



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

Unit 4 – Land Law

Question paper

June 2022

Time allowed: 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 when infringing a person's airspace is likely to be trespass, using a case to illustrate your answer.

(4 marks)
2. Identify the requirements of a valid deed under s1 Law of Property (Miscellaneous Provisions) Act 1989.

(4 marks)
3. Identify any **four** factors used by the courts to decide what is 'fair in the circumstances' to quantify the share of a beneficial interest in a constructive trust.

(4 marks)
4. Identify the duty of a trustee in s11 Trusts of Land and Appointment of Trustees Act 1996.

(1 mark)
5. Identify any **two** ways for an easement to be extinguished.

(2 marks)
6. Identify any **four** advantages of the system of land registration.

(4 marks)
7. Explain when an easement may be granted by common intention, with reference to case law.

(4 marks)
8. Other than an application to the Upper Tribunal (Lands Chamber) to discharge a covenant, identify the **two** other ways to discharge a covenant.

(2 marks)
9. (a) Explain what is meant by the 'legal date for redemption' and what the significance is of this date passing.

(4 marks)

(b) Explain what is meant by a 'clog on the equity of redemption.'

(3 marks)

(Total: 7 marks)

10. Identify any **two** remedies available to a mortgagee, when a mortgagor defaults on the mortgage repayments.

(2 marks)

11. Explain what is meant by the insurance principle in relation to registered land.

(4 marks)

12. Identify the interests that will bind a buyer of land with 'absolute freehold title.'

(2 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

In January 2020, Alan bought a plot of land ('the Plot') from Helen. Alan intends to build five houses on the Plot. The title to the Plot is registered at the Land Registry.

There is a drainage pipe crossing under the Plot that serves a nearby house, 1 The Vale, owned by Rachel. Helen told Alan about this drainage pipe when he bought the Plot from her and there are also some manhole covers on the Plot indicating its location. However, there is no mention of the drainage pipe in the Land Registry title of the Plot.

Alan has therefore told Rachel that he intends to remove the drainage pipe and that Rachel will have to install a new drainage pipe serving 1 The Vale, outside of the Plot. While Rachel can do this, it will cost her a lot of money.

Alan has told Rachel that she has no right to use the drainage pipe as there is no mention of it on the Land Registry title of the Plot. Alan has also said that while she might have had a right against Helen, any right will not also bind him.

Rachel has spoken to her lawyer as the drainage pipe has been in place since before Rachel bought 1 The Vale in 1998. Rachel has also sought her lawyer's advice because she is concerned that the houses to be built on the Plot will affect the light into her garden and, in particular, to the summerhouse that she has in her garden.

Turn over

Scenario 1 Questions

1. (a) Identify the essential characteristics of an easement as stated in *Re Ellenborough Park* (1956).

(5 marks)

- (b) Explain whether the use of the drainage pipe and the light to the garden and the light to the summerhouse are capable of being valid easements.

(8 marks)

(Total: 13 marks)

Assume for the purpose of the following questions that the right to use the drainage pipe is capable of being a valid easement.

2. Explain whether the right to use the drainage pipe has been acquired by necessity, with reference to case law.

(5 marks)

3. Explain whether the right to use the drainage pipe has been acquired by prescription.

(7 marks)

4. Explain whether the right to use the drainage pipe is an overriding interest that will bind Alan.

(5 marks)

(Total for Scenario 1: 30 marks)

Scenario 2

Kate and Alex are unmarried friends who have recently bought a house 'The Rookery.' The purchase price of The Rookery was £500,000. Kate paid £300,000 towards the purchase price and Alex paid £100,000. A mortgage from the Bedfordshire Building Society was obtained for the balance.

Kate and Alex both have adult children who do not live at The Rookery. At the time of their purchase, Kate and Alex's lawyer gave them advice as to how they should own the beneficial interest in The Rookery.

Shayla, a friend, has asked if she can move into The Rookery with Kate and Alex because she has had to leave her rented accommodation. Kate and Alex are happy for Shayla to do so and have told Shayla that she is welcome to stay with them for as long as she needs a room. Kate and Alex have agreed that Shayla will pay them a sum of money each month. Kate and Alex will use this payment in part towards the monthly mortgage repayments and also towards utility bills. Shayla plans to decorate her room, at her own expense.

