

WRITTEN EXAMINATION

PAPER II

13th NOVEMBER 2003

10.45am – 12.45pm

Time Allowed - 2 Hours

Instructions to Candidates:

1. Complete the Green Examination Information Sheet by stating your examination reference number (not your name) together with the area in which you are practising and the local Association of which you are a member. Attach the green sheet to the top of your answer pad and ring the numbers of the three questions that you have answered.
2. Write your reference number (not your name) on each page. Number each page in the top right hand corner.
3. Write on one side of the paper only, leaving the margin on the left hand side.
4. Start each answer on a separate sheet and place your answers in numerical order.
5. Time has been allowed for you to read through the Question Paper **AND PLAN** your answers.
6. You should attempt to answer three out of the five questions, listing them out on the green sheet.
7. All questions carry equal marks: 20 each.
8. Questions are framed so as to minimise the need to make assumptions but state clearly any that you do make and the reasons for them.
9. Where appropriate, you will be expected to state the relevant Act, Statutory Instrument or case upon which you have based your answers.
10. You may use imperial or metric measurements in your answers. Please indicate which units you are using.
11. The presentation and clarity of your answers is important.

QUESTION 1

You have been instructed by lawyers acting on behalf of the late Robert Moore to provide them with a probate valuation of the deceased's assets.

These include a 300 acre dairy farm, known as West Ham Farm, Ramsey, let on an Agricultural Holdings Act 1986 tenancy by the deceased to R.Moore & Sons Ltd. Of which Robert Moore was a director and shareholder at the date of his death.

The deceased had lived off the holding for some years at Pickles Cottage and was resident there at the date of his death.

The farm incorporates a herd of 120 cows, one million litres of milk quota (300,000 litres having been bought over the years by the company) and the usual range of machinery and deadstock. It includes a farmhouse occupied by the deceased's son, who is also a director and shareholder of the company, and two cottages sub-let by the company on assured shorthold tenancies. There is a separate 10-year business lease to the company of a 30 unit touring caravan park owned by Robert Moore.

- Set out in note form (from which a probate valuation could then easily be produced) your headings, setting out the assets and interests to be valued and
- Write a letter to the lawyers asking them to clarify any points you consider relevant, but particular taxation issues.

QUESTION 2

Your client, Major Maxim, has been told informally that a new water main is to be laid next summer through his land to serve an extension to a New Town nearby. The Major owns 100 hectares, which is farmed in hand.

The intended route of the pipe will pass through an historic parkland adjacent to his Grade 1 Listed mansion house, and also a paddock which has potential for future development.

Major Maxim has asked for preliminary advice on the procedural requirements for acquiring an easement across his land, the headings for a claim against the Water Company and the payments he should expect.

Prepare detailed notes in preparation for a meeting with your client, remembering to advise him on any future rights the Water Company may have in relation to the easement.

QUESTION 3

You have recently inspected on behalf of an owner-occupier client a range of single storey Victorian brick and tile stockyards in good structural condition, extending to approximately 500 sq. metres but with a maximum eaves height of 3 metres.

The group of buildings is located close to a National Park in an area popular with tourists. Mains water and electricity are connected. The buildings are situated

approximately 50 metres down a good farm track, off a B class road and out of sight of the owner's farmhouse but in the centre of his holding.

Write a concise report with headings, outlining the options available to your client for alternative uses and the other principal issues that need to be considered in framing your recommendations.

QUESTION 4

Your tenant occupies a farm under the Agricultural Holdings Act 1986. The tenancy agreement incorporates the "Model Clauses" (The Agriculture (Maintenance Repair and Insurance of Fixed Equipment) Regulations 1973/1473, as amended).

The farm consists of a stone built farmhouse, a range of modern and traditional buildings and 100 hectares of land. The traditional buildings and the house are in need of repairs which the landlord refuses to carry out.

Write a briefing note to yourself in readiness for a meeting with your client outlining:

- the action he can take under the Model Clauses to rectify the situation
- the defences the landlord can take against such action, and
- the consequences which might flow from that action.

On your inspection of the farm, you could not help but notice that the tenant was also neglecting his obligations under the Model Clauses. Include in your briefing note:

- the action the landlord could take to get the tenant to fulfil his obligations
- the defences the tenant could use against such action, and
- the consequences that might flow from the actions of the landlord.

QUESTION 5

Write a file note setting out the procedures for setting claims by both landlord and tenant that arise at the end of a tenancy under the Agricultural Holdings Act 1986.

Include the procedures for referring the matter to arbitration should it prove necessary.

Comment on whether the procedure would differ in relation to a tenancy under the Agricultural Tenancies Act 1995.