



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 2018-2019, 26th edition, Meryl Thomas, Oxford University Press, 2018.**
- 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 how the court will determine:
 - (a) who has the best claim to objects found on or in land;
(18 marks)
 - (b) the height to which a freeholder owns their land.
(7 marks)**(Total: 25 marks)**

2. Critically evaluate the proposition that proprietary estoppel is an uncertain and unfair doctrine, which allows parties to avoid legal formalities.
(25 marks)

3. Critically analyse when an easement may have been created by prescription.
(25 marks)

4. Critically evaluate the protection of a mortgagor by:
 - (a) preventing fetters on the right of redemption;
(12 marks)
 - (b) the doctrine of undue influence.
(13 marks)**(Total: 25 marks)**

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

Question 1

Andy was the registered proprietor of 23 Beta Road, a freehold two-bedroom, semi-detached property in Kempston. Andy, by deed, leased the property to Charlotte, a writer of detective novels, for 30 years. The leasehold estate was correctly registered by Charlotte. The lease contains the following clauses:

'12. The tenant hereby covenants not to install any form of flooring in the property and to instead maintain the current wooden floors.'

'15. The landlord hereby covenants to keep the central heating system serving the property in good repair.'

'19. The tenant promises to provide the landlord with a signed first edition copy of any books authored by her which are published during the term of the lease.'

In May 2018, Charlotte assigned the lease by deed to Devon, a professional tennis player, who moved into 23 Beta Road.

In August 2018, Andy sold the freehold of 23 Beta Road to Emilia.

Emilia recently visited the property to ask Devon for a signed first edition copy of his new autobiography, which Devon refused to provide. While at the house, Emilia found out that last month Devon had taken up the wooden floors of the property and replaced them with carpet.

The central heating system at the house has recently stopped working, and Emilia has refused to repair it while Devon is in breach of the other covenants.

Advise Emilia as to the enforceability of each of the covenants:

(a) if the lease was granted in 1993;

(12 marks)

(b) if the lease was granted in 2003.

(13 marks)

(Total: 25 marks)

Question 2

Elijah and Fatima met in 2003 and began a romantic relationship. Elijah was employed full-time, working for a large insurance firm, while Fatima was studying medicine with the intention of becoming a doctor.

In 2006, they decided to live together and found an apartment that was on sale for £150,000. Elijah paid £15,000 as a deposit, and took out a mortgage in his name for the remaining £135,000. The property was registered in Elijah's sole name. He told Fatima (incorrectly) that: 'It's better this way, as if your name was on the register, you might lose your student loan'.

From 2006 onwards, Elijah made the mortgage repayments as scheduled. Because this took up much of his salary, Fatima, who had now qualified as a doctor, began to pay the vast majority of the household bills. In 2008, Fatima gave birth to their son, Gavin. Fatima decided to work part-time in order to have more time with Gavin. From 2008 until 2018, Fatima was the primary carer for Gavin and also used her salary to pay for his clothes, toys, etc. She continued to pay the household bills and Elijah continued to repay the mortgage. Fatima also renovated the kitchen and bathroom in the apartment, paying for the new appliances and carrying out the work herself.

In November 2018, Elijah told Fatima that he had been having an affair and that he considered their relationship to be over. Elijah went on to say that he considered the apartment to be his alone and that Fatima must find somewhere else to live with Gavin.

Advise Fatima as to whether she has an interest in the apartment under an implied trust.

(25 marks)

Turn over

Question 3

Last month, Izzy purchased the registered freehold of a large country house, The Elms, from Hubert, the previous registered proprietor. The purchase also included Gamekeeper's Cottage, a small cottage on a neighbouring plot. In the last few weeks, Izzy has been contacted by a number of people claiming to have various rights over her two properties.

Jin has contacted Izzy, asking her to take up the repayments on a loan previously obtained from him by Hubert and expressed to be secured over The Elms. Jin tells Izzy: 'I used a deed, so it's definitely binding'. Jin has shown Izzy a document titled 'Loan Contract', which sets out the details of the loan and the security, and was signed by Jin, although not by Hubert.

Keir has been using a path across the back garden of The Elms to walk from his property to the local shops. Izzy has found a signed agreement between Hubert and Keir, which states: 'I hereby give you the right to use the path to get to the shops until I have the money to build a swimming pool on that part of the garden'.

Miley is living in Gamekeeper's Cottage. She claims that Hubert orally granted her a two-year lease in October 2018. Hubert has confirmed that this is true, and that no documentation was used. He tells Izzy: 'I don't see what your problem is. She's paying above the average market rent for the place!'

None of the above rights are entered on the Land Registry register of title of the two properties.

Advise Izzy as to whether she is bound by any of the rights claimed by Jin, Keir and Miley.

(25 marks)

Question 4

Martin was the owner of 9 Northampton Road, a large freehold detached house in Kempston. In 2011, he decided to raise money for his new business 'Magic Martin Management', by dividing the property into two separate parts, retaining one for himself (called '9a') and selling the freehold of the other (called '9b'). Due to where service pipes are laid, the central heating for the two properties is provided by a single system, which is accessible only from 9a. This system controls the heating to both properties.

Once the work was completed, Martin moved into 9a and sold 9b to Olisa, a web designer.

As part of the transfer of 9b, Olisa covenanted on behalf of himself and his successors in title:

1. to obtain the consent of the owner of 9a, before making any structural changes to the property at 9b;
2. to design and maintain a website for Magic Martin Management;
3. to contribute 50% of the shared heating bill for the two properties at 9a and 9b.

The covenants were correctly registered. In 2017, Martin sold 9a to Petr. In 2018, Olisa sold 9b to his colleague Queenie. Queenie asked Petr for consent to her building an extra floor on top of the existing building at 9b, which Petr has refused to give. Annoyed at this, Queenie has begun the work anyway. She has also refused to pay the most recent heating bill, and claims that she will continue to refuse to do so. Also, Petr has asked Queenie to design a website for his own business, which she has refused to do.

Advise Petr as to the enforceability of the covenants:

(a) in equity;

(15 marks)

(b) at law.

(10 marks)

(Total: 25 marks)

End of Examination Paper

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