Kate and Alex have sought advice from their lawyer as to whether the arrangement with Shayla will give her any claim to own a share of The Rookery.

Kate and Alex have also sought their lawyer's advice on a separate matter. A large greenhouse that had been in the garden of the Rookery when they viewed it, had been removed by the sellers before they completed the purchase. In addition, their sellers had also removed a tapestry that had been hanging on the wall in the lounge of The Rookery. Kate and Alex had expected both the tapestry and the greenhouse to be left at The Rookery, on completion.

Turn over

Scenario 2 Questions

1. Explain the advice that should have been given to Kate and Alex by their lawyer about their ownership of the beneficial interest in the Rookery.

(8 marks)

2. (a) Identify the requirements of a resulting trust.

(4 marks)

(b) Explain whether Shayla is entitled to a share of The Rookery on the basis of a resulting trust.

(3 marks)

(Total: 7 marks)

3. (a) Identify the requirements of a constructive trust.

(4 marks)

(b) Explain whether Shayla is entitled to a share of The Rookery on the basis of a constructive trust.

(5 marks)

(Total: 9 marks)

4. Explain whether the greenhouse and the tapestry should have been left at The Rookery on completion of the sale, with reference to case law.

(6 marks)

(Total for Scenario 2: 30 marks)

Scenario 3

Raj owned a house '1 Wilson Way' which had a large garden. In 2006, Raj sold part of the large garden of 1 Wilson Way to Iqram and Iqram built a house on that land, '2 Wilson Way'.

Access to 1 Wilson Way and 2 Wilson Way is over a driveway that is used by both properties, but which is owned by Raj. Numbers 1 and 2 Wilson Way also share the use of a septic tank for drainage, which is located within the boundaries of 1 Wilson Way. The necessary express rights were contained in the 2006 Transfer Deed between Raj and Iqram for 2 Wilson Way to share the use of the driveway and the septic tank with 1 Wilson Way.

The 2006 Transfer Deed between Raj and Iqram contains the following covenants:

'For the benefit of the owners of 1 Wilson Way, their heirs and assigns and others claiming under them and all or any of their lands adjoining or near to the burdened land the Transferee covenants with the Transferor:

1. Not to obstruct the driveway used by 1 Wilson Way and 2 Wilson Way;
2. To contribute towards the costs of maintenance and repair of the septic tank used by 1 Wilson Way and 2 Wilson Way;
3. Not to allow the boundary wall between 1 Wilson Way and 2 Wilson Way to fall into disrepair.

Iqram has recently sold 2 Wilson Way to Jordan. Jordan has been parking his car on the driveway and this has caused Raj difficulties in accessing 1 Wilson Way.

The septic tank is in a poor state of repair. Raj has asked Jordan to pay towards the costs of its repair. Jordan has told Raj that he does not have to do so as he did not sign the 2006 Transfer Deed.

Raj has sought legal advice and Raj's lawyer has obtained a copy of the Land Registry title for 2 Wilson Way. Raj's lawyer has told him that the 2006 Transfer Deed is referred to in the Land Registry title of 2 Wilson Way. Raj's lawyer has also told him that there was no indemnity covenant in the Transfer Deed between Iqram and Jordan.

Turn over

Scenario 3 Questions

1. (a) Explain how to distinguish between a positive and a restrictive covenant.

(3 marks)

(b) Explain whether the covenants in the 2006 Transfer Deed are positive or restrictive covenants.

(3 marks)

(Total: 6 marks)
 2. Explain whether the covenant not to obstruct the driveway will bind Jordan.

(10 marks)
 3. Explain what is meant by an 'indemnity covenant.'

(3 marks)
 4. Explain whether Jordan is likely to be bound by the covenant to contribute towards the costs of maintenance and repair of the shared septic tank.

(8 marks)
 5. (a) Identify the register of the Land Registry title where you will find reference to covenants.

(1 mark)

(b) Give **two** examples of other incumbrances likely to be referred to in this register.

(2 marks)

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

End of the examination