

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

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PAPER 1 QUESTION 1

Please make **brief notes** on 5 out of the following 8 subject areas:

- 1) *Planning – one of the following:*
 - (a) *The National Planning Policy Framework (England)*
 - (b) *TAN 6 (Wales)*
 - (c) *SPP15 (Scotland)*
- 2) *What facts do you need to check to ascertain if land is eligible for the Single Payment Scheme?*
- 3) *Explain in the context of a let farm what you understand by the terms 'term & reversion' and 'vacant possession premium'.*
- 4) *Entrepreneurs' Relief – what is it and how does it work?*
- 5) *General Permitted Development Orders relating to a client's agricultural unit of 20 hectares – what is permitted and what is not ?*
- 6) *Severance and Injurious Affection – explain what these terms mean, their application and statutory references.*
- 7) *EITHER - For England and Wales Candidates*
 - (i) *Explain the procedures to exclude security of tenure from a Landlord and Tenant Act 1954 tenancy.*

OR - For Scottish Candidates

 - (ii) *Explain the rules for terminating a Limited Duration Tenancy and what happens if they are not followed.*
- 8) *Explain what Feed in Tariffs are in relation to solar pv installations. How they work and how much you would receive.*

No of Candidates:	144
Average Mark:	63%
No of Candidates with 65% or over:	70
Percentage of Candidates passing question:	49%
Highest Mark:	92.5%
Lowest Mark:	17.5%

The following schedules the number of candidates that attempted each subject area and the average mark for that subject:

Subject	No. of Candidates	Average Score (out of 20)
a)	87	13.7
b)	97	11.2
c)	85	13.1
d)	109	11.8
e)	101	15.2
f)	82	11.2
g)	110	12.6
h)	51	11.3

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

Examiner's Report

The question sought to examine candidates on a wide range of subjects, 8 in all from which they had to choose 5 to answer. Each subject carried an equal amount of marks – 4 each, making a total of 20 marks for the question.

The question proved to be very popular with candidates – 144 chose to answer it and the overall results were as follows:

The three most popular subject areas answered were g), d), and e).

The three most successful answered subject areas in terms of score were e), c), and g).

The three least popular questions in terms of candidates answering were h), f), and c).

The three least successfully answered questions in terms of scores were f), b) and h).

Generally all questions were attempted and none were avoided – some candidates even answered 8 out of 8 despite being asked to only do 5.

Turning now from general comments to each of the individual subject areas, Examiners comments and observations are as follows:

- a) Planning – a popular question that was generally well answered with many candidates getting most of the salient points.
- b) Single Payment Scheme – although attempted by a lot of candidates, the average score here was low. Many candidates simply put onto paper everything they knew about the Single Payment Scheme, which is not what the question asked. The question asked what facts do you need to check to ascertain if land is eligible for the Single Payment Scheme. There were some very good answers.
- c) Term & Reversion and Vacant Possession Premium – another popular question with an average mark of a pass. Generally candidates understood and were able to explain the term vacant possession premium. What is more concerning is the number of candidates who had no conception or a very poor grasp of the term 'term and reversion' and how to value them.
- d) Entrepreneurs Relief – a very popular subject area with the average mark being a fail i.e. below 60%. Most candidates understood the basics of Entrepreneurs Relief but many were unable to provide the detail necessary to score well.
- e) General Permitted Development Orders – the most successfully answered question. Candidates clearly had a good understanding of the subject matter and were able to put most of the relevant details on paper.
- f) Severance and Injurious Affection – in terms of overall score, this was one of the weakest questions. Reflecting the examiners observation of a trend over recent years that compulsory purchase is not something candidates are generally familiar with. Most candidates managed to demonstrate a very basic knowledge of severance and injurious affection but beyond drawing sketches and demonstrating limited knowledge, there was no substance or depth demonstrated in many scripts and consequently the scoring was weak.
- g) Landlord and Tenant Act – another very popular subject area that was generally answered well.
- h) Feed-in Tariffs – the least popular subject area that again was disappointingly answered with the overall average being a fail. Most candidates could explain what a feed in tariff was but how they worked and how much you received were generally poorly answered.

