**CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS**



**CAAV EXAMINATIONS 2017**

**9TH NOVEMBER 2017**

**NATIONAL ORAL QUESTIONS**

 **Each Group is to choose TWO questions from the four and then**

 **ask those same two questions of all the candidates in that Group.**

**Question 1: Rent Review**

**NB Set separately for England/Wales and Scotland**

**A. England and Wales**

1. Under which Section is a Notice served to review the rent under the Agricultural Holdings Act 1986?

**Answer**

Section 12 **½ mark**

1. What is the minimum length of the Notice period?

**Answer**

12 months – to a qualifying term date **½ mark**

1. Which Schedule defines the amount of rent payable?

**Answer**

Schedule 2 (Paragraphs 1 to 3) **½ mark**

1. Define “The Rent Properly Payable”

**Answer**

The rent at which the holding might reasonably be expected to be let by a prudent and willing landlord to a prudent and willing tenant taking into account all relevant factors including (in every case) the terms of the tenancy, the character and situation of the holding, the productive capacity of the holding and its related earning capacity and its current level of rents for comparable lettings. **1½ marks**

1. What are the disregards for the subject holding?

**Answer**

Tenant’s improvements

Tenant’s fixed equipment

Grant aided element of landlord’s improvements

Tenant’s occupation

Tenant’s dilapidations

“High farming” (special system) **2 marks (½** **mark each for any FOUR)**

**B. Scotland**

1. For a rent review under s.13 of the Agricultural Holdings (Scotland) Act 1991, what legal factors set the earliest next date at which a rent review could be taken to the Land Court?

**Answer**

The next termination date at least three years after the latest of:

* the commencement of the tenancy
* the date as from which a previous variation in rent took effect
* the date as from which a previous direction by the Court that the rent should be unchanged 1 **mark**
1. What is the minimum and maximum length of the notice period for a review?

**Answer**

12 months and 24 months to a qualifying term date **½ mark**

1. Define “The Rent Properly Payable”

**Answer**

The rent at which, having regard to the term of the tenancy (other than those relating to rent), the holding might reasonably be expected to be let in the open market by a willing landlord to a willing tenant disregarding –

1. any effect on rent of the fact that the tenant is in occupation of the holding and
2. any distortion in rent due to a scarcity of lets **1½ marks**
3. To what factors must the Land Court have regard?

**Answer**

Information about rents of other holdings (and any factor affecting them except for any distortion due to scarcity)

The current economic conditions in the relevant sector of agriculture **1 mark**

1. What are the disregards for the subject holding?

**Answer**

Tenant’s improvements

Any increase in value from non-agricultural use or a conservation purpose

Grant aided element of landlord’s Improvements

Tenant’s dilapidations

“High farming” (special system) 1 **mark (¼** **mark each for any FOUR)**

**Question 2: Sale of Farm**

Your client wishes to sell her farm: your firm has been instructed.

1. Briefly outline the practical steps required between your initial meeting and placing the property on the market (specific details of the sales particulars are not required)

**Answer**

 Agree, issue and obtain signed Terms of Engagement.

Obtain the relevant information to comply with Money Laundering Regulations.

Inspect the farm, request relevant information from the client and the client’s solicitor to allow you to prepare the sales particulars.

Prepare draft particulars and agree them with client.

Agree an advertising schedule and budget.

Agree the provision of sale boards (number, size, siting, cost).

Agree initial marketing date and length of marketing process.

**1½ marks**

**(Examiners to determine extent of answer for full marks)**

1. Assuming the land is to be sold by Informal Tender, what information and terms would you set out on the Tender Form to accompany the sales particulars?

**Answer**

Name, address, contact details of the Tenderer

The sum(s) offered

Name, address, contact details of the Tenderer’s solicitor

Details of how the purchase is to be funded

Financial references

Where and how to submit the Tender and the deadline for submission

Offers to be for a fixed sum in pounds Sterling for an uneven amount, no escalating or cumulative offers

Faxed offers by arrangement

No offers by email

Offers submitted on behalf of a third party only accepted on declaration of the identity of that party

Vendor reserves the right not to accept the highest or any Tender

Time scales of notification of success or otherwise

Tenderer is responsible for determining the basis upon which the offer is made and the offer will be taken as an admission that the intended purchaser has received and understood the sales particulars

Has made all prudent enquiries and relies solely on their Agent’s/Adviser’s judgement

**1½ marks**

**(Examiners to determine extent of answer for full marks)**

1. Assuming the farm is located next to a village what special condition might you advise your client to attach to the sale?

**Answer**

An overage clause or restrictive covenant (in the latter case only if retaining land adjacent) **1mark**

**Question 3 – Basic Payment Scheme: Greening**

**NB This is set separately for each of England, Wales and Scotland**

**A. England**

a) What are the four main changes to the 2018 Basic Payment Scheme greening rules in respect of Ecological Focus Area?

**Answer**

i) A ban on the application of plant protection products on nitrogen-fixing crops, fallow, catch and cover crops declared as EFAs.

ii) Introduction of field margins as an EFA buffer strip option

iii) An extension to the EFA catch crop period from 4 weeks to a minimum of 8 weeks

iv) The inclusion of trees in line under the EFA hedge option **½ mark each**

b) What are plant protection products?

**Answer**

They include seed treatments, herbicides, fungicides, insecticides, molluscicides, desiccants and plant growth regulators. **½ mark**

c) When does the PPP ban apply to the following EFAs:

 i) Nitrogen Fixing Crops?

**Answer**

From the date of sowing until the date of harvest **½ mark**

 ii) Fallow?

**Answer**

1st January to 30th June **½ mark**

 iii) Catch Crop?

**Answer**

20th August to 14th October **½ mark**

 iv) Cover Crop?

