



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

Unit 7 – Family Law

Question paper

June 2022

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.
- 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. Explain the meaning of 'prohibited degrees of relationship' in the context of a valid marriage.

(3 marks)
2. Identify **two** statutes that regulate the law on the formation of civil partnerships.

(2 marks)
3. Identify any **two** rights contained in the European Convention on Human Rights (ECHR) that are relevant to child law proceedings and give a practical example of how each right could be used in these proceedings.

(4 marks)
4. State **two** ways the Marriage (Same Sex Couples) Act 2013 reformed the law on marriage.

(2 marks)
5. Define a Child Arrangements Order.

(2 marks)
6. Explain how the Divorce, Dissolution and Separation Act 2020 changes the law on judicial separation.

(3 marks)
7. Identify **three** differences between the legal rights of married couples and cohabiting couples.

(3 marks)
8. State the rules of capacity that must be satisfied in order to form a civil partnership.

(4 marks)
9. Identify **three** financial orders available under the Matrimonial Causes Act 1973 that ensure the applicant will have sufficient cash resources to meet their financial needs.

(3 marks)
10. Explain the difference between a void and a voidable marriage.

(4 marks)

(Total for Section A: 30 marks)

SECTION B

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

Scenario 1

Rachel and Albert have lived together for eight years. They have two children; Samira who is six years old and Jean who is four years old. Albert had a previous marriage that ended in a difficult divorce, and he made clear to Rachel when they moved in together that he did not want to marry again. Rachel and Albert's relationship has broken down.

Rachel and Albert and the children live in a three-bedroom house in London which Albert owned before he met Rachel and which is registered in his sole name. When Rachel moved in with Albert, he persuaded her to sign an agreement to determine how they would regulate their finances and divide their assets during their relationship and if their relationship should break down. Rachel's earnings would be used to pay household expenses and bills and Albert's earnings would be used to pay the mortgage and provide savings. In the event of a breakdown in the relationship, Rachel would be entitled to a share of any savings they had. However, when Albert was made redundant two years ago, Rachel's earnings were needed to pay the mortgage, in addition to other expenses, for six months.

Samira and Jean go to a French international school near the family home. Since the breakdown of the relationship, Rachel has made plans to move closer to her parents' home, which is 50 miles away. Albert is opposed to this plan, particularly as the children are settled at school and have many friends there. He wants Samira and Jean to learn to speak French fluently in addition to English. Rachel would like to sell the family home but Albert refuses, saying that the house is his and Rachel has no say in whether it is sold or not.

Turn over

Scenario 1 Questions

1. (a) Explain the nature of the agreement Rachel and Albert signed and what is required for it to be valid. **(4 marks)**

- (b) Explain the impact this agreement could have on Rachel's situation if it is valid and whether this would be to Rachel's advantage. **(2 marks)**

Assume for the purposes of Question 2 that the agreement is **not** valid.

2. Explain whether Rachel has any rights in the family home, and, if so, how she can realise those rights. **(10 marks)**

3. (a) Explain which order Albert should apply for with regards to the education of Samira and Jean. **(4 marks)**

- (b) Name and apply **one** case that is relevant to Albert's application for the above order. **(2 marks)**

4. Define and apply the **four** principles from s.1 Children Act 1989 which the court will consider when hearing Albert's application. **(8 marks)**

(Total for Scenario 1: 30 marks)

Scenario 2

Elizabeth, 50, and John, 58, have been married for 30 years but have recently separated. They have three adult children. Elizabeth is living in the family home, which is jointly owned, and John is living in a one-bedroom flat they also jointly own. Elizabeth is a consultant doctor in a hospital, and John is an accountant, and both work full-time.

