



## 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 examine the statutory and common law rules relating to a landlord's right to forfeit.

**(25 marks)**
  
2. (a) Compare and contrast the 'cases' for possession of tenancies under the Rent Act 1977 with the 'grounds' for possession of assured tenancies under the Housing Act 1988.

**(18 marks)**

(b) Critically evaluate the approach of the court when deciding whether to make a possession order under those acts.

**(7 marks)**

**(Total: 25 marks)**
  
3. Critically discuss the adequacy of the protection which is afforded to tenants by the principles of:
  - (a) quiet enjoyment; **(14 marks)**
  - (b) non-derogation from grant. **(11 marks)**

**(Total: 25 marks)**
  
4. Critically examine the requirements and effectiveness of the Leasehold Reform, Housing and Urban Development Act 1993 in relation to the collective enfranchisement of flats.

**(25 marks)**

**Turn over**

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

**Question 1**

Hilary owns a flat in London. Twelve months ago, she was sent by her employer on secondment to New York. The secondment is open-ended.

Hilary leased the flat to Donald on a monthly tenancy. Donald said that he was quite happy to carry out minor 'running' repairs as and when required, so Hilary included a term to that effect in the tenancy agreement.

A few weeks ago, Donald told Hilary that the flat appeared to be suffering from severe mould and condensation. He also told her that the gas boiler in the flat had been malfunctioning, as a result of which he had called out an engineer who had immediately declared the boiler unsafe and had disconnected it.

Hilary arranged for a surveyor and an engineer to inspect the property. The surveyor reported that the mould and condensation appeared to be the result of a combination of excessive heating of the flat and poor ventilation. The surveyor attributed the poor ventilation to an inherent defect in the design and/or construction of the flat, which it would be impossible for Hilary to rectify.

The engineer reported that the boiler was indeed unsafe due to the failure of a key component. Hilary asked the engineer to 'sort everything out' with Donald. Unfortunately, due to a combination of the required spare part being unavailable and Donald's work commitments, the engineer was unable to carry out the repair for two weeks, during which time the flat was without any form of heating.

Donald emailed Hilary a couple of days ago to say that:

- he paid the engineer for the repairs, and so he will be deducting the amount paid from the next rent payment;
- while the boiler was out of commission, the flat was freezing cold and (in his words) 'barely habitable', and so he will make a further deduction from the next rent payment as compensation for the inconvenience caused to him;
- the mould and condensation are, in his words, a 'health hazard' which make the flat 'not fit for man nor beast', and so he will make further deductions from all future rent payments to reflect the condition of the flat.

Advise Hilary.

**(25 marks)**

## Question 2

Xander owns high-street premises consisting of separate units on the ground and first floors of the building.

The first floor space is let to Yuri, an aspiring artist, for use as a studio. Two years ago, Yuri took the premises for an initial period of three months and thereafter from month to month until notice of termination was served by either himself or Xander. Yuri has not yet sold any of his paintings, but he makes a living by drawing caricatures for tourists at a nearby theme park. Unbeknown to Xander, Yuri has also been living at the studio for the last two months, after he split up with his girlfriend.

The ground floor space is let to Zak. Zak runs a frozen yoghurt and smoothie bar/café from the premises. When Zak first approached Xander in April 2016 about taking the premises, he was unsure whether his business would be a success and he also had very little money. Xander agreed that:

- he would let Zak have the premises for a trial period of six months, with the opportunity for Zak to extend the lease for a further six months if things went well (Zak duly exercised the right to extend in September 2016);
- he would take 10% of Zak's turnover by way of rent.

In December 2016, Xander received an offer from Foodmart UK Limited, which wants to buy the building and convert it into one of its 'Quickshop' supermarkets (with the retail operation on the ground floor and staff rooms, storage, etc., on the first floor). Foodmart has told Xander that it will only proceed with the purchase if he can secure vacant possession of the building.

Zak has not paid any rent to Xander for the last two months. He claims that he is not obliged to do so, because he has not made any profit from the business over the winter. However, he is refusing to provide any financial information to Xander about the business.

Advise Xander as to:

- (a) whether the tenancies in favour of Yuri and Zak will be regulated by the Landlord and Tenant Act 1954;
- (b) what steps he should take to terminate the tenancies;
- (c) his chances of success in obtaining vacant possession.

