



**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**

**June 2022**

**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. “ ... forfeiture is an area of the law which is in dire need of [simplification and modernisation]. The law should be more transparent, so that those affected ... know what is happening, and what is expected of them. The law should be more accessible, so that the parties can readily discover what their rights and obligations are.” (Stuart Bridge, Law Commissioner, Speech to the Property Bar Association, 9 November 2006)

Critically assess whether this statement remains true today.

**(25 marks)**

2. Explain the scope and effect of Part II of the Landlord and Tenant Act 1954 in relation to:

(a) the conditions that must be satisfied for a tenant to qualify for protection under the Act;

**(16 marks)**

(b) the difficulties faced by a landlord who wishes to oppose the grant of a renewal tenancy under grounds (f) and (g) within section 30(1) of the Act.

**(9 marks)**

**(Total: 25 marks)**

3. Critically evaluate whether, in the context of residential property, the lease/licence distinction has ceased to be of any real significance given the availability of the assured shorthold tenancy.

**(25 marks)**

4. Explain:

(a) the law in relation to fitness for human habitation as it applied to properties in England before the Homes (Fitness for Human Habitation) Act 2018 came into force;

**(15 marks)**

(b) the changes brought about by that Act.

**(10 marks)**

**(Total: 25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

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

In November 2021, Morten was approached by Nigella, who wished to relocate her catering business to one of Morten's units (Unit 5) as her current premises (a high street shop) were too small. She told Morten that her current lease contained a break option which allowed her to terminate the lease on 3 July 2022 by giving not less than six months' notice to the landlord of her current premises.

On 5 January 2022, Morten and Nigella validly executed a lease of Unit 5 for a term of five years beginning on 4 July 2022 at an annual rent of £24,000. Nigella served a break notice on the landlord of her current premises on the same day.

In March 2022, Nigella approached Morten and asked if she could take possession of Unit 5 from 1 April 2022. She explained that she needed to move her equipment out of her existing premises so that she could deal with required repairs and removal of alterations, but she could not afford to cease trading whilst she did so.

Morten agreed to this proposal. Nigella went into occupation and began trading. She has been paying rent on a monthly basis at a rate of £2,000 per month.

Nigella has consulted you today. She tells you that she has received a letter from lawyers acting for her former landlord stating that her break notice was ineffective and that she remains the tenant of the shop. The lease of the shop still has five years to run. Nigella also informs you that trade since moving the business to Unit 5 has not been as good as she had hoped, and she feels that moving out of the shop was a mistake.

Nigella would like to know if the landlord's lawyers are correct and, if so, whether there is any basis on which she can relinquish the lease of Unit 5.

Advise Nigella.

**[Note to candidates: Do not consider any issues under the Landlord and Tenant Act 1954 when answering this question.]**

**(25 marks)**

**Turn over**

## Question 2

Benedict owns the freehold of a large property in Kempston which was converted into two flats at some time in the 1950s. Benedict purchased the property a couple of years ago as an addition to his portfolio of rental properties. At that time, Carmen was the sitting tenant of the ground floor flat. The flat on the upper floor was vacant.

Carmen's parents first rented the flat as joint tenants in 1968. Carmen was born some five years later, and has lived in the flat ever since. Her father died in the late 1990s, and her mother died in 2005.

Shortly after he bought the property, Benedict found new tenants for the upper floor flat. They have a young family of four children.

Carmen has complained to Benedict, on many occasions, about the noise made by the upper floor tenants and their children. This includes not only noise coming from the flat, but noise made by the children when playing on the stairs or in the common entrance hallway, which is shared by both flats. Carmen is also unhappy that the children leave their toys, bikes and other items in the hallway.

Carmen has asked Benedict to move the upper floor tenants out. Although Benedict accepts that the house has poor sound insulation (none having been installed when the house was originally built) he believes that Carmen's complaints are unjustified.