**Answer**

1st October 2018 to 15th January 2019 **½ mark**

d) What exemptions are there to the ban?

**Answer**

None **½ mark**

**B. Wales**

a) What are the four changes to the 2018 Basic Payment Scheme greening rules in respect of Ecological Focus Area?

**Answer**

i) A ban on the application of plant protection products on nitrogen-fixing crops and fallow declared as EFAs.

ii) The inclusion of trees in line under the EFA hedge option

iii) No grazing of fallow land after the fallow period ends to 31st December

iv) Fallow land cuttings must be left on the ground to rot and not removed or burnt

 **½ mark each**

b) What are plant protection products?

**Answer**

They include seed treatments, herbicides, fungicides, insecticides, molluscicides, desiccants and plant growth regulators. **½ mark**

c) When does the PPP ban apply to the following EFAs:

 i) Nitrogen Fixing Crops?

**Answer**

From the date of sowing until the 1st August at the earliest **½ mark**

 ii) Fallow?

 **Answer**

1st February to 31st July **½ mark**

d) What exemptions are there to the ban?

**Answer**

None **½ mark**

e) Name the other EFA measures available other than Nitrogen Fixing Crops, Fallow and Trees in Line.

**Answer**

Hedges, Woodland Strips, Traditional Stone Walls, Short Rotation Coppice and Land afforested under an eligible Welsh Government Rural Communities – Rural Development Programme for Wales 2014 – 2020 scheme commitment (only if that land was used to activate SPS payment entitlements in 2008). **½ mark (at discretion of examiner)**

**C. Scotland**

a) Name four of the changes to the 2018 Basic Payment Scheme greening rules in respect of Ecological Focus Area?

**Answer**

i) Hedges will be a separate EFA option

ii) Agro-forestry established since 2015 under FGS (Pillar 2) on BPS eligible, arable land in 2015 will be a separate EFA option

iii) Maintenance of drainage on EFA fallow

iv) The introduction of a compulsory ban on Plant Protection Products on EFA fallow, EFA nitrogen fixing crops, EFA catch crops and EFA green cover, subject to certain flexibilities

v) Changes to EFA eligibility/location. Introduction of a new definition of 'adjacent' when considering whether EFA features are 'on or adjacent to arable land', necessary for them to qualify as EFA

vi) Changes to catch crop and green cover options. Setting a new minimum duration period for the retention of catch crop and green cover to meet the EFA option requirements. Remove the deadlines for the sowing of catch crop and green cover

vii) Changes to the EFA Nitrogen fixing crops option

viii) A new option of EFA Margin which will amalgamate the previous EFA field margin and EFA buffer strip options **2 marks** - **½ mark each – max 4 answers**

b) What are plant protection products?

**Answer**

They include seed treatments, herbicides, fungicides, insecticides, molluscicides, desiccants and plant growth regulators. **½ mark**

When does the PPP ban apply to the following EFAs:

 i) Nitrogen Fixing Crops?

**Answer**

From the date of establishment until the date of harvest (1st August or later) **½ mark**

 ii) Fallow?

**Answer**

15th January to 15th July inclusive **½ mark**

 iii) Catch Crop?

**Answer**

From the date of harvest of the nurse crop to 31st December inclusive **½ mark**

 iv) Green Cover?

**Answer**

From the date of establishment (not later than 1st November) to 31st December inclusive **½ mark**

d) What exemptions are there to the ban?

**Answer**

Spot herbicide application permitted on fallow land for injurious weeds, invasive weeds and certain other weed species **½ mark**

**Question 4 – Agreement for a Compound**

National Grid is proposing to refurbish a line of towers which cross your client’s owner-occupied farm adjacent to the adjoining road. The Grid’s contractors have approached your client asking if they can use approximately half an acre of his farm, preferably in the farmyard, to store materials and vehicles for a period of about 4 months.

a) What advice would you give your client on the location of the proposed compound?

**Answer**

The farmstead may be suitable if there is a hard-surfaced area away from the buildings which will not conflict with the day-to-day running of the farm or the access to it. This would avoid the need to remove topsoil and lay a suitable surface. If suitable, the contractors’ ‘preferred location’ should be reflected in the fee payable.

Alternatively locate the compound close to an adjoining road to avoid potential disruption to farming operations and access. Any planning or rating issues will be the contractors’ responsibility. **½ mark**

b) What type of agreement would you recommend your client enters into and why?

**Answer**

For the candidate to respond and explain with answers that are likely to be either a tenancy or a licence.

* The tenancy gives exclusive possession for a period (whether fixed or periodic). As a commercial tenancy, it would be under the 1954 Act in England and Wales but a let of six months or less is outside Part II. There is no equivalent right to renew in Scotland.
* A licence (likely to be less possible in Scotland) would simply be a permission to use the site on the terms granted, perhaps reflecting an indefinite period.

 **½ mark**

c) What would you undertake prior to commencement of the agreement?

**Answer**

A record of condition **½ mark**

c) Provide headings for six principal terms you would want to incorporate in the licence agreement.

**Answer**

Names and addresses of licensor and licensee

Start date and duration

Extent of compound area and access, including a plan

Permitted activities

Days and hours of use

Fee payable (and bond) and dates of payment

Prevention of contamination

Fencing requirements

Works to ground surface, if required

Reinstatement provisions

Penalty clause or fee increase in the event of overrun

Indemnity clause for any injury, damage, losses or third party claims

Non-assignment clause

Dispute resolution clause

Valuer's fees

(Other terms acceptable to examiner) **3 marks -** **½ mark each – max 6 answers**

d) What level of fee would you hope to negotiate with the contractors?

**Answer**

Figures vary widely, but probably £150 to £500 per week. **½ mark**