



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 distinction between the doctrines of proprietary estoppel and constructive trusts.

(25 marks)

2. Critically analyse how the Trusts of Land and Appointment of Trustees Act 1996 balances the rights of trustees and beneficiaries.

(25 marks)

3. Critically analyse whether, and to what extent, the law relating to freehold covenants requires reform.

(25 marks)

4. Critically evaluate:
 - (a) the distinction between legal and equitable interests;

(6 marks)

 - (b) the formalities required to create a valid deed;

(5 marks)

 - (c) the formalities required for the creation of contracts for the sale or other disposition of an interest in land.

(14 marks)

(Total: 25 marks)

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

Question 1

Avi is the registered proprietor of 34, The Meadows, Kempston, a detached, residential freehold property. Avi purchased the property in 2004. Avi is a keen gardener and grows his own flowers for sale.

Soon after moving in, Avi noticed that the strip of land at the end of his garden appeared to be unused. The strip separated his property from a main road, but was unsightly and covered with weeds. Intending to improve the view from his bedroom window, in the summer of 2005 Avi cleared the weeds from the land, and planted some young fruit trees on the strip. Unfortunately, local wildlife soon began to eat the saplings and so, in March 2006, Avi fenced off the strip of land. He placed a gate in the fencing on the main road side of the land. The gate did not have a lock.

In August 2006, Avi noticed that fruit from the trees on the strip of land had been going missing. Concerned that someone was entering the land, he moved the gate, so that it was on the side of the land that bordered his garden. He also placed a lock on the gate, and kept the only key. As a result, the fencing on the main road side of the land had no opening in it.

In 2009, Avi received a letter from Huddlestone Plc, informing him that this company had discovered the title deeds to the strip of land when refurbishing its offices. Huddlestone Plc stated in the letter that: 'the land clearly belongs to our company, and we ask that you remove any additions and return the land to us forthwith'. Avi ignored the letter and heard no more from Huddlestone Plc until June 2018.

Avi has now received a letter from solicitors acting for Huddlestone Plc, threatening legal action if he does not return the land. The letter makes it clear that the strip of land has unregistered freehold title.

Avi has also now received a letter from his neighbour Belinda, the registered owner of the freehold property at 32, The Meadows. Belinda claims that the fence between their properties (which predates Avi moving to the area) is incorrectly sited 50cm inside her garden. Until receiving this letter, Avi had always assumed that the fence was in the correct place. He does not want to move the fence as Belinda wishes, as it would mean digging up the border alongside the fence, where he grows flowers.

Advise Avi as to his rights:

- (a) relating to the land owned by Huddlestone Plc;
- (b) relating to the land owned by Belinda.

(17 marks)

(8 marks)

(Total: 25 marks)

Question 2

Erika was, until recently, the registered proprietor of Stainsley House, a large freehold manor house in the countryside. Erika bought the property in the early 1990s. The house came with substantial grounds, containing a number of derelict outbuildings, an outdoor swimming pool and tennis courts. Ever since moving to Stainsley House, Erika regularly used a dirt path over the adjacent freehold fields, which are owned by Gareth, as a shortcut to the village shop. Gareth never complained about this use.

In 2013, Erika redeveloped the outbuildings into a luxury home, called The Old Barn. She sold The Old Barn and a portion of the grounds to Francesca. Erika retained Stainsley House and the portion of the grounds containing the swimming pool and tennis courts, but expressly granted the right to use these facilities in her transfer of The Old Barn to Francesca. The transfer was registered at the Land Registry.

Two months ago, Erika sold Stainsley House and its remaining grounds to Hatice. Hatice does not want anyone else using her swimming pool and tennis courts, and wishes to prevent Francesca from using these facilities.

Gareth has recently erected a fence across the path to the shop, preventing Hatice from using it.

Advise Hatice in relation to these matters.

(25 marks)

Turn over

Question 3

John and Kelly had, for many years, dreamed of owning their own bookshop. In 2011, they decided to realise their dream and bought the registered freehold of a shop premises in Kempston High Street. The shop premises comprised a two-storey building, with a shopfront on the ground floor and empty rooms upstairs, to be used as office and storage space.

They paid £350,000 for the property. As they were unable to afford the purchase price from their savings, they partly funded their purchase with a mortgage from Money4U Mortgages Ltd. The mortgage was for £250,000 plus interest and was to be repaid over 25 years. The loan was secured against the shop premises. The mortgage was created by deed and was registered.

Unfortunately, John and Kelly's business failed to make a profit. Faced with increasing losses, they sold their home in order to fund further investment. Once the house was sold, they lived in the rooms above the shop.

While the business has now started to turn a profit and shows signs of growth, John and Kelly have now spent all of their savings and cannot afford their monthly expenses and the mortgage repayments. After just managing to pay the monthly instalment (made up of repayments towards both capital and interest) to Money4U on 20 March 2018, they were unable to make their 20 April or 20 May payments.

For the purposes of the following questions, assume that the date today is 7 June 2018.

Advise Money4U Mortgages:

- (a) of the chances of obtaining possession of the shop premises; **(13 marks)**
- (b) if it is successful in obtaining possession, what steps it should then take to recover the money owed under the mortgage.

(12 marks)
(Total: 25 marks)

Question 4

Kempston Council is the freehold owner of two blocks of flats in Kempston, being Royal House and Supreme House. Supreme House is managed by Prime Properties, a housing trust.

Richard purchased the registered leasehold estate of a flat in Royal House in 2011 and used the property as his home until 2016, when he moved to a flat in Supreme House, as this was closer to his place of work. Richard entered into a lease for the flat in Supreme House with Prime Properties.

Richard decided to rent out his flat in Royal House (which is permitted under the terms of his lease). He agreed with Sally that she could live at the flat. Richard gave Sally a document titled 'Licence Agreement', which included the following terms:

'Clause 3: This licence will expire on 1 January 2021.'

'Clause 7: Sally will pay an annual licence fee of £5,000.'

'Clause 12: Sally has no right to use the property between 10.30 am and 11.30 am every day.'

Sally signed the agreement, which was not witnessed, and moved into the Royal House flat straight away. As she works from home, she ignored the requirement not to use the flat within the specified times. Richard never commented on this or came to the flat during those hours.

Richard has now found out that Prime Properties only held a licence (not a lease) over Supreme House, with the freehold remaining with Kempston Council. The council has now issued a notice to quit to Prime Properties and all occupiers of Supreme House.

Richard wishes to sell the leasehold of the Royal House flat to Theresa, but she has told Richard that any sale is dependent upon her being given vacant possession and being able to live at the property immediately.

Advise Richard in relation to these matters.

(25 marks)

End of Examination Paper

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