



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 2017-2018, 26th edition, M. Oldham, Oxford University Press, 2017.**
- 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**

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

1. (a) Analyse and compare the provisions for maintenance under the Domestic Proceedings and Magistrates' Courts Act 1978 (DPMCA) with those of the Matrimonial Causes Act 1973 (MCA).
(16 marks)

(b) Evaluate whether same-sex married couples enjoy the same rights of consortium as heterosexual couples.

(9 marks)

(Total: 25 marks)

2. Analyse the laws that protect victims of domestic abuse.

(25 marks)

3. Discuss whether the law on surrogacy is fit for purpose in the 21st century.

(25 marks)

4. Evaluate whether the law of matrimonial finance provides certainty of outcome for divorcing parties, and whether reform is needed to achieve this.

(25 marks)

Turn over

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

Question 1

Julius and Emma met at a party ten years ago. They hit it off immediately and moved in with each other within three months of meeting. Emma had just been through a divorce, so she was not keen on getting married. Julius was 23 at that time and he did not want to settle down, so it did not bother him that they were not planning on getting married. He was happy to move in with Emma and her daughter Mina, who was aged two at the time. Emma owned her home mortgage-free, as she had been awarded it as part of her divorce settlement.

Emma was concerned that Julius should not have any financial claims against her. She had heard that they would be common-law husband and wife if they lived together for more than two years, and she did not like the sound of that.

Emma and Julius therefore both took independent legal advice, and signed an agreement under which Julius would pay the household bills and Emma would pay for house insurance, food and any repairs needed for the house. The agreement provided that Julius would have no claim on the house in the future.

Five years after they moved in together, Emma had their children, twin boys Conor and Senan. She became their primary carer, which meant that she was no longer able to contribute as provided for in the written agreement. Julius was more than happy to pay for Emma's share, which he did without any difficulty.

Julius's name is on the twins' birth certificates and he has a very good relationship with them. He also has a fantastic relationship with Mina (now 12), whose father has little contact with her since he moved to Scotland.

Two years ago, the roof needed to be repaired after a bad storm took off a few tiles. The cost of repairs was £2,500. Julius had received a small inheritance at that time, so he used some of this money to repair the roof.

Julius and Emma are no longer happy in their relationship, and have agreed that it would be best for them and for the children if they were to separate. They would like to reach an amicable resolution of any financial and children issues between them.

- (a) Advise Julius what applications he can make regarding the children.
(5 marks)
- (b) Advise Emma about the agreement she signed with Julius and whether the courts are likely to uphold it.
(9 marks)
- (c) If the agreement was oral and not written, advise Julius about his interest in the property.

(11 marks)
(Total: 25 marks)

Question 2

Iris and Maud were at the same secondary school and Iris was in the year above Maud. When Maud was 13 years old, the school saw that she was a gifted student and advanced her by a year, so that she could take her GCSEs early. Maud was moved into Iris's class.

Iris and Maud started dating soon after Maud was advanced into Iris's class, and, from then on, they were a couple. They were inseparable and both received offers to attend the same university after they finished their A levels. They were both very keen to ensure that they started their university lives as a committed couple and decided that the best way to do this was to get married.

Maud's parents did not take it well, when she told them she was dating Iris. Iris was concerned that they did not like her. She thought that, if Maud told them of their plan to marry, they would try to talk her out of it. Iris persuaded Maud that it would be romantic for them to run away and get married without telling anyone. Maud was not very happy when Iris first came up with the plan, but in due course she agreed to it.

They were married in the Lake District on 14 June 2017, the day after their last A level exam. Iris is a year older than Maud and was 18 years old when they married.

They had a wonderful wedding day and honeymoon, and when they got home, they told their parents that they were married. Maud's parents were not pleased, but they tried to support her. They allowed Iris to move into their home to be with Maud until they went away to university, as they had planned.

When Maud and Iris got their results, Maud found out that she had failed her exams and needed to retake a year. Iris had passed with flying colours and was keen to move away, as planned. Iris and Maud then started to have terrible arguments. Iris wanted Maud to move to student accommodation at the university and retake her exams at a local college. Maud wanted to stay where she was, as her parents had agreed to support her for another year. The fights between Iris and Maud became very heated and Maud started to regret marrying so young.

Maud was suffering from depression and was prescribed anti-depressants due to the pressure of failing her exams and the ongoing arguments with Iris. Iris went off to university as planned, and one evening Maud decided to go out with some friends.

