



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**

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

1. Critically evaluate the extent to which Part II of the Landlord and Tenant Act 1954 provides protection for business tenants.

(25 marks)

2. Discuss:

(a) the formalities for the creation of a lease and a contract for a lease;

(15 marks)

(b) whether a contract for a lease is as good as a lease.

(10 marks)

(Total: 25 marks)

3. Critically analyse, with reference to appropriate statute and/or case law, the principal regulations that govern the management of long residential tenancies.

(25 marks)

4. Critically evaluate the remedies that are available to a landlord of commercial premises whose tenant is in arrears with the payment of rent.

(25 marks)

Turn over

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

Question 1

Nathan owns the freehold of a large house that he has converted into four flats, all of which share the use of the front door to the house, a hall and a flight of stairs. He lets out the flats on assured shorthold tenancies for an initial fixed term of six months and then allows a periodic tenancy to arise, once the fixed term has expired. Each tenant pays £450 per month. None of the tenancy agreements contains any repairing covenant by Nathan.

One of the flats (Flat 1) is located in the basement of the house. It is currently let to Ornella, who moved in only three weeks ago. Ornella has written a letter of complaint to Nathan, in which she states that the flat appears to be 'infested by rats'. Ornella claims to have heard them running inside the cavities in the walls and to have found them scavenging for food in the bin store area that serves her flat.

Flat 2, which is located on the ground floor, is occupied by Padraig. He has complained to Nathan that there appears to be a problem with the drains, because neither his bath nor his bathroom sink appear to be emptying as quickly as they used to. Nathan has suggested that Padraig should pour some drain cleaner into the bath and the sink in order to solve the problem, but Padraig is adamant that that is not his responsibility.

Flat 3, which is located on the first floor, is occupied by Quinn. He has complained that the buzzer entry system which operates the front door of the house when visitors come to his flat is not working properly, as a result of which the door sticks when it is opening. Quinn then has to come downstairs to the entrance hall in order to open the door fully and then close it. He has asked Nathan to fix the door.

Flat 4, which is located on the top floor of the house, is occupied by Ruprecht. The flat suffers from mould and damp: a surveyor friend has told Ruprecht that these conditions are caused by condensation which accumulates at the top of the house, and hence in the flat, because of the way in which the house was originally constructed. Ruprecht has asked Nathan to sort out the condensation problem.

Advise Nathan as to his duties to his tenants in relation to the complaints that they have made.

(25 marks)

Question 2

Twelve months ago, Freddie bought a dilapidated farmhouse, outbuildings and a worker's cottage as a redevelopment project: the farmhouse would become Freddie's home, the outbuildings would become an artisan crafts centre and the cottage would become a 'living museum'.

Freddie's brother, George, has been assisting Freddie with the conversion work of the farmhouse and the cottage. Freddie was hopeful that George, who is a recovering drug addict, would want to start a new life in the country. To that end, Freddie told George that he could 'stay in the cottage for as long as you want'. Freddie has paid all the outgoings for the cottage while George has been living there, in return for which George has provided his labour free of charge.

An initial shortage of funds meant that Freddie was unable to proceed with the conversion of the outbuildings as quickly as he would have liked. However, he was approached by a neighbouring farmer, Harry, who asked if he could use the outbuildings to store machinery and straw following a fire, which had damaged one of Harry's own barns. Freddie agreed to let Harry have the outbuildings until he 'needed them back'. In order to make the outbuildings windproof and watertight, Harry carried out substantial repairs, including the replacement of numerous missing or broken roof tiles and the provision of new doors and window frames where necessary.

The refurbishment of the farmhouse and the cottage is now complete. In recent months, Freddie has become concerned that George has started using drugs again and has been supplying drugs to others at the cottage, so Freddie now wishes to regain possession of it. However, George is refusing to vacate, as he claims that he has a tenancy.

Freddie now has the funds required to renovate the outbuildings. However, Harry is refusing to vacate on the basis that he also has a tenancy. Harry is also claiming that, regardless of whether he has a tenancy or has to leave, Freddie is obliged to compensate him for the works which Harry has carried out to the outbuildings.

Advise Freddie.

(25 marks)

Turn over

Question 3

Last year Jasmine bought a residential investment property at auction. The auction particulars contained very little detail or documentation in relation to the property, other than to state that the tenant was paying £500 per calendar month and that there were no arrears.

After buying the property, Jasmine arranged a meeting with the tenant, Kirk. He told Jasmine that he had first moved into the property in 1986 on a 12-month fixed-term tenancy and had lived there ever since. He did not have any paperwork relating to his tenancy and could not remember whether any paperwork had actually been given to him. Kirk also told Jasmine that he lived at the property with his adult son, Leo.

Jasmine told Kirk that she considered that the current monthly rent of £500 was far too low. She proposed a new rent of £850 per month. She wrote out an agreement to that effect on a piece of paper and told Kirk that she would 'make life very difficult' for him if he did not agree to the new rent. Kirk felt intimidated by Jasmine's attitude and so signed the document.

A couple of days later, Leo telephoned Jasmine and told her that his father would not be paying the new rent. He told her that the rent had been 'fixed by the court' and that his father did not have to pay any more than he was already paying.

(a) Advise Jasmine.

(11 marks)

Now, three months after buying the property, Jasmine informs you that Kirk has died and that Leo is now living in the property on his own. Jasmine also informs you that she has received complaints from Leo's neighbours that he has been having 'wild parties' at the property, and that the police have had to be called several times to deal with instances of unruly and anti-social behaviour.

(b) Advise Jasmine in the light of these new circumstances.

(14 marks)

(Total: 25 marks)

Question 4

Kempston Properties Plc (KPP) is the owner of the Utopia Shopping Centre. The individual retail units in the Centre are arranged on two floors. Each floor is divided into two 'wings', separated by a central core, in which the Centre's escalators, lifts and stairs are located.

KPP has embarked on an ambitious plan to rejuvenate the Centre, so that it will provide a 'high-end shopping experience' for its customers. Part of that plan involves dedicating each wing of the Centre to a particular category of retailer: Fashion, Café/Confectionery, Jewellery and Technology respectively.

Jean is the tenant of one of the units in the wing that KPP has earmarked as the Fashion zone. She sells designer shoes and handbags. Jean wishes to retire and has found a potential assignee for her lease (Sampsons Plc). Sampsons provides shoe repair, key cutting and mobile phone repair services. Sampsons has offered to pay Jean £75,000, if she assigns her lease to it.

Jean's lease, which still has ten years to run, states that:

- the permitted use is 'retail sale of ladies' shoes and accessories';
- the Tenant must not 'assign the premises, nor change the permitted use, without first obtaining the landlord's consent'.

KPP employs a managing agent, Leonard, to oversee the day-to-day management and running of the Centre. Last month, Jean handed Leonard a letter, addressed to KPP, in which she asked for consent to assign the lease and to change the permitted use. The letter was accompanied by accounts, references and other information in relation to Sampsons, which clearly demonstrated that Sampsons is a highly successful and profitable business. Leonard read the letter and said that he could 'see no reason in principle why consent should not be granted'; but he also said that he would need to send Jean's application to KPP 'for formal approval by the Board'.

KPP does not want to consent to Jean's application. It considers that Sampsons is not a 'good fit' for the Centre, partly because its business does not (in KPP's opinion) match the high-end environment that KPP is trying to create, and partly because Sampsons is not a fashion retailer, so will look out of place in the Fashion zone.

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

(25 marks)

End of Examination Paper

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