



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

Unit 10 – Landlord and Tenant 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 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 at least one question from this section

1. Critically evaluate the extent to which section 19(1A) of the Landlord and Tenant Act 1927 undermines the protection afforded to tenants by both section 19(1) of that Act and section 1 of the Landlord and Tenant Act 1988.

(25 marks)

2. (a) Explain and contrast the 'cases' for possession of tenancies under the Rent Act 1977 with the 'grounds' for possession of assured tenancies under the Housing Act 1988.

(18 marks)

- (b) Critically evaluate the approach of the court when deciding whether to make a possession order.

(7 marks)

(Total: 25 marks)

3. Critically evaluate the protection which is provided to holders of long residential leases in relation to service charges by sections 18-30 of the Landlord and Tenant Act 1985 (as amended).

(25 marks)

4. Critically assess the statutory and common law rules relating to a landlord's right to forfeit.

(25 marks)

SECTION B

Answer at least one question from this section

Question 1

Amiyah bought a long leasehold flat in 2012. The flat is one of 12 in a three-storey block. At the front of the block is a large forecourt.

Amiyah's lease:

- defines her flat as 'the Property', the block as 'the Building', and the immediately surrounding gardens and amenity areas (including the forecourt) as 'the Retained Land'
- grants 'the right for the Tenant (in common with all others similarly entitled) to park one motor vehicle on a 'first come, first served' basis on the forecourt in front of the Building or any other part of the Retained Land specified by the Landlord from time to time'
- reserves to the Landlord the 'right to alter or re-develop the Building or carry out works on the Retained Land regardless of any interference with the light or air now enjoyed by the Property'

Amiyah has used the forecourt on a daily basis to park her car, as have the other tenants in the Building. Although the forecourt is not divided into individual parking spaces, there has always been enough room to accommodate all the tenants' cars.

Last week, the tenants received a letter from their landlord stating that:

- the landlord had been granted planning permission to construct three new 'penthouse' flats on the existing flat roof of the Building in accordance with the right reserved to it under the flat leases
- so as to facilitate the construction works, scaffolding would be erected on the forecourt for approximately 20 weeks: during that period, the tenants would be able to use an area of open land (not being part of the Retained Land) approximately 400 metres from the Building to park their cars
- once the new flats were complete, the forecourt would be resurfaced and painted so as to mark out 12 individual parking spaces
- each new flat would be sold with an exclusive right to use two parking spaces (to be implemented by fixing lockable posts at the front of those spaces)
- the remaining spaces would be available to the existing tenants on a 'first come, first served' basis.

Amiyah is concerned about the potential impact that the landlord's proposals will have on her ability to continue to park her car on the forecourt.

Advise Amiyah as to her rights as a tenant which she might be able to invoke in order to protect her position.

(25 marks)

Turn over

Question 2

Bashir owns a large Victorian house that has been converted into flats on the ground and first floors respectively. Bashir lives in the first floor flat and has rented out the ground floor flat to Cyra, who lives there with her two school-age children.

One Saturday, Bashir was cleaning out the attic of the house, which was accessible via a ladder which could be pulled down from inside a hatch in the ceiling of the landing on the first floor. Whilst working in the attic, Bashir received a phone call that his wife had been taken seriously ill at work. He immediately rushed out of the house, forgetting to raise the ladder and close the hatch. As he left the house, he met a group of young children and adults who were clearly coming to the ground floor flat for a party.

During that party, Cyra's eldest child, Dilip, and one of the visiting children, Esme, left the ground floor flat and went up to the first floor landing, where they found the ladder and the open hatch. They climbed up into the attic. When their parents started calling for them, they rushed to return downstairs, but in doing so Dilip tripped over a loose floorboard in the attic and sprained his wrist in trying to break his fall. The ladder, which was old and in poor repair, gave way as Esme tried to climb down it and she fell and broke her leg.

Esme's parents are now threatening to sue Bashir in respect of her injury. Bashir blames Cyra for the accident because he believes that she should not have allowed the children to go upstairs. Bashir has told Cyra to find somewhere else to live immediately because otherwise (in his words) "life could become very unpleasant for you". Cyra has responded by saying that she has no intention of leaving and will be taking legal advice.

Advise Bashir as to any potential liability he may have in relation to:

(a) Esme;

(15 marks)

(b) Cyra.

(10 marks)

(Total: 25 marks)

Question 3

Fidel owns three storage units which he lets on an annual periodic basis.

The first unit is let to Georgina. She is a self-employed accountant who uses the unit to store old files, papers and documents relating to her clients' tax affairs.

The second unit is let to Henning. He owns a car showroom from which he sells vintage and classic cars. Each year, Henning selects one car from his existing stock for his own personal use during that year. That car is stored in the unit so that customers visiting the showroom do not see it in the showroom and think that it is for sale.

The third unit is let to a charity whose purpose is to provide food to disadvantaged families. The charity's activities involve asking members of the public to make donations of tinned and other non-perishable goods at collection points positioned in local supermarkets. Donated items are then collected from the supermarkets by the charity and brought to the unit for storage before being distributed.

Fidel has obtained planning permission to demolish the units and build a block of flats. He wishes to proceed with the redevelopment at the earliest opportunity.

Advise Fidel what steps he will need to take to recover vacant possession of each of the units if the tenants do not wish to leave.

(25 marks)

Turn over

Question 4

Morten is the freehold owner of a small industrial estate that comprises six warehouse units.

In March 2022, Morten's daughter, Naomi, asked if she and her partner, Ophelia, could set up a workshop in one of the units from which they hoped to renovate classic cars.

Morten agreed to this proposal. Over the following few weeks, Naomi and Ophelia carried out some repairs to the unit and also purchased the equipment that they needed for their business. Conscious of how much they were spending, Naomi and Ophelia asked Morten if they could have some assurance as to how long they could have the use of the unit. Morten replied "Let's not get carried away just yet. We'll see how the next few months go, and if everything turns out as we hope then we can all sit down and put something on paper". Naomi and Ophelia agreed.

In order to protect their customers' cars, Naomi and Ophelia fitted the unit with new locks, to which they had the only keys. Naomi and Ophelia locked the unit every night.

The business was a great success. In October 2022, Naomi and Ophelia again asked Morten about their future use of the unit. Morten replied: "Things seem to be going well for you, so for the time being I'd suggest that we go for an initial year and then see where we are. In return, I'm happy if you just carry on keeping the unit repaired and secure, and it suits me for someone just to be at the estate keeping an eye on things". Naomi and Ophelia agreed and carried on using the unit as before.

Unfortunately, Naomi and Ophelia's relationship ended over Christmas. Naomi has gone travelling around the world to get over her distress following the breakup, but Ophelia wishes to carry on with the business. Morten is opposed to this and has told Ophelia that she "has no right" to continue to use the unit. Yesterday he served her with a written notice giving her 14 days to leave the unit.

Advise Ophelia as to her rights in relation to the unit and whether she must leave within the timescale specified by Morten.

[NOTE TO CANDIDATES: Do not discuss any issues relating to the Landlord and Tenant Act 1954 in your answer.]

(25 marks)

End of the examination