



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 discuss how the law as to forfeiture for breach of covenant or condition might usefully be reformed.

(25 marks)

2. Compare and contrast the Rent Act 1977 with the Housing Act 1988 in relation to the rules governing:

(a) rent review;

(13 marks)

(b) succession.

(12 marks)

(Total: 25 marks)

3. '[It is] a startling proposition that ... an almost new office building [which] lets groundwater into the basement so that the water is ankle deep ... [does not require remedy] under a repairing covenant in standard form whether given by landlord or tenant'.

Ralph Gibson LJ in Post Office v Aquarius Properties Ltd (1987).

Discuss, with reference to case law alone, whether this proposition is correct in relation to commercial premises.

(25 marks)

4. Critically discuss whether the law should be changed so that any covenant which regulates alienation, alteration or change of use of commercial premises by the tenant of them must only be a fully qualified covenant.

(25 marks)

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

Question 1

In October 2016, Keith purchased the site of a disused factory and set about redeveloping the site, by demolishing the existing building and creating a high-tech industrial unit.

HAL plc (HAL), a manufacturer of computer chips for mobile devices, was searching for new premises. In January 2017, HAL and Keith signed a written agreement for lease under which, following completion of the redevelopment works, HAL would occupy the unit from 1 August 2017 for a fixed term of four years at an agreed monthly rent. The terms of the lease under which HAL would occupy the unit were set out in a draft lease, which was annexed to the agreement for lease. The agreement for lease provided that the lease would be granted when HAL took possession of the unit.

Work on the unit was completed on schedule and HAL went into possession on 1 August 2017, as agreed. However, the lease was not formally signed, because both Keith and the directors of HAL were on holiday. HAL has regularly paid the monthly rent since taking possession.

In May 2018, HAL was the subject of a takeover by Pansia Technologies Limited (PTL), which has announced that all HAL's manufacturing operations are to be moved to PTL's factory in Singapore. Last week, Keith received a letter from HAL, which stated that the unit was now surplus to its requirements and so it was giving one month's notice to quit, following which any obligations to Keith in respect of the unit would be at an end.

- (a) Advise Keith whether HAL is entitled to terminate the tenancy by serving one month's notice to quit.

(20 marks)

- (b) How, if at all, would your advice differ if only HAL (and not Keith) had signed the agreement for lease?

(5 marks)

(Total: 25 marks)

Question 2

Farzana owns two properties:

- a car showroom with a flat above; and
- an adjacent repair workshop.

Farzana ran a profitable car dealership from the properties until 2008, when she relocated her business interests to Italy. Anxious not to cut all ties to the UK, Farzana retained ownership of the two properties, with a view to resuming her business activities, should she ever return.

In March 2008, Farzana leased the car showroom and flat to Bradley for a term of 10 years. Bradley moved into the flat above the car showroom, to be nearer to the business.

The repair workshop was in need of refurbishment, so Farzana was unable to let it on the open market. Anxious that it should be put to some good use, she decided to allow her brother-in-law, Munib, to use the repair workshop. She told Munib that he could have the workshop "until such time as I want it back". Unbeknown to Farzana, Munib subsequently refurbished the repair workshop and opened a motorcycle repair business.

Farzana now wishes to return to the UK and re-establish her business. She wants possession of both premises. She has sent a letter to Bradley, informing him of her intention to retake possession of the car showroom and the flat, now that the lease has expired. However, Bradley has replied that he has a legal right to remain and will not vacate. On a recent visit to the showroom, Farzana discovered that Bradley was not currently trading: instead, there was a large sign in the showroom window, which stated, 'The business is closed for two months for refurbishment and re-stocking'.

In relation to the repair workshop, Munib has told Farzana that he is prepared to vacate, but only on condition that Farzana pays him compensation. Munib believes he is entitled to be reimbursed for the costs of the refurbishment that he undertook and to some payment in respect of loss of goodwill to his business, if he has to move.

Advise Farzana.

(25 marks)

Turn over

Question 3

In May 2015, Aaraf let a house to Helen for a term of six months by way of an Assured Shorthold Tenancy agreement. Helen moved in with her young son, Matthew. Helen and Matthew continue to occupy the house as their home.

Last month, Aaraf telephoned Helen to inform her that he intended to redecorate the interior of the house. He said that he would be doing the work himself and he would let himself into the house and carry out the work during the day (while Helen was at work and Matthew was at school). He estimated that it would take about a week to complete the redecoration.

Helen replied that she was uncomfortable with this proposal, partly because she feared that the paint fumes would exacerbate the asthma from which Matthew suffers and partly because she was concerned about a loss of privacy. When Aaraf said that she had no choice in the matter, Helen said, 'Well, we'll see about that'.

Helen subsequently changed the locks on the front and back doors to the house, and has since refused Aaraf's requests to be allowed entry.

Last week, Aaraf sent a letter to Helen, giving her one month's notice of his intention to terminate the tenancy, 'because you are in breach of our agreement'. In that letter he stated that if Helen did not leave voluntarily at the end of that period, then (given that she had changed the locks) he would use force to gain entry to the property and would hold her responsible for any resultant damage to the property.

Advise Aaraf.

(25 marks)

Question 4

Kempston Court is a purpose-built, two-storey block of flats, which comprises eight separate flats. The flats were originally let to different tenants in 1994 for a term of 125 years, subject to a ground rent and payment of a service charge. Four of the current long leaseholders live in their respective flats. The remaining four flats have been sublet by the long leaseholders to short-term residential tenants on Assured Shorthold Tenancies under the Housing Act 1988.

The freehold of Kempston Court is owned by Neptune Properties Ltd (Neptune).

Minerva purchased the long lease of her first-floor flat in 2015. Since moving in, she has encountered a number of problems with the young couple who live in the flat that lies directly below hers. They are subtenants of one of the long leaseholders (Diana). Minerva's main complaint is that the couple's children are too noisy, both when in their flat and when playing on the stairs and in the hallways of the block. Minerva is also concerned that the couple appear to be using the entrance hall as a part of their flat, with the entrance hall to the block repeatedly being left cluttered with their bikes and pushchairs.

Minerva initially complained to Neptune, but it claimed that it was powerless to do anything. Neptune suggested that Minerva should contact Diana, and provided her with Diana's telephone number.

Minerva's subsequent telephone conversation with Diana did not go well, and so Minerva rang Neptune to ask again if they would help. However, she was told that Neptune would no longer be dealing with the property, as it had negotiated a sale of the freehold reversion to another company, Ceres Properties Limited. (CPL).

Minerva has carried out some internet research into CPL and is concerned that some of the online forums which she visited contain serious complaints about CPL's performance as a landlord.

Advise Minerva as to:

- (a) any action she might bring against Neptune in relation to the noise and activities of the young couple;

(11 marks)

- (b) whether there any steps which she and the other long leaseholders can take to prevent the sale to CPL.

(14 marks)

(Total: 25 marks)

End of Examination Paper

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