In conclusion, although nearly 50% of those answering this question passed, Examiners were still disappointed with many of the scripts.

This multiple choice format appears to be popular with candidates and does not require candidates to demonstrate the depth of knowledge that other questions within the Written Examination Board papers do. What is therefore disappointing to Examiners is that even in a shortened format, where by definition the depth of knowledge required to be demonstrated is less, many candidates fail to show any grasp of the subject matter on which they are being examined and many candidates show only a very limited knowledge of the subject areas chosen.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 1 QUESTION 2

Your firm has been asked by the owner of a farm if you could provide his bank with a security valuation of his property because he is moving banks and he needs to give security over his land to the new bank to cover his borrowings. He doesn't know much about valuations and asks for your advice about what is involved. Set out in note form your advice to the firm's client on the following matters:

- 1) *What sort of valuation does he need?*
- 2) *Briefly explain the basic standards, rules and guidance governing this type of valuation, covering in particular:*
 - i) *Who administers the rules and where are they to be found?*
 - ii) *What types of assets are covered by these rules?*
 - iii) *What type of valuations are **not** covered by these rules*
 - iv) *There are 6 valuation standards given in these rules. One covers valuation reports and is referred to in Part 3 below. Give details of 3 of the other standards*
- 3) *Assume your firm has now been instructed to carry out the valuation. Set out in the form of headings an outline for the valuation report briefly describing the minimum information and content required in the valuation as set out in the standards. (Note: **no description of the property or assumed valuation figures are required from candidates**).*

No of Candidates:	64
Average Mark:	62.1%
No of Candidates with 65% or over:	27
Percentage of Candidates passing question:	42%
Highest Mark:	88%
Lowest Mark:	26%

Examiner's Report

This was a question on the core subject of valuation and, in many ways, was a very straight forward question simply asking you to recite what you knew about valuations. Very little interpretation was required of the information given although candidates were required to actually answer the question which then gave them guidance as to what the Exam Marker was looking for.

Question 1 – this required a simple answer stating that the value required would be an open market value prepared under “the Red Book or RICS Valuation – Professional Standards”.

Question 2(i) – this required the candidates to know that the Red Book is administered by the RICS Royal Institution of Chartered Surveyors) which all candidates did know (although, unbelievably, some candidates insisted on calling it an Institute!) and it was expected that either in this part of the question or in question 1, candidates would have given the correct title of the Red Book i.e. RICS Valuation – Professional Standards, would have noted that it incorporated international valuation standards and it was essential that they recognised that it was issued in March 2012 and is the 8th Edition.

Question 2(ii) – most candidates understood that the Red Book basically deals with all types of assets and liabilities but if they just stated property they gained the marks.

Question 2(iii) – most candidates understood that the Red Book did not cover litigation or marketing/agency valuations but not all also noted that it excluded valuations for statutory function or in connection with a legal procedure (e.g. statutory compensation for a road scheme) or indeed valuation for internal purposes. Quite a few candidates still stated that the Red Book did not include stocktaking valuations and this is clearly wrong as stated in the CAAV publication on guidance on stocktaking valuations.

CAAV 2012 NATIONAL EXAMINATIONS WRITTEN BOARD'S REPORT ON QUESTIONS

Question 2(iv) – Candidates were specifically asked not to refer to VS6 Valuation Report but some still did and scored no marks for that part of the answer. The other five standards that the candidates could have referred to were:

- VS1 – compliance and ethical requirements
- VS2 – terms of engagement
- VS3 – basis of value
- VS4 – applications
- VS5 – investigations

If candidates gave an answer which could in any way be interpreted as fitting any of these standards they were given half the mark and if they correctly referred to a standard by its title, they gained full marks even if they did not correctly identify the standard number. The Exam Markers bent over backwards to find any relevance in the candidates answers to the standards stated above and if this could be found they scored at least half marks

Question 3 – the question asked for a form of headings for an outline of the valuation report as set out in the standards - read the question! The candidates were also specifically told that they were not required to give any description of the property. Some candidates either did not read this or chose to ignore it and started to give descriptive comments for a hypothetical property. What the question was actually requiring was a straight forward recitation of the 20 minimum requirements for the contents of the report as listed in VS 6.1 Minimum content of valuation reports. Many candidates knew the first half a dozen or so off pat and the best candidates just simply recited them all with a very brief description of what information was actually required for each heading. The Exam Markers strove to find any reference in the answers to the individual minimum requirements. If this could be found – even by the loosest interpretation – in the candidate's answer, they were given the marks. Some candidates achieved well over 75% of the marks on this particular part of the question and one candidate received full marks simply by a well laid out list of valuation headings which could have been learned through a mnemonic.

