

Report of the Written Examining Board of the CAAV following the 2001 Examination

The Board Comprised: **J Bowles (Chairman)**
 M Maschiter
 P Cutting
 L Burtenshaw

Andrew Robinson was indisposed and unable to attend.

The examination was held on 8th November and marked on the 19th and 20th November.

The results will be fully reported elsewhere but to summarise out of the 55 candidates sitting the written exam 32 passed – a rate of 58.7%

The board endeavours to set a test that fairly reflects the day to day matters encountered by rural practitioners; the two papers asked questions based on the following areas of work.

Paper 1, Question 1	Rules and rates of payment and procedures for claiming arable area payments and livestock payments under the IACS.
Paper 1, Question 2	Valuation for banking purposes of a freehold, mixed farming business.
Paper 2, Question 1	Agricultural Land Tribunal procedures for dealing with applications for succession to tenancies under the 1986 AHA.
Paper 2, Question 2	Appraisal of mixed farming assets and advising as to options for debt reduction.
Paper 2, Question 3	End of tenancy claims under 1986 AHA.
Paper 2, Question 4	Assessment of diversification prospects on a mixed farming estate.
Paper 2, Question 5	Inheritance tax planning for a freeholder of a mixed arable and dairy farm.

Answers were requested in a variety of formats; briefing and file notes, report and letter.

The examiners report as follows:

Question 1, Paper 1

Surprisingly, this was a question that separated the men from the boys. The question was compulsory, focused on IACS and should have been 'meat and drink' to most probationers 45% obtained the pass mark and 55% failed. The question came in two parts. The easy part was arithmetical. It required candidates to multiply acreage's and stock numbers by subsidy rates and then come up with the total subsidy package for a 500 hectare holding – overall in the region of £100,000. Most candidates dealt with this satisfactorily.

The second part was more demanding and correspondingly the greater proportion of marks. It required candidates to detail the method and timescale for making applications for payments and state anticipated dates for their receipt. That meant that a good grasp of application dates, retention periods and payment dates was required for all enterprises – particularly the livestock. Patently many candidates were depressingly lacking in knowledge and awareness of this part and the process and consequently failed. Those that passed demonstrated a hands-on grip of the day to day realities and had obviously been acquainted with the practical aspects of the subject. Goods answers frequently came on two sides of A4. As to added detail, the question was looking for a knowledge of extensification (clearly stocking rates needed to be checked), an understanding of modulation and agri-money compensation in addition to special one-off measures that had been put in place to assist farmers with bad weather and 'Foot and Mouth'. Frequently slaughter premium payments were overlooked and retention periods were ignored. However, some candidates were well versed in the subject which was frustrating. Notably the better answers came from Eastern Counties and the Western Counties.

Paper 1, Question 2 - Red Book Valuation

A correct answer would have included the following:

Draft Valuation Report

Instructions

Reference to RICS Appraisal and Valuation manual/type of valuation/date of valuation/disclaimer.

Location.

Grid Reference.

General Description.

Specific Description:

Farmhouse (location/construction/condition)

Cottages (location/construction/condition)

Farm Buildings (description/use/condition)

Land (plan/schedule of areas/condition)

Milk Quota

Other Quotas

IACS Information

Access

Tenancies

Tenure – Cottages (Rent Agricultural Act/Housing Act) other tenancies

Services (water/electric/gas)

Environmental/Conservation/Woodland Planting Schemes

Business Rates

Sporting Rights

Mines and Minerals

Town and Country Planning Agricultural Occupancy Restrictions

Pollution/Contamination

Restrictive Covenants/Restrictive Agreements

Wayleaves and Easements

Rights of Way, Bridleways, Footpaths

Market Conditions/Valuation Considerations

Valuation

Notes

- a. Check via Intervention Board all milk quota details/usage.
- b. Check with Local Planning Authority all planning considerations.
- c. Check IACS Field Data Sheets.
- d. Check Countryside Stewardship Scheme.
- e. Check Assured Shorthold tenancy and terms of occupation of other workers.
- f. Check commercial leases.
- g. Check with Environmental Agency the state of a former pit.
- h. Check sporting agreement.
- i. Check footpath and bridleways map.

