



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 2019-2020, 27th edition, Meryl Thomas, Oxford University Press, 2019.**
- 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**

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

1. Critically analyse how true it is to say that exclusive possession of land will always result in a leasehold interest rather than a mere licence in the land.

(25 marks)

2. Critically analyse:
 - (a) the distinction between joint tenancy and tenancy in common;

(13 marks)

 - (b) the distinction between severance by notice and severance by other methods.

(12 marks)

(Total: 25 marks)

3. Critically evaluate how the current law balances the interests of purchasers and those with existing interests in property in relation to:
 - (a) unregistered land;

(14 marks)

 - (b) registered land.

(11 marks)

(Total: 25 marks)

4. Critically discuss the view of the Law Commission that freehold covenants are 'illogical, uncertain, incomplete and inflexible'.

(25 marks)

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

Question 1

Aubrey is the freehold owner of Blue Farm, in the village of Muchampton, which has a registered title. Blue Farm is a large agricultural property, which includes a farmhouse, where Aubrey resides, and various outbuildings. When Aubrey purchased Blue Farm in 2009, the neighbouring property, Dryroot Cottage, was owned by Clara. Aubrey and Clara soon became friends and often discussed how they each planned to renovate their respective properties.

In 2012, Aubrey set up a business, 'Fantastic Fun', which provided 'team-bonding' activity days, where clients could enjoy various countryside pursuits. In order to be able to host these events at Blue Farm, Aubrey renovated two outbuildings, to provide changing rooms and luxury shower facilities.

In 2013, Clara told Aubrey that she planned to begin a 'Bed & Breakfast' business at Dryroot Cottage. In order to create enough space to accommodate guests, Clara had to remove one of the bathrooms from the cottage. She asked Aubrey if he would allow her guests to use the shower facilities at Blue Farm. Aubrey was happy to do so, and he and Clara drew up a deed, which granted the owner of Dryroot Cottage the right to use the shower facilities in the outbuildings at Blue Farm. The deed met all legal requirements for validity and was registered at HM Land Registry.

In 2016, Aubrey's business was in financial trouble. To raise funds, he sold off a portion of the Blue Farm property to Ellis. The area sold was a dilapidated outbuilding known as 'Gamekeeper's Lodge', which Aubrey had not used or accessed at all since he moved in. Ellis told Aubrey that he planned to carry out major building works at the lodge to make it into a luxurious residence. Gamekeeper's Lodge can only be accessed by vehicles from the main road via a track that runs over land which Aubrey retained. The transfer of the lodge to Ellis contained no mention of any rights over the track.

Last month, Aubrey sold the remainder of Blue Farm to Felicia. Felicia is angry that Clara and her guests come onto the property most mornings to use the shower facilities.

Felicia also wishes to prevent Ellis from using the track to access Gamekeeper's Lodge and has placed a large fence across the track to deny him access. Ellis is furious, as he needs to bring large construction machines onto his property and the only other access to the lodge is a small pedestrian footpath.

Advise Felicia.

(25 marks)

Turn over

Question 2

Mandy and Norman had been in a romantic relationship for some years. In 2014, they decided to live together and they purchased The Elms as a home for themselves and their two young children. The property was registered in Mandy's sole name, as was the mortgage.

Norman paid all the household expenses and the children's school fees, while Mandy made all of the mortgage repayments.

In 2018, a new block of residential flats was built in a nearby town. As a commercial investment, Mandy and Norman decided to buy one of the flats, Flat 32, which was listed for sale at £220,000. In order to take advantage of a 'first-time buyer' discount of £20,000, the flat was purchased in Norman's sole name. Mandy and Norman were aware that the first-time buyer scheme was not available to anyone whose partner already held title to their home. Mandy paid £50,000 towards the purchase and Norman paid £150,000.

Mandy and Norman's relationship has now come to an end.

Advise Norman as to:

- (a) whether he has a share in The Elms and, if so, how the court may quantify that share;

(17 marks)

- (b) whether Mandy has a share in Flat 32 and, if so, how the court may quantify that share.

(8 marks)

(Total: 25 marks)

Question 3

Geraint was the freehold owner of Manor Farm, a large agricultural property. In 2006, Geraint's wife died. Unable to manage the farm alone, Geraint wrote to his four children, all of whom lived abroad. In his letter, Geraint stated: 'If you return and help me manage the farm, you can expect to be well rewarded after I die'.

Geraint's daughter Hatice was the only one of the children to respond to Geraint's request, and she returned to the farm in late 2006. Hatice had been studying architecture at a prestigious university in Germany, but gave up her course to return to help her father.

For the next nine years, Hatice worked full-time at the farm. Geraint paid her a wage of £25,000 per year. In 2015, Geraint was diagnosed with a serious illness and faced mounting medical bills. He said to Hatice: 'I can't afford to pay you any longer, but if you carry on running the farm, I will leave everything to you'. Geraint also gave Hatice the combination to his office safe, where he stored the unregistered title deeds for the farm. For the next four years, Hatice both ran the farm and acted as Geraint's primary carer. She was so busy with her responsibilities that she had no social life, and her long-term relationship with her boyfriend ended under the strain.

In 2018, Geraint was approached by Irena, a property developer. Irena wanted to build houses on an unused field that was part of Manor Farm. Geraint was concerned about losing control of any of his land, so orally agreed with Irena that Irena would first obtain planning permission for the houses. It was also agreed that until the permission was obtained, Geraint remained the freehold owner of the land. It was further agreed that on planning permission being obtained, Geraint would sell the field to Irena for £500,000. Irena would then build the houses and split the proceeds with Geraint.

Last month, Geraint died, leaving no Will. His other three children, who still live abroad, believe the farm should be sold and the proceeds split equally between them and Hatice. Irena has spent a lot of time and money over the last two years obtaining planning permission for the field, and wishes to enforce the sale of the field. Hatice believes the farm is hers, and also does not wish to sell the field, as she believes she could obtain more money from another developer.

Advise Hatice as to any estoppels that may have arisen in relation to the farm.

(25 marks)

Turn over

Question 4

Travis bought a house on Westland Avenue in 2002. A few months after moving in, Travis noticed that number 23, a detached house at the end of the street, was vacant.

In December 2007, Travis became concerned that local children were accessing number 23 and could get hurt, as the house was in a poor state of repair. Travis boarded up the windows of the house and placed a lock on the front door, to which he kept the only key.

In August 2008, Travis's wife gave birth to triplets. Needing more space in his house, Travis decided that number 23 would be an ideal place to store some of his belongings that he longer had room for. To keep his belongings safe and in good condition, Travis carried out work on number 23, to make the house weathertight.

Travis and his wife began to have relationship difficulties and, in May 2010, he moved out of their family home. To save money and to stay nearby for the children, Travis moved into number 23. He furnished the property at this point.

In September 2010, Travis and his wife were reconciled and he moved back to the family home. Travis suggested to his cousin Ursula that she move into number 23 and occupy it in her own right. Ursula agreed, and has lived at number 23 since September 2010.

In 2015, Ursula received a letter from Vikram, stating that he had inherited the property from a distant relative. Vikram's letter stated that Ursula was trespassing and demanded that she leave the property. Ursula ignored the letter and heard no more from Vikram. Ursula now wishes to establish her rights in the property.

Advise Ursula on the basis that number 23 is:

(a) unregistered land;

(17 marks)

(b) registered land.

(8 marks)

(Total: 25 marks)

End of Examination Paper

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