



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 10 – LANDLORD AND TENANT LAW*

Time allowed: 3 hours 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.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- 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 following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

SECTION A
(Answer at least one question from this section)

1. 'We recommend that there should be an improved, uniform right, available to all qualifying leaseholders, to a lease extension that will be for a term of 990 years at a peppercorn ground rent.'

(Law Com No 392 'Leasehold home ownership: buying your freehold or extending your lease', July 2020, para 2.50(1))

Critically analyse the problems which this recommendation seeks to resolve.

(25 marks)

2. 'If ... residential accommodation is granted for a term at a rent with exclusive possession ... the grant is a tenancy' (per Lord Templeman, Street v Mountford (1985)).

Critically analyse the extent to which this is an accurate description of the law.

(25 marks)

3. Critically analyse the statutory duties which are owed by a landlord to:
- (a) lawful visitors to demised premises (under the Defective Premises Act 1972 and the Occupiers' Liability Act 1957);
- (b) trespassers at demised premises (under the Occupiers Liability Act 1984).

(16 marks)

(9 marks)

(Total: 25 marks)

4. Critically analyse whether the assured shorthold tenancy has unfairly altered the balance between landlord and tenant in relation to security of tenure in the private rented sector.

(25 marks)

SECTION B
(Answer at least one question from this section)

Question 1

Kempston Regeneration Ltd (KRL) owns a freehold site, which has planning permission for the construction of two light industrial units ('Unit 1' and 'Unit 2').

In late February 2020, KRL signed an agreement for lease with TechTech plc ('TechTech') in relation to Unit 1. TechTech is an internationally renowned manufacturer of precision-engineered microchips and similar equipment. The agreement for lease provided that if the building works in relation to Unit 1 were not completed by 1 February 2021, TechTech would be able to cancel the agreement.

At that time, KRL anticipated that it would be able to complete the construction of Unit 1 (and also Unit 2) well within this timescale. However, the onset of the coronavirus pandemic meant that the works were seriously delayed. In order to meet the deadline in the agreement for lease with TechTech, KRL decided to postpone further work on Unit 2 and to concentrate solely on completing Unit 1. This was duly achieved, and the lease of Unit 1 was granted to TechTech on 1 February 2021. After fitting out Unit 1, TechTech began production on 1 March 2021.

Work on Unit 2 re-commenced in mid-March 2021. Unfortunately, the work was complicated by the discovery of a significant area of ground instability. This forced KRL to carry out substantial piling works to stabilise the ground, resulting in significant ground vibration. Those works were completed after eight weeks.

Last week, KRL received a letter from solicitors acting for TechTech. In that letter, it is claimed that the ground vibration caused by the piling works substantially interfered with the sensitive manufacturing equipment used by TechTech, to the extent that, after trying unsuccessfully to adopt compensating measures, TechTech was forced to suspend all production at Unit 1 and to put its entire workforce on paid leave for a period of six weeks.

The letter goes on to state that TechTech holds KRL liable for the financial losses which it suffered. The letter also states that TechTech will be withholding six weeks' rent from the next quarterly rent payment, because 'it does not see why it should pay for premises that it could not use'.

Advise KRL.

(25 marks)

Question 2

Anjum owns shop premises, which she let to Bilal for a term of 15 years from 29 September 2010. The rent is payable 'quarterly in advance on the first day of March, June, September and December in each year of the Term'. The lease also contains a covenant by the Tenant 'not to assign ... the Property without first obtaining the Landlord's consent'.

The shop sells mobile phones and accessories. For the last couple of years, Bilal's son, Chahel, has worked with him in the shop after leaving school at the age of 16. In February this year, Bilal unfortunately suffered a heart attack and has been forced to stop working. Chahel has carried on running the business.

On 2 March 2021, Bilal sent an email to Anjum, in which he wrote: 'I confirm that the March quarter's rent has been paid. As you know, I am currently unable to work, and am thinking that the time has come to let Chahel take over the shop (he's effectively now the Tenant anyway). Is that OK?'

Unfortunately, Anjum herself then fell ill for a period and completely forgot about Bilal's email.

