CILEX Level 3 Certificate in Law and Practice/
CILEX Level 3 Professional Diploma in Law and Practice

Unit 7 – Family Law

Question paper

November 2023

Time allowed: 1 hour and 45 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.

- There are **two** sections in this question paper — Section A and Section B.

- You must answer **all** questions from Section A.

- There are three scenarios in Section B — you must choose **one** scenario and answer **all** questions relating to that scenario.

- This question paper is out of 60 marks.

- The marks for each question are shown — use this as a guide as to how much time to spend on each question.

- Write in full sentences — a yes or no answer will earn no marks.

- Full reasoning must be shown in your answers.

- Statutory authorities, decided cases and examples should be used where appropriate.

- You are allowed to make notes on your scrap paper during the examination.

- You are **not** allowed access to any statute books.

- A basic calculator is provided should you require the use of one.

- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer all questions

1. (a) Identify the section of the Matrimonial Causes Act 1973 that sets out the grounds on which a marriage is void.

    (1 mark)

    (b) State how this section was amended by the Marriage (Same Sex Couples) Act 2013.

    (1 mark)

    (Total: 2 marks)

2. (a) Identify **two** statutes that give the court power to make financial provision orders during marriage.

    (2 marks)

    (b) State any **two** factors that the court must consider when making such orders.

    (2 marks)

    (Total: 4 marks)

3. Identify the **three** orders that can be made under s.8 Children Act 1989, as amended.

    (3 marks)

4. Identify any **three** legal personnel who deal with family law cases.

    (3 marks)

5. Identify **three** orders the court can make with regard to the family home on divorce, with reference to statute and case law.

    (3 marks)

6. Outline **two** Articles under the European Convention on Human Rights of relevance to family law.

    (2 marks)

7. Explain the legal requirements of capacity to enter a valid marriage.

    (4 marks)

8. Explain **four** ways in which the rights of cohabitees differ from those of married couples.

    (4 marks)

9. Define 'civil partnership.'

    (1 mark)

10. Give **two** similarities and **two** differences between judicial separation and divorce.

    (4 marks)

    (Total Marks for Section A: 30 marks)

There are three scenarios — you must choose one scenario and answer all questions relating to that scenario.

Scenario 1

Annette and Chung met when they were both studying law at university. They married 30 years ago and have no children. Annette qualified as a barrister and specialised in commercial law. She now earns £200,000 a year. Chung was less successful. Over the years, Chung had been employed in a number of low paid jobs and, eventually, Annette agreed that Chung should give up work. They bought an old farmhouse and Chung has spent the last 15 years improving the property. It is now estimated to be worth £1,000,000.

Although Annette has put a substantial amount of money into her pension, Annette and Chung have no savings. They have spent considerable money on designer clothes and luxury holidays. Chung has no pension provision.

A year ago, Annette admitted to Chung that she had been having a sexual relationship with Bernard, a work colleague, but she told him that the relationship with Bernard had now ended. Annette and Chung then agreed to give their marriage a second chance.

Following this decision, Chung had thought that all was going well until a couple of months ago, when Annette started staying out late. Whenever Chung asked Annette where she had been, she became abusive and said that she had to work late because he does not contribute financially.

Recently, Annette said that she was going away for a weekend with a female friend. When Chung rang her mobile phone, a man answered and refused to say who he was. Annette denied that she had spent the weekend with a man.

Annette has now said that she no longer wants to be married to Chung. She has also said that they should sell the house and has told Chung that, as she earned all the money, she should receive all of the sale proceeds.

Scenario 1 Questions

1.   Explain whether Chung can end his marriage to Annette and if so how the matter will proceed.

(9 marks)

2.   Identify and apply **three** financial orders the courts could make in Chung's case.

(6 marks)

3.   (a) Explain and apply **four** statutory factors that the court will take into account when deciding which financial orders to make in Chung's case.

(8 marks)

    (b) Explain why the case of *White v White* (2000) would be helpful to Chung.

(3 marks)

(Total: 11 marks)

4.   Explain how s.25A Matrimonial Causes Act 1973 might apply in this case.

(4 marks)

(Total Marks for Scenario 1: 30 marks)

Scenario 2

Jason and Ellie met six years ago while travelling. At the time, Jason was 21 and Ellie, 17. They were immediately attracted to each other and on impulse they went through an informal marriage ceremony in Bali.

