

**CAAV EXAMINATIONS 2010 – ORAL QUESTIONS**

**CAAV EXAMINATIONS – NOVEMBER 2010**

**National Oral Questions**

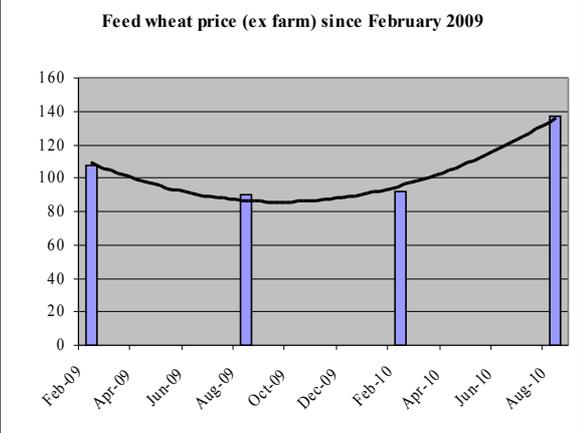
**Note – Each Examination Centre should select three of these six questions for use. Those three chosen questions are to be asked of all candidates attending the Oral. Each question carries 5 marks and so this section of the Oral carries 15 of the 50 marks with the remaining 35 marks turning on the topic.**

**Centres with candidates whose experience is in Wales or Scotland should consider this when selecting the questions and marking any points arising from that practice which may be given in their answers.**

**SUMMARY OF QUESTIONS**

- 1. Outline the simplified procedure for the Lands Tribunal.**
- 2. Overview of feed wheat prices in the last 18 months.**
- 3. What are the key elements of Feed-In Tariffs for land owners?**
- 4. What are the key considerations for a tenant offered an FBT and investment in place of a 1986 Act tenancy?**
- 5. How to approach the valuation for an access to someone else's development land?**
- 6. Give 5 key requirements for formal tenders for a property sale?**

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	Question	Guide answer																						
1	The Lands Tribunal <sup>1</sup> is the appellate body where disputes regarding the valuation of land and compensation (amongst other things) are able to be resolved. Please outline the main areas covered in the 'simplified procedure'.	<p>The simplified procedure is an oral hearing but the dispute (is):</p> <ul style="list-style-type: none"> <li>▪ Heard more quickly (usually within 3 months of its being referred) – reports exchanged 14 days before the hearing and the hearing usually lasts a day</li> <li>▪ Less formal. Evidence usually not given on oath and strict rules of evidence do not apply – any procedure that it considers to be fair.</li> <li>▪ Does not require the consent of the acquiring authority</li> <li>▪ Not necessarily barrister led, parties can be represented by a solicitor or a valuer acting as advocate and expert witness (with consent of the LT)</li> <li>▪ Normally has a 'no costs' award unless an unconditional offer has been issued.</li> </ul>																						
2	Give an overview of the ex-farm price of feed wheat over the last eighteen months.	 <table border="1"> <caption>Feed wheat price (ex farm) since February 2009</caption> <thead> <tr> <th>Month</th> <th>Price (approx.)</th> </tr> </thead> <tbody> <tr><td>Feb-09</td><td>105</td></tr> <tr><td>Apr-09</td><td>100</td></tr> <tr><td>Jun-09</td><td>95</td></tr> <tr><td>Aug-09</td><td>90</td></tr> <tr><td>Oct-09</td><td>85</td></tr> <tr><td>Dec-09</td><td>90</td></tr> <tr><td>Feb-10</td><td>95</td></tr> <tr><td>Apr-10</td><td>105</td></tr> <tr><td>Jun-10</td><td>125</td></tr> <tr><td>Aug-10</td><td>140</td></tr> </tbody> </table>	Month	Price (approx.)	Feb-09	105	Apr-09	100	Jun-09	95	Aug-09	90	Oct-09	85	Dec-09	90	Feb-10	95	Apr-10	105	Jun-10	125	Aug-10	140
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3	What are the key elements of Feed-In Tariffs as they affect landowners?	<p>Introduced in April 2010</p> <p>Feed-In Tariffs are payments to ordinary energy users for the renewable electricity they generate upto a maximum capacity of 5 Megawatts</p> <p>The Tariffs give three financial benefits:</p> <ul style="list-style-type: none"> <li>▪ Generation Tariff - A payment for all the electricity produced even where consumed on site which is the largest benefit</li> <li>▪ Additional bonus payments for electricity you export into the grid</li> <li>▪ A reduction on consumers standard electricity bill, from using home generated energy</li> </ul> <p>Eligible systems include (with duration period for Tariffs)</p> <ul style="list-style-type: none"> <li>▪ Anaerobic digestion – 20 years</li> <li>▪ Wind – 20 years</li> <li>▪ Combined Heat &amp; Power – 10 years</li> <li>▪ Solar – 25 years</li> <li>▪ Hydro – 20 years</li> </ul>																						

