



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 2018-2019, 27th edition, Claire Fenton-Glynn, Oxford University Press, 2018.**
- 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 examine whether the application of s.25 Matrimonial Causes Act 1973 (MCA 1973) differs when the court makes orders in 'low asset' and 'high asset' cases.

(25 marks)

2. (a) Consider the circumstances in which a foreign decree of nullity, divorce or judicial separation will be recognised as valid in the English courts.

(15 marks)

- (b) Critically analyse the provisions of s.5 Matrimonial Causes Act 1973 (MCA 1973).

(10 marks)

(Total: 25 marks)

3. Examine the ways in which the legal system treats children of unmarried couples differently to those of married couples.

(25 marks)

4. (a) Discuss the role of cohabitation contracts in modern relationships.

(10 marks)

- (b) Consider the usefulness of both prenuptial and postnuptial agreements in the 21st century.

(15 marks)

(Total: 25 marks)

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

Question 1

Theo is a 22-year-old taxi driver, who works on a self-employed basis. He is in a relationship with Danny, a 35-year-old truck driver. They met when they both attended an advanced driving course three years ago, and they started a serious relationship almost immediately. They found that it was difficult to make time for each other due to their jobs, which both involve working irregular hours. In order to improve the quality of their relationship, they agreed, after a year, that they would live together at Theo's parents' home, where Theo was living. They both contribute towards their food and household bills, neither is expected to pay rent and there is no formal agreement that allows either of them to stay there.

Theo's Mum and Dad were happy that he had met someone, and they did not mind if Danny moved into Theo's bedroom on a temporary basis. They hoped that in time the couple would have saved sufficient money to move into rented accommodation together. They did not see Danny very often due to his job, and so did not mind when the couple made little effort to move out.

Theo has saved £2,000 in the last two years. He hoped that Danny would have also saved some money towards a rental property, as he sensed that his parents were hoping they would move out. He had a frank discussion with Danny at the weekend about money and discovered that Danny had saved only £500. Danny told him that he had spent his money on nights out with his friends. Theo had been unaware of these regular nights out, as he had been working nights to save for their flat.

They had a huge argument over money and Danny's lack of commitment to their relationship. During the argument, Danny told Theo that he was a 'boring partner' and that he didn't know why he was putting up with him. Theo was hurt by these comments and tried to leave their bedroom to smoke a cigarette in the garden.

Danny grabbed Theo by the elbow and refused to let him leave the room, as he did not want Theo's parents to know that they were arguing. Theo tried to release himself, by pulling his arm away. In the tussle, Danny pushed him and Theo hit his head on the corner of a bookcase. Theo was bleeding profusely and had to go to A&E to have stitches.

Theo now wants Danny to leave his parents' home, but Danny insists that everything between them is fine.

Advise Theo.

(25 marks)

Turn over

Question 2

Gail and Pearl, who are both in their early 40s, are schoolteachers. They met while teaching at the same school, 10 years ago and became partners. At the time, Gail owned her one-bedroomed cottage, which she had purchased 10 years before meeting Pearl. Pearl was living with her parents; she had decided to go travelling around the world after she finished her teacher training course, instead of starting work and buying property. They were both happy with their living arrangements, until Pearl moved to a new school five years ago. The school was much nearer to Gail's cottage than to where her parents lived. Pearl persuaded Gail that it was good idea for her to move into Gail's house, and they verbally agreed that she would pay half of all the bills excluding the mortgage.

After a year of living together, they found that their relationship worked really well, despite Gail's initial misgivings. Gail proposed to Pearl, who said yes. They subsequently decided to enter into a civil partnership three years ago, rather than taking advantage of the new same-sex marriage option.

Unfortunately, they have been arguing quite a lot in the past six months, because Pearl decided that she did not want to work on a full-time basis any longer. She made arrangements with her school to work part-time, and her income has been halved to £15,000 as a result. She says that she would rather enjoy her life than be a slave to her job. Gail thinks that Pearl is being selfish and they argue about money and Pearl's choices. Gail is the Head of Year at her school and her income is £32,000.