Overall this was a very straight forward question to answer. It was surprising that candidates who in the main are either APC candidates or already RICS members could not correctly identify the name of the Red Book or understand the six valuation standards or identify those valuations that which are either included or excluded from the Red Book. Whilst the Exam Markers used the widest interpretation of the answers they possibly could to find the marks, mark could not be given if the candidate either wrote nothing for the part of the question or only gave two answers where three were required, etc. As it is presumed most CAAV candidates either are or aiming to be a Chartered Surveyor, it is expected that they should understand the rules of the RICS as far as valuations are concerned, particularly bearing in mind that they were sitting an examination of the Central Association of Agricultural Valuers!

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 1 QUESTION 3

Home Farm was let on a traditional agricultural tenancy in 1982. The tenant has recently died. You have been asked by the son to advise him on the possibility of succeeding to the tenancy.

The brief facts are:

Home Farm comprises 500 acres arable land, a 4 bed farmhouse, a 3 bed cottage and a range of farm buildings. The deceased and his son were in partnership. They farm another 300 acres on contract and own 100 acres of arable land – a total of 900 acres. The son is 26 years old and lives in the cottage, he runs a fencing business from the farm to supplement his income. He has worked on the farm for 5 years and prior to that was at agricultural college where he obtained a HND in Farm Management/Agriculture.

For England and Wales candidates - please assume that the landlord has served a Case G Notice to Quit.

For Scottish candidates – please assume Landlord serves all relevant notices.

In a letter please advise the son:

- a) What action he should take to succeed to the tenancy.*
- b) What tests will be applied in considering his case to succeed to the tenancy and what your advice is as to whether he is likely to satisfy those tests.*
- c) How might the Landlord seek to pursue the operation of the Notice to Quit? What will this mean and what can your client do to oppose it?*

No of Candidates:	128
Average Mark:	53%
No of Candidates with 65% or over:	39
Percentage of Candidates passing question:	30%
Highest Mark:	85%
Lowest Mark:	15%

Examiner's Report

This question was designed to test candidates' knowledge of the process and the principal tests for a son to succeed to an Agricultural Holdings Act tenancy. The question was worded so that the good candidates would apply their knowledge to a very simple scenario.

The question was generally answered very well or very poorly. Part A of the question required candidates to look at the initial steps a tenant would make. Most candidates knew that an application needs to be made to the Agricultural Lands Tribunal and some mentioned an application to the ALT for the applicant to be treated as eligible, materially satisfying the livelihood test. Very few thought of the initial practical step of checking that the Notice to Quit that had been served by the landlord had been properly drafted and served on time.

The second part of the question required candidates to consider each of the tests that an applicant must pass to succeed to the tenancy. Generally most knew that as a son he would pass the close relationship test but quite a number did not substantiate further on the eligible categories of this test. On the principal source of livelihood, the best candidates knew that it is a livelihood rather than income test and related this to both the fencing business and cottage. There were a reasonable number of candidates who didn't mention the cottage or the fencing business and this raises the matter of whether they didn't know how the test is applied in detail or whether they simply failed to properly read the question. Information in a question is generally kept brief and for the most part is pertinent. Candidates should therefore be giving proper consideration to the relevance and conclusions they should draw from the information provided.

On the commercial unit test most candidates were aware that the test is the occupation of another commercial unit that would support two full-time workers. Quite a few were not aware that contract farming does not

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

qualify as a holding for this test. The worst candidates applied the test to the tenancy of Home Farm on the basis that in order for the son to succeed to the tenancy of Home Farm, it must be a holding that is capable of producing sufficient revenue to support two full-time workers.

On the final test of suitability generally candidates provided little detail. Those who seem to be aware that the tests included training and/or practical experience as well as age, health and financial standing did not then draw a conclusion from this.