That evening, Maud met Liz. They went back to Liz's flat, where they spent all night talking. Liz helped Maud to see that she no longer wanted to be married and that the marriage had been a mistake. Maud eventually began a sexual relationship with Liz, and Liz promised to look after her. Liz is 25 and working full-time. Maud desperately wants to end her marriage to Iris as quickly as possible.

Advise Maud on her options to end the marriage to Iris.

(25 marks)

Turn over

Question 3

Ravi (45) and Selina (46) have been married to each other for 20 years. They have four children from the marriage, who are aged between 15 years and 2 years.

They have realised that the marriage is over. Ravi has applied for a divorce on the basis that they have been separated but living under the same roof for two years, and Selina has consented to the divorce.

The parties have agreed at mediation that Ravi will continue to be the main carer for the children, and Selina will spend every alternate weekend with the children and have four weeks' holiday with them per year.

The financial disclosure shows that Ravi and Selina are joint owners of the matrimonial home. This is a six-bedroom, detached house with three bathrooms and a 100ft garden. It has space to park three cars on the front driveway and a good-sized front garden. Having spoken to a number of estate agents, they agree that a reasonable sale price for this property would be £450,000. They have a mortgage of £125,000. The total equity available would be £317,500, after deducting costs of sale and the mortgage.

The children and both parties live in the house. Ravi and Selina always agreed that he would be a stay-at-home father. Selina has a very good job as a human resources manager for a global company. She earns £60,000 per annum and she gets an annual discretionary bonus. Her bonus for the financial year 2017/18 was £5,000. In addition, she owns shares in the company worth £10,000.

Ravi does not earn an income or receive any benefits at the moment, as he looks after the children. He does not expect to go back to work now as Eve, their youngest daughter, is only 2 years old. She will go to school when she is 4 years old. Ravi was a motor mechanic when he last had a job. He doubts whether he could get a job as a mechanic again, as he does not have any experience with modern cars or technology.

Ravi has a small pension, which has a Cash Equivalent value (CEv) of £50,000. Selina's pension is a final salary pension with a CEv of £450,000.

Ravi cannot raise a mortgage. Selina can borrow £200,000 by way of mortgage quite easily.

Advise both parties on the financial matters.

(25 marks)

Question 4

In 2013, Niyonou was a 28-year-old chemistry graduate from New Zealand, when she decided to take a short career break from teaching, to travel the world and decide what she wanted to do next. She thought that she would travel for a year or so.

Niyonou rented out her flat and went backpacking on her own. She met Pierre at a hostel in Thailand after only two months of travelling. Initially, they decided to become travelling partners. Pierre is a French national and is qualified as a doctor. He was working for a charitable organisation, before taking a short break. He was due to start a new job in Cambridge, England.

Niyonou and Pierre fell in love while travelling, and Pierre invited Niyonou to move to Cambridge with him. She decided that she wanted a change of direction, enrolled on a postgraduate course in Cambridge and moved in with Pierre. She finished her course in 2015.

Before she had time to find a job, Niyonou became pregnant with their child. She gave birth to a girl, whom they called Abi. Niyonou is very close to her mother, who lives in New Zealand. She speaks to her every day by video call. Six months ago, Niyonou was able to take Abi to visit her family in New Zealand for three months. Pierre had been very busy at work, as he had been promoted. He agreed to Abi leaving the country with Niyonou, as Niyonou was obviously homesick.

Things have been very difficult since Niyonou and Abi returned to Cambridge three months ago. Niyonou really enjoyed being in New Zealand and did not want to return to Cambridge. Abi was very happy with her extended family and settled in very well. Pierre is very busy with his new role and does not spend much time with Niyonou and Abi, often getting home after Abi has gone to bed. Niyonou is very isolated without Pierre's support and feels increasingly depressed.

Pierre has announced that his career prospects will be better if he returns to France to work. He is worried that, following the vote to leave the European Union, he may not be able to stay in England in the long term. He would rather leave now and put down roots in France. Niyonou does not want to uproot herself and Abi to live in France, where she does not know anyone. Abi speaks French, as her parents have brought her up to be bilingual, therefore she could start school there without any difficulty.

Niyonou wants to return to New Zealand rather than stay in England or move to France. She can return to live in her old flat. Her family are nearby and there is a very good school that Abi can attend within ten minutes' drive. After Abi starts school, Niyonou will be able to look for work. Until then, she can use her savings to look after herself and Abi.

Advise both parties about any applications they can make in relation to Abi and the likely outcome of those applications.

(25 marks)

End of Examination Paper

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