



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 7 – FAMILY LAW*

Time allowed: 1 hour and 30 minutes 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.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

SECTION A

(Answer ALL questions in Section A)

1. State the legal ground for the dissolution of a civil partnership. **(2 marks)**
2. Explain the effect of judicial separation, if any, on an existing will. **(1 mark)**
3. Identify **two** holders of judicial office who hear cases in the Family Court. **(2 marks)**
4. Describe **three** formalities that must be complied with for a valid marriage. **(3 marks)**
5. (a) Define a cohabitation contract. **(1 mark)**

(b) State any **three** requirements for a valid cohabitation contract. **(3 marks)**
(Total: 4 marks)
6. Identify any **two** rights which are protected by the European Convention on Human Rights (ECHR), and give an example of how each right may be used in Family Law. **(4 marks)**
7. Identify **three** grounds on which a marriage is voidable. **(4 marks)**
8. Explain the significance of **one** of the following cases:
(a) S v R (Parental Responsibility) (1993);
OR
(b) Dawson v Wearmouth (1999). **(2 marks)**
9. Describe **two** types of pension order that a court can make under the Matrimonial Causes Act 1973. **(4 marks)**

10. (a) Name **two** individuals who have automatic parental responsibility.

(2 marks)

(b) Name **two** individuals who can acquire parental responsibility.

(2 marks)

(Total: 4 marks)

(Total Marks for Section A: 30 marks)

Turn over

SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

Scenario 1

Felicity and Mark lived together for eight years. Felicity owns and runs a bakery, but Mark is not currently working. They have a daughter, Grace, who is six years old. Mark and Felicity separated just before Grace was born. When Grace was eight months old, they got back together. Only Felicity is registered on Grace's birth certificate.

Felicity, Mark and Grace have been living in a house that is registered in Felicity's sole name. Felicity acquired the house before she met Mark. The house is three-bedroomed, is valued at £350,000, and there is no mortgage. Grace has lived in this house all her life and she enjoys its big garden.

On Grace's first birthday, Mark and Felicity had a party at the house for their family and friends. When making a toast to Grace, Felicity said: 'I am so, so happy to finally have a home where we can live together as a little family, forever'. Mark was pleasantly surprised to hear this, as Felicity had often referred to the house as her own. When they had first met, Felicity had had a copy of the deed of transfer pinned up in the kitchen.

Mark cared for Grace before she began attending school, so that Felicity could focus on the bakery. Mark also redesigned the garden, making a lovely play area for Grace, and converted the garage into a workshop and an exercise room for himself and Felicity.

Felicity and Mark have recently separated. Mark has moved out and is staying at his brother's house, where he sleeps on the sofa. Mark would like Felicity's house to be sold and the proceeds divided, so that he can purchase a flat. He would like Grace to come and live with him. He has found a flat near Grace's school, which is for sale for £120,000. Felicity is strongly opposed to Grace living with Mark, even if he has his own flat.

In the meantime, Mark wants Grace to come and stay with him at his brother's house. Felicity refuses, because she says the house is too small and Grace will have to sleep on an air bed. Felicity knows that Mark's brother is a regular user of cannabis and that Mark has resumed his old habit of using cannabis and other recreational drugs since separating from Felicity.

Scenario 1 Questions

1. Explain whether Mark has any rights to Felicity's house and whether he can obtain an order for sale.

(10 marks)

2. Explain which order Felicity could apply for with regard to Grace, and apply **four** relevant factors that the court will consider when determining whether to make this order.

(10 marks)

3. (a) Define parental responsibility, and explain whether Mark has parental responsibility for Grace.

(4 marks)

- (b) Describe **three** ways in which Mark can acquire parental responsibility.

(4 marks)

(Total: 8 marks)

4. Explain whether Mark can apply for a court order for Grace to spend time with him.

(2 marks)

(Total Marks for Scenario 1: 30 marks)

Turn over

Scenario 2

Amir, aged 32, and Sahar, aged 28, married ten years ago and have two children, Zain, aged nine, and Ibrahim, aged seven. Ibrahim is physically disabled and requires continual medical care. The family home is adapted for his needs, and Amir and Sahar own a car that accommodates a wheelchair. Both boys are happy and settled at the local primary school, which is suited to Ibrahim's needs.

Amir and Sahar live in a three-bedroomed house, which is valued at £275,000, with an outstanding mortgage of £50,000. The house is registered in Amir's name.

