

Examiners' Comments on the 2001 Examination

Head I: Conveyancing and Landlord and Tenant

This report contains observations made by the examiners on the performance of candidates who were unsuccessful in this examination. The observations were made following the first and second marking and after a further review of failed scripts for the purpose of preparing this report.

1. A number of candidates who failed the paper omitted a part of a question. In one or two cases this appeared to be due to time constraints, but in other cases the reason for the omission is not apparent. In marginal cases, an omission can make the difference between success and failure. Some of the observations made in paragraphs 2,3 and 4 might assist candidates who have not effectively managed their time in the examination.
2. Candidates are advised to go straight into their answers and to omit general introductions that do not contribute to a description of the issues or deal with the facts or solutions. Lengthy quotations from legislation or from documents – for example, quoting the exact wording of the restriction on letting incorporated by reference into Form 4 of the Third Schedule to the Conveyancing and Property Ordinance – also take time to write, but are unlikely to enhance answers.
3. Each question required candidates to deal with several issues. In some cases, the wording of the question indicated the issues to be discussed. For example, the preamble to Question 1(a)(i) requires candidates to state whether the Bank owes duties to Mary the mortgagor. In other cases, the candidate's knowledge of the area should have indicated relevant issues. For example, in Question 5(c) when discussing how Mr and Mrs Keen should prove grounds of opposition under s 119E (1) (c) Landlord and Tenant (Consolidation) Ordinance, candidates should have referred to the proviso to that section; in Question 2(a), candidates should have considered whether a requisition raised out of time goes to the root of title. Failure to deal with key issues in some cases produced the same effect as omitting part of a question.

Some candidates wrote at length about irrelevant issues. This wastes time and might indicate that a candidate has not understood the issues raised by the questions.

4. All questions required precise knowledge of the law so that candidates could both spot issues and provide answers or solutions. Although the examination has always been open book, it is unlikely that candidates have the time to look up the answers to questions during the course of the examination.

Some candidates had difficulty in spotting relevant issues in parts of Question 4. Even where the issues were correctly spotted, many explanations of the title problems arising from the documents were incomplete.

5. In some cases candidates stated the law without applying the law to the given facts thereby producing an incomplete answer. For example, in Question 4 who should make a declaration under s 5(4)(b) Powers of Attorney Ordinance?

This report contains comments that might assist candidates with their preparation and examination technique. It is not intended to be an exhaustive list of problems.

The syllabus and examination requirements make it necessary for candidates to allow plenty of time for preparation to reach the level required of candidates in the examination.

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