In the light of Benedict's refusal to act, Carmen has started to wage what he describes to you as a 'campaign' against him. She has written letters to her MP and to the local newspaper complaining about her situation as she sees it. She also recently appeared on a local radio phone-in programme during which she described Benedict as a "rogue" landlord and "a conman". In addition, she has taken to playing loud music in her flat so as (in her words) "to drown out the frightful racket those kids make" – Benedict has received complaints about the music from the tenants of the upper flat and also from the owners of neighbouring properties.

Benedict tells you that he is now finding it harder to attract tenants into his other properties, with some of them telling him that the adverse publicity generated by Carmen's activities is putting them off from dealing with him. Benedict would like to remove Carmen from the property if he can.

Advise Benedict whether:

- (a) he has any liability to Carmen in relation to the activities of the tenants of the upper flat and their children;

**(9 marks)**

- (b) there are any grounds on which he can recover possession of Carmen's flat.

**(16 marks)**

**(Total: 25 marks)**

### Question 3

Rohit lives in a flat which forms part of a block of 24 flats in Kempston. He holds a 125-year lease of the flat. All the other tenants in the block hold similar leases.

The block is managed by the landlord (a company). In accordance with the terms of their respective leases, each tenant pays a variable annual service charge to the landlord to meet the landlord's costs of managing the block.

In recent months, Rohit and a number of his fellow tenants have become increasingly dissatisfied with the way in which the landlord is performing its management functions. Repairs to the interior and the exterior of the block have not been carried out, and the communal gardens and other amenity areas are, in Rohit's words, "looking really shabby". This is not only frustrating for the current tenants, but it is also having a significantly adverse effect on the market value of the flats in the block.

Rohit has consulted you on behalf of himself and 15 of his fellow tenants.

Advise Rohit as to:

- the statutory provisions that might allow him and his fellow tenants to take over the management of the block; and
- the procedures that they would need to follow.

**(25 marks)**

**Turn over**

#### Question 4

Kempston Investments LLP (KI) owns the Lupin Shopping Centre.

KI wants to rejuvenate the Centre, so that it will provide a 'high-end shopping experience and family day out' for its customers. It intends to create four 'zones' in the Centre, each of which will be dedicated to a particular category of retailer: Fashion, Food and Beverage, Jewellery and Technology respectively.

Phineas is the tenant of one of the units in what KI has earmarked as the Jewellery zone. His lease, which still has five years to run, states that:

- the permitted use is "retail sale of jewellery";
- the Tenant must not "assign the premises, nor change the permitted use, without first obtaining the Landlord's consent".

Phineas has found a potential assignee for his lease (Gambletons plc). Gambletons plc is a sports betting company that provides customers with facilities for placing bets as well as showing live streaming of horse racing, football matches and other sports. Gambletons plc has offered Phineas £75,000 for an assignment of his lease.

KI employs a managing agent, Thora, to oversee the day-to-day management of the Centre. Six weeks ago, Phineas handed Thora a letter, addressed to KI, in which Phineas asked for consent to assign the lease and to change the permitted use. The letter was accompanied by accounts, references and other information, all of which clearly demonstrated that Gambletons plc is a highly successful and profitable business. Thora read the letter and said that she could 'see no reason in principle why consent should not be granted'; but she also said that she would need to send the application to KI 'for formal approval by the Board'. KI received the application the following day.

KI has consulted you today because it does not want to consent to the application. It considers that Gambletons plc is not a 'good fit' for the Centre, partly because its business does not (in KI's opinion) match the 'high-end shopping experience and family day out' that KI is trying to achieve, and partly because Gambletons plc is not a jewellery retailer, and so will look out of place in the Jewellery zone. KI's explanation for not consulting you sooner is that two of its Board members have been ill and so it was not possible to hold a Board meeting at which to decide to take legal advice about the application.

Advise KI whether it can lawfully refuse consent to the proposed assignment and/or change of use.

**(25 marks)**

**End of the examination**

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