



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 2016-2017, 24th edition, Meryl Thomas, Oxford University Press, 2016.**
- 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 evaluate whether a squatter is more likely to succeed by claiming adverse possession over unregistered or registered freehold land where adverse possession was completed after 2004.

(25 marks)

2. Critically evaluate how the courts determine whether a person under an agreement in actual occupation of residential land is or is not a tenant under a legal or equitable 'lease'.

(25 marks)

3. (a) Critically evaluate the extent to which proprietary rights over another's land, such as parking rights, must avoid granting exclusive possession in order to be capable of amounting to an easement.

(17 marks)

- (b) Critically evaluate how the reservation of an easement may be impliedly created.

(8 marks)

(Total: 25 marks)

4. Critically evaluate the rights and remedies of a mortgagee where the mortgagor has defaulted upon a legal mortgage.

(25 marks)

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

Question 1

Harold is a farmer and the sole owner of Pickwick Estate, a 10-acre plot situated in Cumbria, north-west England, comprising a detached house and a family sheep farm.

In 2001, the farm was severely affected by the outbreak of foot and mouth disease. Harold lost nearly three-quarters of his flock, which caused huge financial loss. Harold could not cope with running the farm, so he telephoned his son, Benjamin, who lived in London, and asked him to return home to assist Harold. Benjamin was reluctant, as it meant giving up his career, and he had just received a job offer as senior doctor with a salary of £50,000. During the phone call, Harold told Benjamin: 'It would be in your best interest to return as it will all be yours one day – after me'. Benjamin moved back to Pickwick Estate, having declined the job offer, and lived rent-free with Harold in the detached house. He immediately began arduously working on the sheep farm for no pay – a commitment he has continued to the present day.

From 2005 and over the next several years, Benjamin spent his savings on considerable refurbishments and improvements to the sheep farm and the house. In 2005 Harold told Benjamin that: 'The whole estate is yours when I'm gone – it's all been dealt with in my will'. Harold continued to repeat this statement over the following years.

One month ago, in order to purchase a new tractor, Harold decided to sell a five-acre plot of grazing field on Pickwick Estate for £75,000. Natalia, an experienced property developer, was interested in purchasing the field for residential purposes. Natalia met Harold and verbally agreed to purchase but at a lower price yet to be agreed, and she said to Harold: 'as long as I can obtain planning permission from the local council'.

Last week, Harold died. His will left his entire estate to the Family Farmers Association.

Advise Benjamin and Natalia as to whether they can enforce their informal arrangements under the doctrine of proprietary estoppel.

(25 marks)

Question 2

In 2012, Carol, Edith, Patricia and Seren, all trainee chartered legal executives, decided to set up home together and they purchased Calamity House, which was conveyed to them 'as beneficial joint tenants'.

In 2014, Carol tragically died in a motorcycle accident. Her valid will left all her estate to Edith.

In 2015, Edith moved out of the house, having decided to give up her career in the law to go travelling around the world with her boyfriend, Deepak. While staying in Nepal, Edith wrote to Patricia and Seren, saying that she was short of funds and required Calamity House to be sold immediately. The letter arrived at Calamity House. Seren read it but did not show it to Patricia, as Seren did not want to sell. Soon afterwards, Edith died from malaria, caught while she and Deepak were climbing the Himalayas. Edith's valid will leaves everything to Deepak.

In 2016, Patricia moved out, having sold her beneficial interest in Calamity House to her friend Robert, who is in the business of buying and selling properties as investments.

Deepak has now returned to the UK and is insisting that Calamity House be sold as quickly as possible. Robert is in agreement. However, Seren does not want to sell and is extremely unhappy about this, especially since she is single and eight months pregnant. She tells Deepak and Robert that she cannot possibly move now and that she has nowhere else to reside.

- (a) Advise the parties as to how the legal and beneficial estates devolve.
(18 marks)
- (b) Advise Deepak as to the steps he can take in order to compel the sale of the property.

(7 marks)
(Total: 25 marks)

Turn over

Question 3

In 2016, Maria, the registered freehold owner of Blackberry Farm, which includes Meadow Field and Tulip Cottage, entered into three transactions:

- i) Maria correctly executed a deed granting her neighbour, Gill, an easement to drive across Meadow Field as an alternative quick route to access the motorway from Gill's house.
- ii) Maria told Felicity that she could rent Tulip Cottage for three years at a monthly rent of £600. Maria had been told by her local estate agent that this was the open market rent for the property. Felicity moved into the cottage shortly after the oral agreement.
- iii) Maria wrote to Joseph, informing him that he has the right to purchase Blackberry Farm anytime over the next five years for the sum of £500,000.

Last month, Maria sold Blackberry Farm to Omar, who is now the registered proprietor. Omar has told Felicity that she must leave Tulip Cottage and he has told Gill that she must stop driving across Meadow Field. Joseph now wants to exercise his option.

- (a) Advise Gill, Felicity and Joseph whether Omar is bound by the transactions.

(20 marks)

- (b) Explain briefly how your advice would differ if the transactions were governed solely by the rules concerning unregistered land.

(5 marks)

(Total: 25 marks)

Question 4

In 2004, Khalid, the freehold owner of Hampton Industrial Estate, sold part of the land to Indya, for the purpose of establishing a dental practice. As part of the transfer of the freehold plot of land, Indya made the following covenants, which are properly registered:

1. to only erect one building on the land;
2. to place only one sign on the land;
3. to use the land only as a dental practice; and
4. to pay half the costs of the maintenance of the shared driveway.

In return, Khalid covenanted:

5. to keep the exterior of Hampton Industrial Estate building in a state of good repair.

This was also properly registered.

In 2005, Indya opened the newly built dental practice. In 2007, Khalid sold Hampton Industrial estate to Len, and Indya sold the dental practice to Amelia.

Len has now learnt that Amelia has decided to expand the dental business, by setting up a separate facial spa clinic. For this purpose, Amelia plans to construct a second new building and intends to place, next to the dental practice sign, another sign advertising the new spa.

For her part, Amelia is annoyed that Hampton Industrial Estate building's exterior has not been painted for many years and is in a state of disrepair. She has asked Len on several occasions to repaint it, as it gives a poor impression to her clients. As Len has refused to do so, Amelia is now refusing to contribute to any further cost of maintaining the shared driveway, and, in any case, she states that she no longer needs to use it.

Advise Len whether he is entitled to enforce the covenants against Amelia and whether he must maintain the exterior of Hampton Industrial Estate building.

(25 marks)

End of Examination Paper

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