



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 9 – LAND 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 may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Property Law 2017-2018, 25th edition, Meryl Thomas, Oxford University Press, 2017.**
- 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 analyse the approach of the courts to resulting and constructive trusts.

(25 marks)

2. Critically assess the extent to which it is possible for an easement to exist to park a vehicle on land.

(25 marks)

3. Critically analyse the distinction between claims to adverse possession in relation to registered and unregistered land.

(25 marks)

4. Critically evaluate:

(a) the rules as to the running of leasehold covenants in a legal lease made prior to 1996;

(12 marks)

(b) the extent to which the Landlord and Tenant (Covenants) Act 1995 alters those rules for covenants made from 1996 onwards.

(13 marks)

(Total: 25 marks)

Turn over

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

Question 1

Amelie is the daughter of Bernard, who was the freehold owner of Kempston Farm in the south of England. The farm is a 400-acre property, the majority of which is agricultural land. It also includes a large farmhouse, where Bernard lived alone after his wife died. Bernard had three other children, all of whom live in other parts of the country.

In 2008, after graduating from university with a first class degree in Economics, Amelie moved back to Kempston Farm to live with her father temporarily, while she saved money to be able to put down a deposit on a flat in Manchester, where she wished to live.

However, in 2010 Bernard began to suffer from a severe illness, which increasingly restricted his mobility. Afraid that he would be unable to care for himself, he told Amelie that he wished for her to continue living in the farmhouse, saying: 'If you take care of me, I'll take care of you after I'm gone'. Amelie did not wish to leave her father in any event, and so agreed to stay.

At this point, Bernard gave her a file containing various documents that pertained to the title to the farm. As Bernard was naturally quiet, they did not have any further conversations about the property, although he did refer to it as 'your farm' in a number of subsequent conversations with Amelie.

For the next seven years, Amelie increasingly became her father's sole carer. As Bernard became too ill to run the farm, Amelie also took over this responsibility, for which Bernard insisted on paying her a £15,000 per annum salary.

In early 2018, Bernard died. The only surviving Will he left was one drawn up many years previously, which leaves the property to all four children in equal shares. Amelie believes she is entitled to the farm, which has been valued at £5 million, but her siblings are demanding their shares.

Advise Amelie.

(25 marks)

Question 2

Danny was the registered proprietor of a run-down building, which he wished to convert into a restaurant. In order to fund the renovation, he needed to borrow £140,000.

In March 2017, Danny agreed a loan with Chartered Bank of £60,000, the maximum sum it would agree to provide. The loan was secured by a mortgage over the premises executed by deed.

Needing more money for his plans, Danny then approached Eagle Bank for a further £20,000 mortgage. On 11 May 2017, he executed a mortgage by deed in favour of Eagle Bank. This was registered as a charge on 16 June 2017.

Danny agreed another loan of £20,000 with Griffin Finance, also secured on the property. The mortgage was executed by deed on 9 June 2017 and registered as a charge on 12 June 2017.

Finally, on 20 June 2017, Danny agreed with his friend Fallon to borrow £40,000, again secured against the property. They drew up a contract to record their agreement, which they both signed. Wishing to protect her interest, Fallon entered a notice onto the register on 26 June 2017.

Danny's restaurant has not been as successful as he expected, and he has fallen into arrears of repayments of all four loans. To this date, the charge in favour of Chartered Bank has yet to be registered.

(a) Advise the parties as to the priority of the various charges affecting the property.

(14 marks)

(b) Advise Griffin Finance as to what steps it could take to enforce the charge.

(11 marks)

(Total: 25 marks)

Turn over

Question 3

Matthieu purchased a large freehold site two years ago, on which he is currently building eight houses. His plan is to sell the freehold of seven of the properties, and retain one house for himself to live in. Because of this, Matthieu wishes to protect the amenity of his house, for himself and any successors in title, by:

- (a) requiring the owners of the other properties to keep the exterior of their houses in good repair;
- (b) requiring the owners of the other properties to pay a share of the cost of the estate roads and sewers (which will be private);
- (c) preventing the owners of the other properties from obtaining planning permission relating to their property without the consent of the owner of Matthieu's house.

Advise whether Matthieu's wishes can be enforced by him and by his successors in title, and if so how.

[DO NOT consider commonhold schemes in your answer.]

(25 marks)

Question 4

Vivek agrees to purchase the freehold of Honeysuckle Cottage from Willa. The property consists of a two-bedroom cottage along with a number of outbuildings, which Willa has been using to pursue her hobby of woodworking.

On completion, when Vivek takes possession of the property, he is disappointed to find that Willa has removed the expensive fitted kitchen, including the kitchen cabinets, the dishwasher and washing machine. Willa has also taken all of the curtains and blinds from the property. No fittings and contents form was completed as part of the contract documentation.

Willa has now contacted Vivek, to arrange for her to collect the expensive set of handsaws that she left in a toolbox in one of the outbuildings. She also wishes to take the large table saw that had been installed in that building. The saw is bolted to the ground, to prevent the wood from slipping while being cut.

On a separate matter, Vivek has recently found out that Drillpower Ltd wishes to extend its nearby shale gas extraction plant to the land underneath Honeysuckle Cottage. Drillpower is proposing to install one set of pipes at 100m below the surface and another set of pipes at 500m below the surface.

Advise Vivek as to his rights in respect of each of these matters.

(25 marks)

End of Examination Paper

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