



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 10 – Landlord & Tenant Law

Question paper

June 2024

Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer at least one question from this section.

1. 'It has long been recognised that leasehold, whilst it suits some, has many drawbacks for long-term residential occupiers in England and Wales.' [Commonhold and Leasehold Reform Draft Bill and Consultation Paper No. 4843 (2000)]

Critically evaluate, in the light of this statement, the extent to which these drawbacks are mitigated in relation to flats by the right of collective enfranchisement and the right to manage.

(25 marks)

2. Critically assess how the common law and statutory rules relating to forfeiture for breach of covenant or condition might usefully be reformed.

(25 marks)

3. Critically evaluate:

(a) the differences between the regulation of qualified covenants against assignment and the regulation of qualified covenants against improvements;

(17 marks)

(b) whether the regulation of all qualified covenants places an undue burden on landlords.

(8 marks)

(Total: 25 marks)

4. Explain in detail the statutory protections afforded to:

(a) a protected tenant under the Rent Act 1977;

(16 marks)

(b) a licensee who is in occupation of residential premises.

(9 marks)

(Total: 25 marks)

SECTION B

Answer at least one question from this section.

Question 1

Twelve months ago, Adam bought a rural property comprising a dilapidated manor house, some outbuildings and a small gatekeeper's cottage. Adam's intention was to renovate the manor house so that it became Adam's home and to convert the outbuildings into serviced office units. He had no immediate plans for the cottage.

Adam's brother, Benjamin, is an experienced builder. He has been assisting Adam with the renovation and conversion work on a full-time basis. Hopeful that Benjamin, who is a recovering drug addict, would want to start a new life in the country, Adam told Benjamin that he could "stay in the cottage for as long as you want". Adam has paid all the outgoings for the cottage while Benjamin has been living there, in return for which Benjamin has provided his labour on the manor house and the outbuildings free of charge.

An initial shortage of funds meant that Adam was unable to proceed with the conversion of the outbuildings as quickly as he would have liked. However, he was approached by a neighbouring farmer, Cassandra, who asked if she could use the outbuildings to store machinery and straw, following a fire that had damaged one of Cassandra's barns. Adam agreed to let Cassandra have the use of the outbuildings without payment until he "needed them back". In order to make the outbuildings windproof and watertight, Cassandra carried out substantial repairs, including the replacement of numerous missing or broken roof tiles and the provision of new doors and window frames where necessary.

The renovation of the manor house is now complete. In recent months, Adam has become concerned that Benjamin has started using drugs again and has been supplying drugs to others at the cottage so Adam now wishes to regain possession of it. However, Benjamin is refusing to vacate as he claims that he has a tenancy.

Adam now has the funds required to renovate the outbuildings. However, Cassandra is refusing to vacate on the basis that she also has a tenancy.

Advise Adam in relation to the claims by Benjamin and Cassandra.

Please note: In your answer you should not discuss any grounds of possession that might be available to Adam.

(25 marks)

Turn over

Question 2

Delicious Eats Limited ('DEL') is a mobile catering business specialising in vegan and vegetarian food for the lunchtime market. It owns two freehold warehouses on an industrial estate which are designated 'Warehouse One' and 'Warehouse Two' respectively. Originally, the warehouses were used by DEL for storage but they are now let to commercial tenants.

Warehouse One is let to Funtime plc ('Funtime'), a company that manufactures novelty toys. Funtime uses Warehouse One to store stock. The lease was granted in March 2015 and was expressed to be for a fixed term of 10 years.

Warehouse Two is let to Gregor, a local philanthropist, who allows it to be used free of charge by local artists, theatre groups and community workshops. The lease was granted in March 2022 for a fixed term of three years.

The local council has recently approved plans for the construction of a shopping centre on land next to the industrial estate ('the development site'). Construction works are due to begin on the development site in September 2024. It is expected that the construction works will last at least nine months.

DEL wishes to regain possession of Warehouse One. Following the construction of the shopping centre the land on which Warehouse One is situated will be in a prime location to attract passing trade and DEL wishes to demolish Warehouse One and build its first-ever restaurant on the cleared site.