Amir jointly owns a business with his brother and father, which comprises four restaurants and three takeaway shops. One of Amir's cousins told Sahar that the total business is worth over £2 million and will provide 'a nice little pension pot' for Amir. Amir puts most of his income from the business into a savings account in his sole name. Sahar believes there is currently £25,000 in the account.

Sahar has been a full-time, stay-at-home parent and has never been employed. She has had to learn how to care for a disabled child and has provided his care on her own. Sahar does volunteer work for a charity that provides play space and sensory stimulation activities for disabled children.

Six months ago, Amir and Sahar separated, and Sahar is now seeking a divorce. Zain and Ibrahim have remained with Sahar in the family home, but Amir wants them to come and live with him at his parents' house. Amir has taken the family car, leaving Sahar to rely on friends and taxis.

Amir blames Sahar for the break-up of the marriage, as she has developed many new friends among the parents at the play centre who are not Muslims. Amir says that the boys must live with him, so that they can attend the mosque regularly. Sahar found out last week that Amir has obtained places for Zain and Ibrahim to move to a Muslim school near his parents' house.

Scenario 2 Questions

1. Identify the legal requirements which determine whether a marriage is valid.

(5 marks)

2. Assuming that the divorce proceeds:
 - (a) explain **three** appropriate financial and property orders that Sahar could apply for;

(7 marks)

 - (b) apply **three** relevant factors which the court will consider, when dealing with Sahar's application under s.25 Matrimonial Causes Act 1973.

(6 marks)

(Total: 13 marks)

3. (a) Identify the orders that Sahar could apply for with regard to Zain and Ibrahim, and explain the reasons why this would be an appropriate route to take.

(4 marks)

(b) Apply **three** relevant factors that a court will consider, when making a decision about Zain and Ibrahim.

(6 marks)

(Total: 10 marks)

4. Explain **one** objection that Amir can raise to Sahar's application regarding the children.

(2 marks)

(Total Marks for Scenario 2: 30 marks)

Turn over

Scenario 3

Oscar and Patrick were married five years ago. Their marriage was initially very happy, but became strained when Patrick changed jobs. Patrick is a chef, and his new job requires him to work long hours. The restaurant where he works is 30 miles from where Oscar and Patrick live. Patrick regularly stays overnight with some of his colleagues, because his shifts end late. Oscar is an artist and works from home. His paintings sell for very high prices.

One of Patrick's colleagues, Hannah, is also a close friend of Patrick's. Twelve months ago, Oscar found a series of text messages from Hannah to Patrick on Patrick's phone. They were of a suggestive nature, although they did not explicitly refer to a sexual relationship between them. Oscar suspected that they were having an affair and confronted Patrick, who responded angrily, accusing Oscar of lacking trust and of being intrusive and disrespectful of his privacy. The texts continued, prompting further arguments, which have sometimes become heated. On two occasions, Patrick has pushed and punched Oscar.

Oscar and Patrick have continued to live together in the family home, although Patrick mostly sleeps in the spare bedroom and eats at the restaurant. Oscar states that there have been several occasions when they have made attempts at reconciliation, but these have failed. They have now agreed that Patrick should move out for good, and Oscar wishes to obtain a divorce.

Patrick's income is substantially less than that of Oscar, and he will struggle to meet rental payments on a new property. He has written to Oscar, asking for financial support, but Oscar has refused. Before their marriage, Oscar and Patrick signed an agreement which stated that, in the event that their relationship broke down, Patrick would not seek to make a claim on the substantial wealth Oscar has built up from the sale of his artwork.

Scenario 3 Questions

1. (a) State the statutory ground on which Oscar can obtain a divorce from Patrick.

(2 marks)
- (b) Identify and apply **two** facts that Oscar could rely on, if he wishes to obtain a divorce from Patrick as quickly as possible.

(10 marks)
(Total: 12 marks)
2. Advise Patrick whether he is able to obtain financial support from Oscar during divorce proceedings and identify what this will include.

(3 marks)
3. (a) Explain the nature of the agreement that Patrick signed and at what stage in financial proceedings it will be considered.

(2 marks)
- (b) Explain whether a court is likely to uphold this agreement in the event that Patrick makes a financial claim against Oscar, using **two** relevant cases to illustrate your answer.

(8 marks)
(Total: 10 marks)
4. (a) Explain how Oscar can formalise their separation, if Patrick does not agree to a divorce.

(2 marks)
- (b) Identify the possible consequences for Oscar of proceeding in this way.

(3 marks)
(Total: 5 marks)

(Total Marks for Scenario 3: 30 marks)

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