Elizabeth and John married after discovering that Elizabeth was pregnant. At the time, Elizabeth was a medical student. Elizabeth's parents were devout Christians and put a great deal of pressure on her to marry John, who was her boyfriend at the time. They told Elizabeth that they would stop funding her medical studies if she did not marry. John wanted to marry Elizabeth and proposed to her. Elizabeth was unsure what to do but not wishing to further upset her parents, and desperate to continue with her medical degree, she married John. Shortly after the marriage, Elizabeth gave birth to a baby.

Two years after they married, John discovered that the baby was not his, but was the result of a brief relationship Elizabeth had had with another medical student. John told Elizabeth that he would continue to raise the child as his own, and they went on to have another two children together. John did a substantial proportion of the childcare as Elizabeth's hospital shifts meant that she was often away from home when the children required attention. During some periods when the children were young, John worked part-time to be at home for them.

Elizabeth and John jointly own a house that is worth £800,000. The mortgage was paid off five years ago. The flat is worth £200,000 and is also mortgage-free. In addition to their salaries, Elizabeth will have a substantial NHS pension, and they have investments in shares in their joint names. John does not have a pension. Elizabeth wants to remain living in the family home, but John does not agree with this as he thinks it puts Elizabeth at an advantage.

Turn over

Scenario 2 Questions

1. Explain whether Elizabeth and John have a valid marriage and what each one needs to establish to prove that it is not.

(10 marks)
2. Identify **three** financial orders from the Matrimonial Causes Act 1973 that John can apply for if he and Elizabeth cannot agree on how to divide their assets, and explain why each one is relevant to John's situation.

(6 marks)
3. Identify and apply **four** factors that the court will take into account when dealing with John's application for financial orders.

(9 marks)
4. Define a 'clean break' order and explain whether it is suitable in Elizabeth and John's case.

(5 marks)

(Total for Scenario 2: 30 marks)

Scenario 3

Anya and Joe have a daughter named Maria who is eight years old. Joe is not named as the father on Maria's birth certificate as Anya and Joe were separated at the time Maria was born. Since Maria's birth, Anya and Joe have lived together in Joe's flat but have separated several times. Six months ago, Anya left Joe's flat and took Maria with her. They are staying at a friend's flat.

Joe did not attempt to see Maria after Anya left. However, he has recently contacted Anya and told her that he wants to re-establish contact with Maria. He has started turning up at the flat where Anya is staying without notice, demanding to see Maria even when this is inconvenient, for example at night when Maria is in bed. Anya has asked Joe to text or telephone her before appearing at the door, but he has not complied with this request. When Joe cannot see Maria, he becomes very angry and starts shouting, which causes great distress to Anya and Maria. Anya has said that she thinks Joe's desire to see Maria is a way of 'getting back' at Anya for leaving him. Anya is not completely opposed to Joe seeing Maria, but she feels that Maria needs stability in her life. Anya has heard through mutual friends that Joe lost the tenancy of his flat and is sleeping on the sofa at his mother's house.

Since leaving Joe, Anya has started seeing an old friend named Greg. Greg is older than Anya and interested in forming a stable relationship. Anya is determined not to repeat her experience with Joe but is not sure whether formalising her relationship with Greg is a good idea. Greg does not want to get married but is keen to formalise his relationship with Anya.

Turn over

Scenario 3 Questions

1. Define parental responsibility and explain whether Joe has parental responsibility for Maria.

(4 marks)

2. Explain whether Joe can obtain parental responsibility for Maria.

(4 marks)

3. Identify and apply the order which Anya can apply for to regulate Joe's visits to see Maria.

(4 marks)

4. Identify and apply **four** factors from the welfare checklist in s.1 Children Act 1989 that will support Anya's application.

(8 marks)

5.
 - (a) Explain how Greg and Anya can formalise their relationship without getting married.

(4 marks)

 - (b) Explain the formalities required for the above relationship to be valid.

(3 marks)

 - (c) State **three** legal advantages for Anya of formalising her relationship with Greg.

(3 marks)

(Total for Scenario 3: 30 marks)

End of the Examination

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