into The Hideaway with him. Mark promised Saba that they would be together forever and that, while he would like to transfer the Land Registry title of The Hideaway into their joint names, the situation was 'complicated', as Lucy's name was still on the Land Registry title.

Since 2017, Saba has paid towards the utility bills of The Hideaway. Saba also paid £20,000 for a new kitchen for The Hideaway. No written agreement has been made in respect of Saba's financial contributions.

Mark and Saba have now separated. Saba would like to claim a share of The Hideaway, but Mark has told her that she is not entitled to claim a share.

Lucy has recently died and has left a will, leaving her share of The Hideaway to her mother, Claire.

## Scenario 2 Questions

1. (a) Explain what is meant by 'severance of a joint tenancy'.  
**(1 mark)**
  - (b) Explain whether the beneficial joint tenancy of Mark and Lucy has been severed under s.36(2) Law of Property Act 1925.  
**(6 marks)**
  - (c) Explain whether Claire has a claim to The Hideaway under Lucy's will.  
**(3 marks)**
- (Total: 10 marks)**

Assume, for the purposes of Question 2 only, that Mark had handed the letter to Lucy, but she had destroyed it without reading it.

2. Explain whether your answers to Question 1(b) and Question 1(c) above would be different, using a case to illustrate.  
**(7 marks)**
  3. (a) Identify the requirements of a constructive trust.  
**(4 marks)**
  - (b) Explain whether Saba is entitled to a share of The Hideaway on the basis of a constructive trust.  
**(6 marks)**
- (Total: 10 marks)**
4. (a) Identify which **one** of the three principles that underpin the land registration system states that equitable interests under trusts need not be shown on the title.  
**(1 mark)**
  - (b) Identify and explain **one** of the other two principles that underpin the land registration system.  
**(2 marks)**
- (Total: 3 marks)**

**(Total Marks for Scenario 2: 30 marks)**

### Scenario 3

Iqram owns a large farm ('the Farm'), from which he runs a farm shop selling fruit and vegetables. In 2013, Iqram sold a house, 'Willow Barn', in the grounds of the Farm to Alice.

The Transfer Deed of Willow Barn made between Iqram and Alice in 2013 contains the following provisions in respect of the use of Willow Barn:

'... for the benefit of the Farm and the current and future owners of it and so as to bind the Transferee and their successors in title to Willow Barn, the Transferee agrees that:

1. no alterations or additions are to be made to Willow Barn; and
2. the owner of Willow Barn must buy fruit and vegetables from the farm shop of the Farm at least once every month ...'.

In 2017, Iqram sold the Farm to Ellie. Shortly after this, Alice built a conservatory extension onto Willow Barn. Since the sale of the Farm to Ellie, Alice has stopped buying fruit and vegetables from the farm shop and now buys them only from a supermarket. Ellie would like to enforce the provisions in the 2013 Transfer Deed against Alice.

Alice is thinking about selling Willow Barn to Zander. Zander's lawyer has told him about the provisions in the 2013 Transfer Deed which are shown on the Land Registry title. Alice has assured Zander that if he does buy Willow Barn from her, he will not have to comply with either of the provisions in the 2013 Transfer Deed, as he did not sign it.



### Scenario 3 Questions

1. Explain, with reference to statute, why a Transfer Deed was used in respect of Alice's purchase of Willow Barn.

**(3 marks)**

2. (a) Identify the type of obligations created between Iqram and Alice in the 2013 Transfer Deed.

**(1 mark)**

- (b) Explain whether Ellie can enforce the obligations in the 2013 Transfer Deed against Alice.

**(10 marks)**

**(Total: 11 marks)**

Assume, for the purposes of Question 3, that Zander buys Willow Barn from Alice.

3. Explain whether Zander, as owner of Willow Barn, will be bound by the obligations in the 2013 Transfer Deed.

**(10 marks)**

4. (a) Identify the register of the Land Registry title that these obligations are likely to be found in and give an example of **one** other provision that might be found in this register.

**(2 marks)**

- (b) Identify the register of the Land Registry title in which you would expect to find provisions that benefit the land and describe the other information that will be found in this register.

**(4 marks)**

**(Total: 6 marks)**

**(Total Marks for Scenario 3: 30 marks)**

**End of Examination Paper**