The final part of the question was to test candidates' knowledge of the circumstances where the landlord applies to the Agricultural Lands Tribunal for consent to the operation of a Notice to Quit. There are limited grounds for the operation of the Notice to Quit, the most notable being good husbandry, sound estate management, greater hardship or a use other than agriculture not falling within Case B. The landlord also must prove it is fair and reasonable to serve the Notice. Those candidates who showed some knowledge generally seemed only aware of greater hardship and a few were aware of the fair and reasonable test.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 2 QUESTION 1

- a) *Your client has been asked to provide a Habitat Survey as part of a planning application he has lodged with the local planning authority for the conversion of an existing yard and buildings including a small woodland and pond. He has no idea what is required or what effect it might have on their proposed development.*

*Please outline in **note form** what you understand by the terms*

- i. "Habitat Surveys"*
- ii. what is required by them*
- iii. what are their potential effects.*

- b) *Your client has taken back in hand 200 acres of uncultivated land/semi natural area and wants to plough it up and crop it with cereals. He has heard that he needs an EIA but he has no idea what one is or what is required or what effect it may have.*

*With regard to an EIA, please make **notes** on the following:*

- i) Outline the regulatory framework on which they are based.*
- ii) State the regulatory authority that oversees their implementation.*
- iii) Their application and requirements.*
- iv) Any penalties for not complying with them and what implementation and enforcement powers are available to the overseeing authority?*

No of Candidates:	15
Average Mark:	56.9%
No of Candidates with 65% or over:	5
Percentage of Candidates passing question:	33%
Highest Mark:	70%
Lowest Mark:	32%

Examiner's Report

This question was designed to test candidate's knowledge under Section 4 of the syllabus and was divided into two parts. Part A asked for an explanation of what a "habitat survey" was, a common application being in connection with the re-use and conversion of rural buildings. Part B asked for an insight into what an Environmental Impact Assessment was and is currently particularly relevant given the confused picture regarding permanent pasture as a result of the on-going CAP reforms. Surprisingly, it was only answered by 15 candidates.

Part A

Despite the relevance to day to day agricultural valuation practice, the question was on the whole poorly answered. Part A asked candidates to outline what they understood by the term "habitat survey" and most knew that they were often required in connection with planning and development proposals. Some candidates were also aware that the subject of the surveys was protected species, including bats, barn owls, dormice, reptiles, etc. Few candidates were aware of the relevant regulatory regimes such as the EU Habitats Directive 1992 and The Wildlife & Countryside Act 1991. Some candidates thought that habitat surveys were specifically required by the National Planning Policy Framework despite this being a strategic planning document relevant on a national scale.

If a protected species is found, an important part of a habitat survey is to suggest what mitigation measures can be taken, such as providing entry and exit points for bats. Few candidates made any reference to mitigation measures. Only one candidate made reference to the possible need for a DEFRA Bat Licence which is probably the most common habitat control measure that is regularly encountered in practice.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

The final part of Part A related to the potential effects of a habitat survey and here what was required was evidence of knowledge of penalties for non-compliance such as the non-determination of planning applications, the refusal of planning applications or even the possibility of enforcement action. Too few candidates had sufficient awareness of the consequences of failing to undertake a habitat survey when required

Part B

This part of the question looked at the ploughing up of uncultivated land/semi-natural grassland under the regulatory framework of the Environmental Impact Assessment (Agricultural) (England & Wales) Regulations 2006. Too many candidates confused this with the requirement for an Environmental Impact Assessment required in connection with development proposals (the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and 2011 which includes, in Schedule 2, "intensive livestock installations which are typically pig and poultry units". The question clearly states that the client was looking to plough up uncultivated land/semi-natural area and crop it with cereals, not establish a super dairy or 500 sow pig unit.

Virtually all candidates were able to identify the regulatory authority as Natural England and most were able to describe when an EIA was needed and how an application was made to Natural England. Few candidates realised that not only did the EIA regulations apply to an increase in the agricultural productivity of uncultivated land or semi-natural areas, but also to projects that physically restructure rural land holdings (changes in field boundaries, re-contouring of land with soil or other material).