The developer of the shopping centre is keen to acquire Warehouse Two from DEL so that it can be demolished and the site used to build a bowling alley that will enhance the amenities offered by the shopping centre. The developer has offered to pay above market value for the freehold of Warehouse Two and DEL is keen to accept that offer. The developer requires vacant possession but Gregor is opposed to the construction of the shopping centre and has said that he will not give up possession willingly.

Advise DEL in relation to:

(a) the principles that the court will apply in determining whether DEL is entitled to possession of either warehouse;

(17 marks)

(b) DEL's chances of obtaining possession of either warehouse.

(8 marks)

(Total: 25 marks)

Question 3

In 1996, Harbajan and his wife, Isa, decided to move out of London to take up a rural life in the countryside. They bought a few acres of land on which stood a farmhouse and a small barn. They moved into the farmhouse and, after converting the barn into a residential property, let it to Isa's best friend, Jana, on a monthly basis. Jana has lived in the barn ever since but each Christmas she goes to stay with family friends in the Caribbean for two months in order to escape the worst of the British winter.

The barn is situated close to the main road. Jana (who has never learned to drive) uses the nearby bus stop to travel to and from the shops, the post office and other amenities in the nearby village.

As Harbajan and Isa both had full-time jobs, they employed a farm manager, Ken, to run the farming business. They obtained planning permission for, and subsequently paid for, the construction of a cottage on the farm for Ken and his family to live in.

Harbajan died late last year. Ken's adult son, Lloyd, has agreed to buy the farm (excluding the barn and the cottage) from Isa. Once the sale completes, Lloyd will be moving into the farmhouse. At the same time, Ken and his wife will be vacating the cottage (which will then be empty) and emigrating to Australia. Isa will retain ownership of the barn and the cottage, it being her expectation that Jana would agree to move out of the barn and into the cottage, leaving the barn free for Isa to move into.

However, when Isa put this proposal to Jana, Jana was vehemently opposed to it. She said that she had far too many belongings to fit into the cottage and could not bear to part with items she had owned for many years and to which she has a great sentimental attachment. Jana also stated that the cottage was much further from the bus stop than the barn, meaning that she would have to walk a considerable distance to and from the bus stop.

Advise Isa as to:

(a) the type of tenancy under which Jana currently occupies the barn;

(10 marks)

(b) the steps that Isa should take to obtain possession of the barn and how likely it is that she will succeed.

(15 marks)

(Total: 25 marks)

Turn over

Question 4

Marvan owns a flat in London he bought from a developer just over a year ago. Three months ago, Marvan's employer sent him on secondment to New York. The secondment is open ended.

Before his departure, Marvan let the flat to Natalja on a monthly tenancy. Marvan prepared the tenancy agreement himself, using an online drafting tool. Included in the tenancy agreement is a clause that states 'the Tenant is solely and exclusively responsible for all aspects of the repair and condition of the Property and must keep the Property in good and substantial repair and condition throughout the Term'.

Last week, Natalja emailed Marvan to tell him about the following issues:

- the flat is affected by damp, which is coming into the flat and creating mould, and causing the internal plaster to degrade. Natalja explained that she had asked a surveyor friend of hers to look into the problem and it was his view that the damp is the result of defective cavity wall insulation within the exterior walls of the block in which the flat is located;
- the gas boiler in the flat had been malfunctioning for several week. Natalja called out an engineer who had immediately declared the boiler unsafe (owing to the failure of a key component) and had disconnected it. Unfortunately, due to a combination of the required spare part being unavailable and Natalja's work commitments, the engineer was unable to carry out the repair until just after Christmas, during which time the flat was without any hot water or central heating.

Natalja's email went on to say that:

- the damp and mould are serious 'health hazards' and so she will be making deductions from all future rent payments to reflect the condition of the flat;
- she paid the engineer for the repairs to the gas boiler and so she will be deducting the amount paid from the next rent payment;
- the last few weeks have been "unbearable" and "Christmas was ruined" as a result of the boiler being out of commission and so she will make a further deduction from the next rent payment as compensation for the inconvenience caused to her.

Marvan has consulted you about Natalja's email. He believes that the clause in the tenancy agreement referred to above exonerates him from any liability to Natalja.

Advise Marvan as to any liability that he may have.

(25 marks)

End of the examination