



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 7 – FAMILY LAW\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Family Law 2020-2021, 29th edition, Rob George, Oxford University Press, 2020.**
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities decided cases and examples should be used where appropriate.

#### Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. Critically evaluate to what extent the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019 has achieved equality between same-sex and opposite-sex couples in how their relationships can be formalised and brought to an end.

**(25 marks)**

2. Critically analyse the relevance of 'domicile' in modern family law, before discussing whether it should be replaced with 'habitual residence'.

**(25 marks)**

3. Critically evaluate the following provisions in the Matrimonial Causes Act 1973 and critically assess whether they should still have a place in modern divorce law:

(a) Section 5;

**(13 marks)**

(b) Section 10(2).

**(12 marks)**

**(Total: 25 marks)**

4. Critically assess to what extent the Family Law Act 1996 can be said to offer more protection from domestic abuse to spouses than cohabitants.

**(25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Jermaine and Eliza have been in a relationship for five years. Three years ago, Eliza found out that she was pregnant. As Jermaine's family are of the Catholic faith, Jermaine and Eliza decided to get married immediately. Their daughter, Abbie, was born six months later.

The marriage was a happy one until a month ago, when Jermaine received an email from a man called Steven, purporting to be Abbie's biological father. Steven explained that he and Eliza had met on a night out three years ago, and he believes that Abbie was conceived as a result of them sleeping together that night. The relationship did not continue beyond this. Eliza had told Steven about the pregnancy and asked if she should get a DNA test but, as Steven did not feel ready to be a father, they both agreed not to tell Jermaine and that they would not get a DNA test. However, Steven now regrets this and wants clarification as to whether he is the father. If he is the father, he wants to be involved in Abbie's life.

Jermaine confronted Eliza with this information. Jermaine has requested that Abbie be tested to establish who her father is. Eliza has denied everything and refuses to agree to Abbie being tested to establish paternity.

Jermaine now feels unable to continue with the relationship and wants to know what his options are.

Advise Jermaine as to:

(a) his options for bringing his marriage to an end;

**(13 marks)**

(b) whether the court can order DNA testing without Eliza's consent.

**(12 marks)**

**(Total: 25 marks)**

## Question 2

Billy and Louise have been in a relationship for ten years and have two children together, Charlotte (aged five years) and Daniel (aged eight years). For the past three years, Billy has become very controlling of Louise and has been verbally abusive towards her on many occasions. Matters escalated eight months ago, when Billy lost his temper and seriously assaulted Louise, resulting in her being hospitalised. The police were called and Billy was arrested.

Billy's parents, Frederick and Gita, agreed to temporarily look after the children while Louise recovered. They were used to caring for the children, having looked after them regularly since they were born.

Billy is now serving a prison sentence for the assault and has no contact with the children. Louise is out of hospital and has recovered from her injuries, so the children have returned to her care. Louise is now refusing to allow any contact between the children and Billy's parents. She blames Billy's upbringing for his behaviour, and believes it would be better for the children to have no contact with their paternal family. She is also concerned that Billy's parents will promote contact between Billy and the children, something she is keen to prevent.

Frederick and Gita are very upset by this and want to see the children. They are ashamed of Billy's behaviour and deny that they would promote any contact between him and the children. They have not spoken to Billy since his arrest.

Advise Frederick and Gita about the legal options they could pursue to resume contact with their grandchildren and how the court will approach any application they might make.

**(25 marks)**

### Question 3

Harriet and Ian married in 2005. Prior to this, Ian had built up a very successful business, from which he currently receives a salary of £120,000 per annum. He also received a substantial amount in inheritance (approximately £300,000), when his mother unexpectedly passed away in 2003. This allowed him to buy a large family home for him and Harriet to live in, worth approximately £800,000. This property was purchased in 2004, is in his name alone and is now mortgage-free.

Ian suggested that the couple enter into a pre-nuptial agreement to state that if the marriage broke down, Harriet would not receive any of the equity from the property, but she would receive a lump sum of £30,000 for her to put down as a deposit on a new property. The agreement stated that Harriet would receive no payments beyond that lump sum and that each of them should retain their own pensions. Harriet was happy to agree to this, as she had her own successful career as an accountant at that time. Ian suggested that Harriet should take legal advice on the contents of the agreement, but she declined, believing the terms to be fair.

Their first child, Kian, was born in 2007 and their second child, Maddox, was born in 2010. Maddox was born with cerebral palsy, and Harriet and Ian therefore made the decision that Harriet should not return to work and should instead remain at home permanently to care for Maddox. They also made adaptations to the family home, to allow Maddox to move around it in her wheelchair.

Over the last two years, Ian has spent considerable periods of time out of the country on business, leaving Harriet at home alone with the children, often for months at a time. Harriet is unhappy with the situation but is worried about her financial position if she were to end the marriage. She is also concerned that she and the children would have to move out of the current family home that meets Maddox's current needs.

Advise Harriet what factors the court would consider when determining whether it would be fair to enforce the terms of the pre-nuptial agreement, if she and Ian were to divorce.

**(25 marks)**

#### Question 4

Nima and Omar entered into an arranged marriage three months ago. They were both happy with the arrangement and Nima was looking forward to starting married life together. On the evening of their wedding, Omar and Nima moved into a flat that both sets of parents had jointly bought for them.

However, six months after the marriage took place, Omar started spending more and more time away from the family home, often overnight. He initially said that he was staying away for work reasons. However, Nima became suspicious and confronted him, after finding suspicious text messages on his phone. Omar then admitted that he had been having a same-sex relationship with another man for two years and had only gone through with the marriage to please his parents.

While Nima and Omar both agree that the relationship is over, neither of them wants to divorce, as they believe this will bring cultural shame upon their families. Omar has proposed that Nima can continue to live in the flat and he will go to live with his boyfriend. Beyond this, he is refusing to provide any other financial support.

Nima recently suffered an accident that has left her unable to work for the foreseeable future, and she is therefore concerned about her financial position without Omar to support her.

Advise Nima:

- (a) on the best legal option with regard to her marriage to Omar and what she would need to prove to achieve this, briefly explaining why this option would be preferable to the alternatives;

**(13 marks)**

- (b) what financial orders the court could make, if she chooses to remain married to Omar **without** taking any of the legal options you may have outlined in (a) above.

**(12 marks)**

**(Total: 25 marks)**

**End of Examination Paper**