Most applicants were aware of the need to make a screening application to Natural England and the timescales involved. A few candidates also understood that the penalties for breaching the regulations could result in reductions of the farmer's Single Payment and there was less understanding that Natural England could also serve Stop and Remediation Notices to enforce the regulations.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 2 QUESTION 2

Arthur Bailey has recently passed away and as a bachelor, has left his Estate to his nephew who is seeking your advice on Inheritance Tax.

Arthur Bailey farmed Box Farm in hand. The farm comprises 50 hectares of arable land, with a large 6 bedroom farmhouse, range of modern farm buildings near to the house and a bungalow which has an Agricultural Occupancy Restriction but has been let on an Assured Shorthold Tenancy (Short Assured Tenancy in Scotland) for the last 10 years to a teacher.

The only other assets in Arthur's Estate are cash savings totalling £150,000.

*The nephew wants to meet you. Please prepare **briefing notes** for that meeting setting out:*

- a) The treatment of each of the assets within Arthur's Estate for Inheritance Tax purposes and schedule what reliefs each of the assets might qualify for and why.*
- b) What additional information would help you in providing this advice?*

No of Candidates:	142
Average Mark:	58.2%
No of Candidates with 65% or over:	55
Percentage of Candidates passing question:	39%
Highest Mark:	91%
Lowest Mark:	20%

Examiner's Report

This was a question on Inheritance Tax based on a farm of 50 acres with a large six bedroom farmhouse.

Some of the candidates were very able and dealt with all of the issues and answered the question very well, as the top marks indicate.

Many candidates let themselves down by not making a reasoned argument for the treatment of the farmhouse, which was crucial to the question. Many candidates failed to see the importance of the activity of the farmer in his business in directing agricultural operations on the land. Most dealt with the land, buildings and bungalow and cash aspects reasonably well.

There is still a tendency for candidates not to read the question properly but simply to put everything they know about the subject matter on paper. For example:

- a) Although the question clearly stated that Mr Bailey was a bachelor, many candidates referred to the fact that he had two reliefs.
- b) Although the question stated that the land and buildings were in hand, often advice was given as if they were let.
- c) Much was written on how to remove the AOC from the bungalow which was not asked for.
- d) A schedule of assets and reliefs was required but many ignored this and lost easy marks.

In conclusion, this was a very straightforward question on one of the UK's principle taxes. A lot of candidates obviously felt able to answer the question and a reasonable number passed it.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 2 QUESTION 3

You act for both the Landowner and the Tenant of an arable farm subject to an Agricultural Holdings Act Tenancy. An annual Wayleave is in existence for an overhead electricity power line.

A request has been received from the Statutory Utility Company to convert the Wayleave into an Easement (Servitude in Scotland) and to put the power cable underground and in principle the parties are receptive to the proposal.

The Tenancy Agreement reserves all grants of Wayleaves and Easements/Servitudes to the Landlord.

Prepare briefing notes in preparation for a meeting with your clients on the following:

- 1. The essential differences between a Wayleave and an Easement/Servitude*
- 2. The formal requirements for an Easement/Servitude to be granted including in circumstances where public utilities are not involved.*
- 3. Given this scenario, identify any relevant Statutory Codes applicable i) to the Grant of the Easement to the Electricity Company and ii) the right to claim compensation.*
- 4. Set out the main Heads of Claim for the parties in this scenario.*
- 5. Set out what pre-entry matters need to be agreed with the Utility Company*

No of Candidates:	90
Average Mark:	64.8%
No of Candidates with 65% or over:	49
Percentage of Candidates passing question:	54%
Highest Mark:	91%
Lowest Mark:	40%

Examiner's Report

This question was intended to allow candidates to demonstrate the required mix of knowledge of the basic facts about wayleaves and easements (servitudes in Scotland) including the relevant statutes, coupled with a practical understanding of what would be claimed if acting on behalf of a client and what other issues should be taken into account.