The quarter's rent due on 1 June 2021 has not been paid. Anjum instructed her lawyers to write a letter to Bilal demanding payment of the arrears. Yesterday, Anjum received a reply from another firm of lawyers. Their letter states that:

- they act for Chahel;
- Chahel is now the lawful Tenant of the shop (attached to the letter is a bundle of documents including: (i) a sale agreement in relation to the stock, goodwill and assets of the business, (ii) a transfer of the lease from Bilal to Chahel, and (iii) official copies showing that Chahel is the registered proprietor of the leasehold title);
- they have arranged for the arrears to be paid by electronic transfer from their client account to Anjum's bank account

Anjum has now consulted you in relation to the present situation. In the course of your meeting with her, she confirms that the arrears of rent were credited to her account this morning.

Advise Anjum.

(25 marks)

Question 3

In late 1976, Mark and Noreen, who were just recently married, moved into their first home. The tenancy, which was in Mark's sole name, was for an initial term of one year. This was a second marriage for Noreen. Noreen had a son (Oswald) from her first marriage, whom Mark adopted. In 1990, Oswald left the property to set up home on his own.

After the expiry of the initial year of the tenancy, Mark and Noreen remained in occupation of the property. They continued to live in the property until 2009, when Mark died. After Mark's death, Noreen remained in the property, but gradually began to exhibit signs of dementia. She was adamant about not leaving the property, so when (in 2014) it became clear that she was no longer capable of looking after herself, Oswald returned to the property to live there and look after her.

At that time, Oswald was in a long-term relationship with his partner, Peter. Peter moved into the property with Oswald. Noreen, Oswald and Peter lived together in the property until May 2021, when Noreen and Oswald were both killed in a road traffic accident.

Peter remains in the property but has recently received a letter from the landlord of the property stating that Peter has no right to remain and must move out within the next 14 days.

Advise Peter as to what rights, if any, he has to occupy the property and whether he must comply with the notice that he has received.

(25 marks)

Question 4

FoodForAll (FFA) is a registered not-for-profit charity, which collects, and receives deliveries of, surplus food from supermarkets, restaurants, cafes, etc. It then distributes this food for free within the local community to recipients who are nominated by the local authority.

FFA operates from a warehouse, at which all collections and deliveries are processed before distribution. The warehouse is owned by Ganymede plc. In the summer of 2019, FFA entered into a written agreement for the grant of a five-year lease by Ganymede for a term which was to commence on 25 September 2019. At the time of the agreement, Ganymede was hopeful that in the course of the next couple of years it might be able to obtain planning permission for demolition of the warehouse and residential development of the site. Consequently, Ganymede insisted that the proposed lease should contain a break clause, under which Ganymede could recover possession of the warehouse at any time on giving not less than one month's written notice to FFA. Ganymede also agreed that, if it served such a notice, it would pay £10,000 to FFA towards its relocation costs.

The lease was to be excluded from the security of tenure provisions of Part II of the Landlord and Tenant Act (LTA) 1954. Before entering into the agreement for lease, Ganymede duly served the required warning notice on FFA, and FFA duly made a statutory declaration confirming that the warning notice had been served and that it was agreed that the lease should be excluded from protection under the LTA 1954. The draft lease also contained a statement referring to the notice and declaration and recording the parties' agreement.

The engrossed lease was sent to Ganymede's head office for execution by two directors at a forthcoming board meeting. Unfortunately, the board meeting was cancelled at the last minute, and the need to execute the lease was subsequently overlooked. FFA nonetheless went into occupation and began paying rent.

Last month, Ganymede received planning permission for redevelopment of the warehouse site. On 1 June 2021, Ganymede's lawyers served a notice on FFA 'in accordance with the break clause in your lease', stating that Ganymede requires FFA to vacate the warehouse on or before 1 August 2021.

Advise FFA as to:

(a) the legal basis on which it currently occupies the property; **(18 marks)**

(b) whether it must vacate the warehouse on the date specified by Ganymede in the notice. **(7 marks)**

(Total: 25 marks)

End of Examination Paper