This question was generally well answered as indicated by a 76% pass rate. The majority of candidates were familiar with RICS Red Books requirements which was the essential element to a successful answer.

Encouragingly the answers were presented by almost all candidates in the headings format requested. Candidates who failed were short on the ancillary information needed to complete a comprehensive report in accordance with Red Book requirements.

Paper 2, Question 1

Recognised as a specialist area procedures for succession applications should nevertheless be familiar to candidates to enable a question requiring the fundamentals of eligibility, suitability and timing of submissions to the ALT to be set out in letter form..

47% of candidates attempting this question were successful.

Successful answers recognised the importance of the 12/7/84, together with the eligibility, suitability, livelihood and commercial unit tests that an applicant needs to satisfy.

The question was framed so as to invite candidates to identify weakness in the potential successors case. A knowledge of the time limits for the submission of claims and response to the ALT were essential elements of a successful answer.

A significant number of candidates failed to provide answers in a letter form with clearly headed paragraphs. This format was requested to assist an orderly presentation of the information required.

Paper 2, Question 2 – Asset Appraisal for Debt Reduction

10 out of 20 candidates succeeded with this question (50%). The best answers, requested in letter form, dealt with each asset under separately headed paragraphs. These were:

- 1) the semi-detached cottage
- 2) owned cottages let on Assured Shorthold Tenancies
- 3) owner occupied land
- 4) sale of cows/milk quota
- 5) 1986 Agricultural Holdings Act tenancy
- 6) sale of machinery/contract farming

The best answer is identified planning aspects relating to the possible abandonment of residential use of the semi-derelect cottage; tax implications of sales or negotiating the surrender of the 1986 act tenancy and the retention of a viable ongoing business.

Paper 2, Question 3 End of Tenancy Claim

The Question was attempted by 42 and passed by 16 (38%).

Many of the candidates failed to address the question of procedures, as asked for in the question and several were confused between the notices needed for the intention to claim and removal of fixtures. Some candidates were also confused as to the basis of value for tenants fixtures and long term improvements. One candidate phrased his answer as though acting for the tenant whereas the question made it clear that the client was the landlord! There was also some confusion between the half cost items of repair and the half cost for painting externally, and how they should be treated at the end of the tenancy.

As usual, some of the handwriting left a lot to be desired. Also, the question asked for a briefing note for yourself to discuss the claims with the landlord. The best answers were those that gave a list of bullet points setting out all the important points of the procedure and possible claims, as an aide memoire for the meeting.

A complete answer would have included the following:-

- Notices under section 83 from both sides of intention to claim within 2 months from termination of tenancy.
- M.Q – Under section of 11 (I) Agriculture Act 1986 similar 2 months period.
- Settlement within 8 months or arbitration.
- Landlords claims:-
 - Under Sections 71 and 72
 - Damage to fixed equipment – fences, hedges, walls, land etc
 - Half cost items must be repaired before termination to establish reasonable cost "Robertson Ackerman – v – George (1953)
 - Painting claim can be estimated
 - Claim under Act or under tenancy agreement – not both
 - Claim limited to amount which represents diminution in value of landlord's reversion as a consequence of the dilapidations
 - General deterioration – notice of claim to be served one month before termination – need a record of condition at beginning of tenancy
- Tenants Claims:-
 - Tenants fixtures – Section 10 notice more than one month before termination of tenancy of intention to remove, Landlord right to counter notice to leave. Value will be value to incoming tenant.
 - Unconditional consent improvements – written consent is needed. Value is the increase in the value of the holding as a holding.
 - Written down basis, e.g. over 10 years, year 5 would give 50%. Should be written down to £1 to be a valid contract.