The question was short and described a relatively simple scenario with the relevant facts clearly stated. The candidates were asked only to prepare briefing notes in advance of a client meeting. The key facts in the question were:

- You were acting for both the landlord and the tenant
- It is an arable farm subject to an Agricultural Holdings Act tenancy
- There was a current annual wayleave in existence for an overhead electricity power line
- The utility company want to change this to an easement (servitude) and put the cable underground and all parties are amenable to this
- The landlord reserves the right to grant all wayleaves/easements/servitudes

The question was answered reasonably well by candidates and it was clear that some had useful practical experience of dealing with wayleaves and easements. However, there were the usual problems associated with failing to read the question properly and noting the basic facts given above. Most knew the basic differences between a wayleave and an easement(servitude) but it was concerning to note the number who incorrectly inferred from the scenario described in the question that the main difference between them was that all wayleaves were above ground and all easements below ground! Some candidate's knowledge was clearly patchy, especially on the relevant statutes and some were obviously confused about the respective positions of the landlord and tenant. Comments on the individual parts of the question are as follows:

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

1. Most candidates noted the principal differences correctly, being permanence (or for a stated period) with an easement/servitude and the usual annual nature of a wayleave, and the different types of payment they attracted. Few candidates noted the prime requirements for the rights (usually access across land for cables/pipes) to be granted by statute or in a private situation for there to be separately owned 'dominant' and 'servient' tenements. However, generally answered well with an average score of 70%.
2. This question was not well answered as it principally related to the point above about statutory grants or private grants giving a benefit to the dominant tenement. However, marks were given for noting that legal deeds were required to give effect to an easement/servitude and that they were registered with the titles to the land.
3. The answer to i) was the Electricity Act 1989 for both England & Wales and Scotland and for ii) the answer was the Acquisition of Land Act 1981 and the Compulsory Purchase Act 1965 for E & W and the Lands Clauses Consolidation (Scotland) Act 1845 for Scotland. Most candidates got some of the above, but usually not all, and many mixed up dates and names and, where all else failed, invented some new statutes.
4. Most candidates had a reasonable knowledge of the main heads of claim but many candidates gave only one set of 'Heads of Claim', where of course two were required; one for the landlord and one for the tenant, each covering separate items. Even where two separate 'heads of claims' were given, a number of candidates misinterpreted this as reading 'heads of terms' and set out complete claims, including 'names of parties' etc. which the question did not ask for. Some candidates also demonstrated a lack of real understanding of the situation by suggesting the landlords should receive 'crop loss' compensation and the tenant should make a claim for 'severance and injurious affection'. Some excellent and very comprehensive answers, but some were very light on detail and often incorrect.
5. There was scope in this question for a wide range of matters to be taken into account and most candidates came up with a good number. The principal problem was confusion between what should be 'pre-entry' and what should be in the 'heads of claim'. Many candidates repeated items already mentioned in part 4, which in the case of items such as fees was correct but in the case of severance and injurious affection, it was not. In both parts 4 & 5 there was a tendency amongst some candidates to adopt a 'scattergun' approach and to write down everything they knew about compensation claims in a completely unstructured fashion, in the hope that some of it was relevant. These answers did not score highly.

Overall there were some good answers and the beneficial influence of training from tutorials/seminars was clear to see.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 2 QUESTION 4

Your client owns 14 hectares of agricultural land on the edge of a small market town and has been approached by a national firm of house builders who wish to promote the site for residential development.

The builders have suggested that they are happy to take an Option Agreement over the land.

- a) Your client has no idea what this means and has asked you to set out in note form a basic outline of the terms of an Option Agreement.*
- b) The developers also mentioned a conditional contract. Set out how this might differ and when would you use it.*

No of Candidates:	78
Average Mark:	68.3%
No of Candidates with 65% or over:	55
Percentage of Candidates passing question:	71%
Highest Mark:	92.5%
Lowest Mark:	35%

Examiner's Report

The question's structure is straight forward, being only two parts, with excellent opportunity for candidates to set out their knowledge of an Option Agreement and its Heads of Terms within the context of the question.

A number of candidates did answer the question not in terms of an option to purchase but as an option to take a lease (presumably the candidates had experience of alternative energy options). Notwithstanding this oversight, if the candidate was able to competently set out the basic form and Heads of an Option Agreement in an orderly fashion, they were able to do well.

Part two of the question was, by comparison, far less well answered. The question asked for comparison of a conditional contract in terms of its differential from an Option Agreement. It also asked in what situations the conditional contract would be preferred used, within the context of the question.

