

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**

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SECTION A

(Answer ALL questions in Section A)

1. State the statutory source which establishes that same-sex couples can marry.

(1 mark)
2. Define a pre-nuptial agreement, and explain the factors that a court will take into account when considering its validity.

(4 marks)
3. State the legal source incorporated in the Human Rights Act 1998 and identify **two** rights it contains that are relevant to family law.

(3 marks)
4. Explain the significance to family law of the:
 - (a) Gender Recognition Act 2004;

(1 mark)
 - (b) Civil Partnership, Marriages and Deaths (Registration etc) Act 2019.

(1 mark)

(Total: 2 marks)
5. (a) State the legal definition of parental responsibility, giving the statutory source.

(2 marks)

(b) Identify **two** individuals who can acquire parental responsibility (but who do not have parental responsibility automatically).

(2 marks)

(Total: 4 marks)
6. Identify **three** legal consequences of an order for judicial separation.

(3 marks)
7. State **three** people who can apply for **any** order under s.10(4) of the Children Act 1989.

(3 marks)
8. Explain **four** legal consequences of a civil partnership.

(5 marks)
9. Explain what a Mediation Information and Assessment Meeting (MIAM) is and who must attend it.

(2 marks)
10. Explain the principles (or starting points) established in Stack v Dowden [2007] regarding the property rights of cohabitants where there is no declaration of trust.

(3 marks)

(Total Marks for Section A: 30 marks)

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SECTION B

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

Scenario 1

Helen and Graham lived together for five years but never married. They lived in a house that Graham had owned prior to meeting Helen. There is an outstanding mortgage on the property. They have a four-year-old son, named Toby.

Helen is a physiotherapist and works part-time. Graham works full-time as a personal trainer. Graham's income depends on the number of clients he has at any one time and is therefore variable. Helen and Graham keep their incomes in separate accounts, but Helen contributes to the mortgage payments when Graham is unable to pay these out of his earnings. Helen and Graham contribute equally to other bills.

Helen and Graham's relationship ended two months ago. Helen left the family home and moved in with her sister. She agreed with Graham that it would be better for Toby if he remained at the family home. Helen does not have sufficient savings or income to take out a lease for a flat on her own. She sleeps in a small spare bedroom at her sister's house. Helen picks up Toby every morning and takes him to nursery and collects him at the end of the day. She also sees Toby every weekend on either Saturday or Sunday. Helen would like Toby to live with her permanently, when she has suitable accommodation.

After Helen moved out, Graham began dating a work colleague, named Anya. Anya is a vegan and she persuaded Graham to change to a vegan diet. Graham has told Helen that Toby is also eating a vegan diet. Helen is concerned, as Toby was born prematurely and has not yet attained average height and weight for his age.

Anya is from Germany and plans to move back home after her work contract finishes in six months. Graham has told Helen that he would like to take Toby to live with him and Anya in Germany on a trial basis.

Scenario 1 Questions

1. Advise Helen whether she has any rights in relation to Graham's house and explain how she can realise those rights.

(10 marks)

2. Explain how Helen's situation would differ, if she and Graham had a cohabitation contract regarding Graham's house.

(7 marks)

3. Explain what orders Helen can apply for with regard to Toby and why these are appropriate in her situation.

(7 marks)

4. Explain **three** relevant factors from the welfare checklist in the Children Act 1989 that apply to Toby's situation.

(6 marks)

(Total Marks for Scenario 1: 30 marks)

Turn over

Scenario 2

Jamal and Aliyah married two years ago. Jamal, aged 30, works for the local authority and earns £32,000 per annum. His position comes with a good pension. Aliyah, aged 25, is studying to become a Legal Executive at her local college and is not currently working. They live in a three-bedroom house worth £200,000 which is in Jamal's sole name. The house was given to him by his father, when Jamal and Aliyah married. There is no mortgage on the house. Jamal inherited £25,000 when his grandfather died five years ago. He is also a part-owner of a restaurant with his two brothers.

Jamal and Aliyah's marriage was arranged by their parents. Aliyah did not want to get married to Jamal, and argued with her parents for a long time. She said that she felt too young to get married. Aliyah's parents put a great deal of pressure on Aliyah to agree to the marriage, with the support of Jamal's parents. Aliyah eventually agreed to go ahead, but she told a cousin that the only reason she agreed was because she feared she would lose her parents' support, and that she would be shunned by her family and community if she did not marry Jamal according to her parents' wishes. Aliyah has been diabetic since she was 12 years old and is still dependent on her parents for support.

Aliyah left Jamal two weeks ago, saying that the marriage has been unhappy from the beginning. Aliyah is staying with a college friend on a temporary basis. She has no money to pay for rent on a flat and has no income of her own. Jamal has told her that she can come home and live with him but, if not, she will have to support herself.

Scenario 2 Questions

1. Advise Aliyah whether her marriage to Jamal is valid and, if not, what order she could apply for to bring it to an end.

(10 marks)

Aliyah obtains the order referred to in Question 1.

2. Identify and explain **three** financial orders that Aliyah can apply for.

(7 marks)

3. Explain **three** factors that a court will apply, in determining Aliyah's financial and property order applications.

(7 marks)

4. Explain to Aliyah what a 'clean break' order is and whether it is appropriate in her situation.

(6 marks)

(Total Marks for Scenario 2: 30 marks)

Turn over

Scenario 3

Dylan and Lisa were married four years ago. Lisa has a daughter, Mia, aged 10, from a previous relationship. Lisa and Dylan have a son, Tyler, aged six.

Dylan was made redundant one year ago and has been unable to find permanent employment since then. Lisa works part-time in a care home. The financial strains have been hard on the family and they have struggled to pay the rent and household bills. Dylan spends long periods of time away from home and is often drunk when he returns. He has become depressed, and his behaviour and moods are unpredictable. On some days, he barely talks to Lisa and the children and he refuses to take part in any family activities. On other days, he disappears from the house and is gone for several hours. His behaviour at home has become so difficult and stressful for Lisa that she has decided to leave the family home with Mia and Tyler, and they are staying with her parents.

Dylan texts Lisa continually, demanding to spend time with Mia and Tyler. He has also turned up drunk at Lisa's parents' house on three occasions, demanding to see the children. On the last occasion, Dylan threatened Lisa's father because he would not let Dylan into the house. Mia and Tyler find this very distressing and run and hide when Dylan comes to their grandparents' house.

Lisa is considering a move away from the area completely to live near her sister. She fears for the well-being of the children and says that her marriage to Dylan is over. Dylan says that Lisa cannot stop him seeing Mia and Tyler, as he has 'rights' that prevent her from doing this.

Scenario 3 Questions

1. Explain to Lisa the legal basis on which she can divorce Dylan. **(9 marks)**
2. Explain to Lisa what the nature of Dylan's 'rights' are with regard to Mia and Tyler. **(4 marks)**
3. (a) Explain to Lisa what order she can apply for under the Children Act 1989 to keep Mia and Tyler living with her. **(3 marks)**

(b) Explain to Lisa what order Dylan might apply for and how the court would deal with his application. **(10 marks)**
(Total: 13 marks)
4. Explain the approach that the court will take, if Mia and Tyler decide that they do not want to see Dylan. **(4 marks)**

(Total Marks for Scenario 3: 30 marks)

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