Jason and Ellie completed their travels and when they returned to the United Kingdom, they bought a flat and set up home together. Ellie's parents gave her the money to pay half the deposit but the flat was registered in Jason's name only as Ellie was too young to obtain a mortgage.

Two years ago, Jason and Ellie had a daughter, Bea. Six months after giving birth, Ellie returned to work and Ellie's mother looked after Bea while Ellie was at work. Ellie missed being with Bea. She found the pressure of being the mother of a young child and working full time increasingly stressful. Although Jason loved Bea and was good at looking after her, he also expected his life to continue much as before, working as a sports coach and enjoying time with his friends at weekends. He did not help Ellie with cleaning, cooking or shopping. This led to arguments, which have increased over recent months.

Last week, Jason told Ellie that he realised their relationship had been a mistake. He felt that they were both too young when they made the commitment and that they should now separate. Jason said that he had just been offered a job managing a leisure centre in another town so he intended to sell the flat and move away.

This week, Ellie told Jason that she has joined a new religious movement, which requires members to live separately from mainstream society. Ellie said that she is planning to take Bea to live at one of their religious centres and that Jason might not see Bea again. Ellie also said that as she had not named Jason as Bea's father on the birth certificate, he could not stop Ellie from moving and taking Bea with her.

Jason is concerned for Bea's welfare.

Scenario 2 Questions

1. Explain whether Jason and Ellie are legally married.

    (7 marks)

2. Explain whether Ellie has any rights to the flat and if so how she would realise those rights.

    (10 marks)

3. Explain the concept of parental responsibility.

    (3 marks)

4. Explain:

    (a) who has parental responsibility for Bea;

    (4 marks)

    (b) how an unmarried father can obtain parental responsibility.

    (3 marks)

5. Explain which order Jason should apply for to prevent Ellie from taking Bea to live at the religious centre.

    (3 marks)

    (Total Marks for Scenario 2: 30 marks)

Scenario 3

Peter and Ria have been married for 15 years. They separated three years ago by agreement. They both belong to a religious sect that believes that marriage can be ended only by death.

Ria lives in the family home with their three children, Zelda, age 14, Yvonne, age 12 and Vera, age five. Peter now lives in a three-bedroomed rented flat. Peter has seen the children on a regular basis since he separated from Ria.

Zelda, who has learning difficulties, has recently been diagnosed with a blood disorder and her doctor has advised that she should have a blood transfusion. Zelda has previously suggested that she does not want to have a blood transfusion.

Ria says that blood transfusions are against her religious beliefs and has told the doctor that she will not agree to the treatment taking place. Despite his religious beliefs, Peter wants Zelda to have the blood transfusion.

Since Peter and Ria have been arguing over Zelda's medical treatment, Ria has refused to let him see any of the children. Peter is concerned that Ria is ignoring the needs of Yvonne and Vera as she focuses on Zelda all the time. He has recently received a text message from Yvonne, asking if she can come to live with him.

The family home is worth £500,000 and has no mortgage on it. Peter wants the family home to be sold and the proceeds shared. This would enable him to buy his own house so that the children could stay with him for longer periods of time.

Scenario 3 Questions

1. (a) Define 'judicial separation' and explain how Peter would obtain a judicial separation order as well as the effects of such an order on Peter and Ria.

    (8 marks)

    (b) Explain why an order for judicial separation would be appropriate in Peter's situation.

    (2 marks)

    (Total: 10 marks)

2. Explain whether Zelda can make the decision not to have the blood transfusion by herself.

    (5 marks)

3. (a) Describe what order Peter could apply for if Ria will not agree to Zelda having a blood transfusion.

    (2 marks)

    (b) Identify and apply **four** factors under s.1(3) Children Act 1989 that the court will take into account in this case.

    (8 marks)

    (Total: 10 marks)

4. (a) Name the order that Peter could apply for to determine who the children should live with.

    (1 mark)

    (b) Describe the **four** statutory principles under the Children Act 1989 that the court will apply when deciding whether to make this order.

    (4 marks)

    (Total: 5 marks)

    (Total Marks for Scenario 3: 30 marks)

End of the examination

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