The correct answer, in short, was situations requiring:

- 1) Shorter determination of planning because of more certainty
- 2) Where more control of a situation is required by the owner
- 3) The option places more obligations on the developer to proceed upon receipt of planning permission

Many, in fact more than a half of the answers, did not appreciate the above points and answered in a variety of forms including, for example:

- 1) The conditional contract route was more suited to less certain planning situations.
- 2) The conditional contract would be applied after the receipt of planning permission.
- 3) The conditional contract was better suited to long term planning campaigns than an option.
- 4) The conditional contract was appropriate after the take up of the option.

The examiners ultimately felt that in part one the question was well answered but part two demonstrated the fact that the candidates' application of knowledge to a given scenario, in providing the comparison, was less certain. The highest mark may prove to be near perfect as an answer.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 2 QUESTION 5

Your Client is a 35 year old Stockbroker who has just bought a 150 acre block of let bare arable land. He wants to maximise his income and has sought your advice as to the prospect of and means to review the rent in his interest.

1. *The land is subject to a five year tenancy (FBT in England and Wales; Short Limited Duration Tenancy in Scotland) with eighteen months to run.*

*Write a **letter** to your client explaining:*

a) *For England and Wales*

(i) *The statutory basis for a rent review, assuming there is no specific provision in this regard in the Agreement and its definition.*

(ii) *His options in respect of increasing the rent.*

OR

b) *For Scotland*

The options available with regard to the SLDT and how they would allow the rent to be changed

AND FOR ALL CANDIDATES

c) *What physical and other factors will influence the level of likely rent.*

2. *Now assume that the land is subject to a 15 year Farm Business Tenancy (Limited Duration Tenancy in Scotland) of which three and a half years have run with a rent review due at year 5. Prepare **notes** on:*

a) *The procedure to secure the review at year 5.*

b) *The provisions/options available if the parties are unable to reach agreement as to the new rent.*

No of Candidates:	142
Average Mark:	66.4%
No of Candidates with 65% or over:	83
Percentage of Candidates passing question:	58%
Highest Mark:	94%
Lowest Mark:	25%

Examiner's Report

In general a question which was intended to target candidates' current knowledge of a very practically relevant scenario was well answered. The overall pass rate of 58% was encouraging.

The objective was to frame a simple, practical question which would give opportunity for candidates to display technical and practical knowledge and have the opportunity of gathering enough marks from a sound basic knowledge of the subject to gain a pass mark, with the clear ability to add to that standard for good candidates. It was a popular question for candidates, but was not quite as simple as may have at first appeared to be the case.

There remains some evidence that candidates are under-prepared, even for such a relevant topic, and also of muddled thinking, often with reasonable practical knowledge, but a lack of sufficient technical back-up knowledge. A few candidates were still inclined to write "everything I know about Farm Business Tenancies".

In detail, having discussed all the scripts with my colleague Examiner and co-marker, my report by elemental breakdown of the question is as follows:-

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

1. a i Generally this part of the question was well answered, but there is evidence of some occasional confusion between the 1986 Act terminology and that of the 1995 Act. Candidates should look at what such a question is asking and apply clinical technical knowledge to answer it accurately. There was the ability by reference to the Act and the relevant Sections and Parts linked to an accurate definition Section to score well. On occasion jumbled answers were presented, but not penalised if the relevant information was delivered.
- 1 a ii Options were usually identified, but not always all three that the Examiners were looking for, most usually two out of three. There was some irrelevance, for example reference to Contract Farming Arrangements and likely impractical options for the scenario painted within the question. Some candidates, however, scored extremely well by spotting all three options that were asked for.
- 1 b In respect of the candidates answering in the context of Scottish Law, which has recently been changed in this regard, it was evident that most, but not all, of the candidates were aware of the recent changes and those that were aware scored well inevitably, whereas those who didn't were never likely to obtain a pass mark.
- 1 c This question gave candidates the opportunity of scoring very heavily effectively by preparing a list of factors. Not everyone identified that there were factors other than physical factors, even having been asked for same. In general, though, this section of the question gave candidates the opportunity of scoring heavily to make up for potential deficiencies elsewhere. It should be noted, however, that not all candidates appeared to notice that there was a Section 1 c) for everyone to answer, indeed 12 candidates failed to answer this part of the question at all.