- Where no written consent: no compensation but could be classed as Tenant's fixtures with right to remove, as above.
- Harvested and severed crops left on the farm to limit of reasonable amount, e.g 700 tons of silage left in may would not be reasonable.
e.g. hay, silage, straw. Value is market value less unexhausted manurial value = consuming value.
- Tenant's pasture at a face value if crops taken. Where no crop off, value cost of establishment
- UMV of purchased feeding stuffs and RMV of purchased fertilizer in accordance with Agriculture (Calculation of Compensation) regulations 1978 and amendments
- FYM Application of lime
- Acclimatisation etc for hill sheep
- Arable land – Cultivation's and inputs for crops growing at termination. With a spring tenancy, enhancement value will apply
- Milk Quota – Agriculture Act 1986
 - Transferred-in quota
 - Apportionment over own land and other land
 - Excess quota (allocated over Standard)
 - Tenant's fraction of Standard quota
Numerator – rental value in 1983 of the improvements to dairy cow buildings carried out by the tenant and
Denominator – that figure plus proportion of rent payable for dairy cow land, as used in 1983.
- High farming

Paper 2, Question 4 – Countryside Stewardship

This question attempted to test candidates ability to identify diversification prospects on a failing farm business with non agricultural and environmental assets to develop and exploit.

Pleasingly, this popular question attempted by 40 candidates was well answered with a 75% success rate.

Candidates were familiar with The Countryside Stewardship Scheme (Tir Gofal in Wales) and had a good working knowledge of the annual payment rates for the various management options; access premiums; capital payments; and Arable Stewardship options. Candidates were not penalised for a lack of precise knowledge of rates of payment.

Planning and rent earning opportunities from the traditional and modern cattle buildings and gravel pit were recognised by most.

Paper 2, Question 5 - Tax Planning

The following required to be included in the detailed file note asked for in order to be successful.

20 out of 32 candidates answers passed – 62%

Detailed Filed Note

1. Additional information required:-

- Exact age of Mr Button, wife and 3 children
- Is manor farm owned? In whose name and how long owned and occupied?
- Type of woodland
- Type of agricultural tenancy agreement for river meadows
- Age of farm workers
- Terms of occupation of cottages

2. Assess what is taxable, i.e:

- IHT is liable on all assets, including shares in a holding company.
- IHT liable on gifts where there is a reservation of benefit. The charge will arise on a transfer of value during a lifetime or on death.

3. Relevant relief's.

i) APR

Transfer of value reduced by
100% if right to VP within 2 years
50% if tenanted
100% if tenanted but let after 1.9.95

Must have occupied for 2 years or owned for 7 years
Relief not available on livery business and reduced for the grazing land and woodland

ii) BPR

100% for transfer of a controlling interest in farming company or partnership.

Will include farm 'other' assets, eg crops, livestock, plant and machinery.

Not applicable to company shares.

- iii) Woodland relief
(if ancillary to farming, eg. Shelter belts, it should qualify for APR)

relief is on value of timber, not land and charge arises when timber subsequently sold.
- iv) Taper Relief

If disposal 3 years before death, a tapering effect of 80% to 2% will arise
- v) National Heritage Relief

Conditional exemption but must provide public access and need to make monetary provision for maintenance and repair.
- vi) Possible Strategy
 - i) Make use of allowances, ie
Annual allowance
Allowance on death
 - ii) Start disposing now to make use of taper relief and PET's, ie PET only chargeable if dies within 7 years.

A PET is a transfer made to another individual or to a settlement or Accumulation and Maintenance Trust so as to increase the value of another's Estate.

A discretionary Trust is not subject to PET regime and will give rise to an IHT charge.
 - iii) Consider leaving investments to wife and the farm assets and business to the children.

Holiday cottage should be transferred now as no relief's available.

The question was either well or poorly answered with little scope for half measures.

Identifications of the additional information needed was a prerequisite as was working knowledge or applicable relief's.

In framing a possible strategy candidates ranged over an array of options some fanciful but on the whole well considered.

The layout of his file note was considered important in that it needed to be logical and easily followed as an aide memoire for the proposed meeting.