**(13 marks)**

**(6 marks)**

**(6 marks)**

**(Total: 25 marks)**

**Turn over**

### Question 3

The Ready Meal Company ('Ready Meal') is a manufacturer of ready meals for a number of the UK's leading supermarkets and food retailers. It has a production facility at one of two units on an industrial estate owned by A2Z Properties Limited ('A2Z').

Ready Meal occupies its unit (Unit 1) under a lease which is for a term of 25 years from 1 December 2010. The lease contains a tenant's covenant not to assign without landlord's consent.

A2Z bought the industrial estate (subject to the lease to Ready Meal) in early 2015. Shortly afterwards, A2Z let the other unit on the estate (Unit 2) to FBN Waste Disposal Limited ('FBN') for a term of 10 years from 1 July 2015, with a landlord's right to break the lease on 30 June 2020.

FBN proved to be a bad neighbour. Within a few weeks of FBN going into occupation, A2Z began to receive complaints from Ready Meal about FBN's activities. A2Z failed to take any real steps to deal with Ready Meal's complaints, other than to say that it would review the situation closer to the break date.

By summer 2016, Ready Meal had lost patience with A2Z's inactivity and had decided to relocate its production operations. It therefore sought and found a potential assignee for Unit 1. The proposed assignee is an online retailer and distributor called 'Ganges'; it wants to use Unit 1 as a distribution warehouse. Ganges is a recently established company, which has yet to make a profit from its trading activities.

In September 2016, Ready Meal asked A2Z for consent to the assignment to Ganges. A2Z did not reply until just before Christmas 2016: its explanation for the delay was that its managing director had been hospitalised for several weeks and had not been able to deal with any work matters, including Ready Meals' application for consent. In its response, A2Z said that it would consent to the assignment if Ready Meal would agree to vary its existing lease so as to incorporate a break with the same break date of 30 June 2020. A2Z stated that it required such a break for 'the purposes of good estate management'. Ganges will not accept that break date of 30 June 2020 but is telling Ready Meal that it should be possible to go ahead with the assignment anyway.

Advise Ready Meal as to whether it is within its legal rights to assign.

**(25 marks)**

#### Question 4

In 2013, Jeff bought a house in Leeds, which he converted into three bedsits. His intention was to allow his son, Paul, and two of Paul's friends (whom Jeff had known for many years) to live in the house for the three years while they were at university together in Leeds. Once their studies were complete, Jeff intended to let out the bedsits to other students at the university in the following years.

Paul and his two friends (Matt and Charlie) applied to a local educational charity for a bursary to meet their living expenses while at university. In order to qualify for the bursary, they were required to demonstrate to the charity that they had written agreements relating to their living accommodation. Jeff drew up the agreements himself. He knew a little about the law and included terms which said that he could move Paul and his friends within the house if he wished, and that he would provide cleaning and laundry services. When Paul said that he and his friends didn't much like the idea of this, Jeff said: 'Don't worry, I won't actually be doing any of this, but I just need to protect myself'. Paul and his friends offered to pay rent to Jeff, but he refused their offer saying: 'You can use the extra money to enjoy yourselves while you're at university'.

The university course finished in July 2016. Paul has gone travelling for a year, but his friends have refused to move out of the house. Jeff has received reports from neighbours of loud, late-night parties taking place at the house, with frequent visits from the police at all hours of the day and night.

Recently, Jeff wrote to Matt and Charlie saying that he expected them to vacate within four weeks, failing which he would 'take all and any steps necessary' to recover possession. He received a reply from Matt, saying: 'We have every right to stay for as long as we want and there's nothing you can do about it'.

After learning from Paul that Matt and Charlie will be meeting up with Paul in Italy for a few days next week, Jeff has booked a locksmith and removal firm to enter the house while it is empty, to take everything belonging to Matt and Charlie into storage, and then to change the locks.

Advise Jeff as to:

- (a) what rights (if any) Matt and Charlie have to occupy the house; **(12 marks)**
  - (b) what steps he needs to take to terminate their occupation; **(7 marks)**
  - (c) whether he should go ahead with the planned eviction. **(6 marks)**
- (Total: 25 marks)**

**End of Examination Paper**

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