In addition, some candidates did not appear to realise the question was directed at the actual property, being 150 acres of bare land, and spoke about irrelevant influences brought on rent by the presence of houses, cottages and buildings.

- 2 a In principle, these marks were easy to collect, looking only for reference to relevant Section/s and what timescales governed the delivery of the Notice. The better candidates described the procedure beyond simply the technical requirements and scored well accordingly.
- 2 b Examiners were looking for all three options and not all candidates spotted them, that is Arbitration, Expert/Umpire or Mediation. There was some confusion over terminology, reference to Independent Joint Expert, Expert Witness, etc. Candidates need to be confident in actual correct terminology.

Essentially this topic, being meat and drink for the profession, allowed solid scoring throughout with some outstanding candidates. It remains disappointing that some failed to reach a pass mark at all and those who were under par in this way generally were candidates who did not have sufficiently sound background technical knowledge to answer the question. Some candidates, very encouragingly, not only answered in letter form, but also adapted language in that letter to reflect the nature of that advice given and the nature of the client it was being given to. There were some well-crafted and appropriately directed letters which was pleasing, albeit others were inclined to use the briefest of letter forms as an excuse for listing all the points that were thought to be relevant. These candidates were not penalised, however, for not writing the letter in as appropriate a way as others who scored more heavily therefore.

In common with other questions, it is clear that those who are active in the relevant subject area and indeed those who have paid attention to studying relevant parts of the syllabus are those who will achieve pass mark, bringing technical knowledge forward and then applying it to a practical scenario.

**CAAV 2012 NATIONAL EXAMINATIONS
WRITTEN BOARD'S REPORT ON QUESTIONS**

PAPER 2 QUESTION 6

*Your Principal is providing holiday cover for her business partner and needs to take instructions to sell 20 acres of bare land for one of his clients whilst he is on leave. Your Principal doesn't normally do this type of work and wants you to make a **checklist** in preparation for a meeting with the client outlining:*

- a) list the regulatory regimes to be considered in accepting such an instruction and implementing the same up to the point of the property going to the market.
N.B. Please do not write a set of sales particulars.*
- b) What documentation and information are you required to collect or check by the regulatory regimes listed in a) above and why?*

No of Candidates:	37
Average Mark:	68.6%
No of Candidates with 65% or over:	26
Percentage of Candidates passing question:	70%
Highest Mark:	90%
Lowest Mark:	45.5%

Examiner's Report

Part 2(b) of the CAAV syllabus relates to "marketing, selling and letting rural property". This question revolved around the sale of 20 acres of bare land and examined candidates' knowledge and understanding of the sales process.

It was not a very popular question with only 26 candidates attempting it but it was very well answered and candidates clearly demonstrated not only how the process worked but also why it was necessary.

Part A looked at the regulatory framework behind agency work and the vast majority of candidates provided very full answers. All were aware of The Estate Agent's Act 1997, the Property Descriptions Act 1991, the Property Misrepresentations Act 1967 and the Money Laundering Regulations 2007. The best answers also included references to the RICS "Blue Book" and one candidate referred to Health & Safety practices and the Suzy Lamplugh case. The WEB also learned of the Consumers, Estate Agents and Redress Act 2007 and the Misleading Marketing Regulations 2008. What was even more impressive was that candidates knew what was required of them by the different legislation and regulations and what they had to do within the sales process to comply with the legislation.

Part B asked for the information and documentation you need to obtain when taking instructions and marketing property for sale and again, most candidates fully understood the need to confirm that there were no conflicts of interest, check client's ID, prove Title, draw up, sign and exchange agency agreements, prepare sales details and have them agreed by client, etc. This was sufficient information to secure a pass. Better candidates also went on to include items such as Entitlement Statements, environmental designations, etc.

It was clear from the answer to this question, that those candidates, who had had a close involvement with land sales, not only knew but fully understood the process. It is encouraging to see that most candidates had not only demonstrated depth of knowledge but also know how to apply it. Exactly what the written exam is looking to assess