<sup>1</sup> The Lands Tribunal has been renamed Upper Tribunal (Lands Chamber) under the Tribunals, Courts and Enforcement Act 2007 but continues, at present, to be referred to as the Lands Tribunal.

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4	<p>You act for a Tenant Farmer who successfully tendered for his farm in 1990, he is now 48. He has been approached by his landlord's agent offering him a Farm Business Tenancy until aged 65 with £50,000 investment in much needed grain storage on the holding. What are the key considerations you would draw to his attention?</p>	<ul style="list-style-type: none"> <li>▪ Is landlord's prime motive a post 1995 tenancy with 100% APR (could also do by surrender and regrant of AHA ) or to have a certain termination date (needing an FBT)?</li> </ul> <p><b>Issues for FBT</b></p> <ul style="list-style-type: none"> <li>▪ Difference in security of tenure – moving from lifetime to fixed term</li> <li>▪ No formal difference in situation of any children he may have as he has no entitlement to succession – however loss of potential for any children to farm under the protection of his lifetime tenancy</li> <li>▪ Loss of ability for tenant to serve 12 months notice to quit should he wish to do so</li> <li>▪ Change in statutory rent regime and risk of increase in rent – although could be protected by adopting AHA 1986 Rent Formula in FBT</li> <li>▪ Change in statutory compensation provisions at the end of the tenancy</li> <li>▪ Need to ensure that expenditure/improvements/fixtures to date are carried forward into new tenancy</li> </ul>
5	<p>You act for a landowner who controls the access route to a Greenfield residential development site of 1 hectare. Your client's land is incapable of development. He has been approached by the owner of the development land who wishes to agree terms for the access before the development land is offered for sale. How would you approach the valuation of his land?</p>	<ul style="list-style-type: none"> <li>▪ The value of the access strip should be based on the uplift in value of the land at the rear. Ultimately this will be a matter of negotiation.</li> <li>▪ The precedent is Stokes v Cambridge Corporation 1961 in that case the Lands Tribunal concluded that the owner of the access would be entitled to one third of the uplift in value of the development land.</li> <li>▪ However, this was based on the particular circumstances of the case (Cambridge Corporation owned other land affected by the scheme) and the Tribunal went on to say that the natural starting point was that the owner of the access would seek 50% of the uplift in value</li> <li>▪ Whatever the agreed figure the owner of the access strip should also seek to secure a share of any further uplift if, for example, the purchaser of the development land secures permission for a more valuable development</li> </ul>
6	<p>Your firm has been instructed to sell a property by formal tender. Identify 5 key requirements you would set for tenders</p>	<ol style="list-style-type: none"> <li>1) Unconditional</li> <li>2) For a fixed sum</li> <li>3) Not be related to any other offer</li> <li>4) Be received before the tender time and date</li> <li>5) Identify the parties submitting the tender</li> </ol>