To make matters worse, Gail recently saw a statement from Pearl's pension provider, showing that Pearl has not been making contributions to her pension, which has a CE value of £35,000. By contrast, Gail's pension is worth £135,000 (CEv). Gail's property is valued at £300,000 and there is only a small mortgage of £20,000 to pay off. Gail also has savings of £80,000; part of this money was inherited from her great-aunt, who left her £50,000 before Gail started to live with Pearl. Pearl has no savings.

Gail is upset at the thought that she will have to support Pearl in the future. She wants you to advise her on:

(a) the dissolution of their civil partnership;

(8 marks)

(b) the likely outcome of the division of their financial assets.

(17 marks)

(Total: 25 marks)

Question 3

Five years ago, Hassan, then aged 42, met Dimple, who was then 25. When they met, she immediately felt protected by him. They are from different religious backgrounds, and felt that they needed to keep their relationship secret, so as not to upset their parents.

Dimple accidentally became pregnant just over four years ago. They then told their respective families about their relationship and the pregnancy. The families did not take it well, and Hassan's family insisted that they enter into an Islamic religious ceremony, to ensure that the child was born into the Muslim faith. Hassan persuaded Dimple that it would be the only way that his family would accept her and their child. She agreed to go through a small ceremony, which took place at his mother's home in Chichester. Her family, as Hindus, did not attend the event and, as far as Dimple was concerned, the ceremony was not legally binding.

Their daughter Aria has just turned three years old and lives with both parents in Hassan's three-bedroomed townhouse, which is owned in his sole name. She has taken her father's surname and his name is on her birth certificate.

Hassan and Dimple now need to decide which primary school they would like to enrol Aria into next year. To Dimple's surprise, Hassan told her that he would like to enrol Aria into a Muslim faith school. He insists that it was always their plan to bring her up as a Muslim. As far as Dimple was concerned, they had agreed that Aria would be exposed to both the Muslim and Hindu faiths, and when she was old enough, she would be able to choose for herself which religion to follow.

Dimple has taken Aria to many ceremonies at Hindu temples. By contrast, Hassan rarely takes Aria to the Mosque, although her paternal grandmother takes her about once a month.

Dimple has come to see you for some advice, because she has recently discovered that Hassan has unilaterally registered Aria to attend a Muslim faith primary school. Dimple does not want this to happen and would like to register Aria with the local non-faith primary school. Both schools have the same OFSTED ratings.

Advise Dimple about:

(a) the status of her marriage and her status in relation to Hassan's home;

(9 marks)

(b) the main issues in respect of Aria.

(16 marks)

(Total: 25 marks)

Turn over

Question 4

Lucy and her husband Chen have been married for 10 years and have no children. They have discovered that Lucy has ovulation problems, which is why they have not been able to have children.

Lucy has a younger sister, Meilin, who is happy to use her eggs with Chen's sperm and act as a surrogate for Lucy and Chen, who are delighted that they could soon be the parents to their first child. Meilin is married and has twins, who are seven years old. Her husband, Han, is not sure whether it is a good idea for Meilin to act as a surrogate for her sister. He is worried that she will have twins again and that it would be bad for her health. He felt obliged to agree to their plan, but still has reservations about the procedure.

Both sisters have been discussing how Chen's sperm can be used to inseminate Meilin. The matter is obviously very sensitive and, after looking through a number of magazines, they have decided that they will use an informal, at-home method. They have heard that this will be quick and easy and the least embarrassing for all of them. They believe that if they put Chen's name on the child's birth certificate, he will have parental responsibility and they are not too worried about Meilin's name being on the child's birth certificate, as she wants the child to live with Lucy and Chen.

Lucy and Chen have money saved up and would like to give Meilin £10,000 for her trouble. This is in addition to paying for private medical care and a private nurse, when she enters the final stages of pregnancy.

On further reflection, Han does not think that this is a good idea at all. He has recently read some literature on a surrogacy website and he thinks that this arrangement will inevitably cause difficulty between the sisters. He does not want any surrogacy arrangement, if it is to go ahead, to be on such an informal basis.

Advise Han and Meilin of the best way to proceed in this matter.

(25 marks)

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