



26 January 2022
Level 3
FAMILY LAW
Subject Code L3-7

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.

SECTION A

(Answer ALL questions in Section A)

1. State **three** changes that the Divorce, Dissolution and Separation Act 2020 makes to family law.

(3 marks)
2. State the capacity requirements for a legally valid marriage.

(4 marks)
3. Identify **two** cases relating to parental responsibility and explain their significance.

(4 marks)
4. Define a judicial separation and give **one** reason why parties to a marriage might seek one.

(3 marks)
5. State the source of law incorporated in the Human Rights Act 1998 and identify **two** rights contained in this source that are relevant to family law.

(3 marks)
6. Define what a cohabitation contract is and explain **two** reasons why having one is an advantage to cohabiting couples.

(3 marks)
7. State the significance of the Civil Partnerships, Marriages and Deaths (Registration) Act 2019.

(1 mark)
8. Identify **three** statutes that have reformed the law on adult domestic relationships since 2000. [**Do not** include the Civil Partnerships, Marriages and Deaths (Registration etc) Act 2019.]

(3 marks)
9. State **three** circumstances in which a party to a marriage may seek financial provision by a court order during marriage.

(3 marks)
10. State the conditions that the Supreme Court laid down in Radmacher v Granatino (2010) for upholding a premarital agreement.

(3 marks)

(Total Marks for Section A: 30 marks)

SECTION B

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

Scenario 1

Emma and Greg have lived together for ten years but never married. They have two children: Joseph, aged eight years; and Pippa, aged four years. Greg is on the birth certificates for both children. During these ten years, they have lived in a house in Leeds which is registered in Greg's sole name and which Greg owned prior to meeting Emma. There is no mortgage on the house.

When they first met, Greg invited Emma to live with him in the house. Emma gave up a tenancy on a flat that she had in Manchester to move in with Greg. He told her at that time that they could make it into a lovely family home for when they had children together. Emma was reluctant to relinquish her flat, but agreed eventually.

Two years after Emma moved to Leeds, Joseph was born and Emma gave up her job. She has not worked since. While a full-time mother at home, Emma did a lot of work on the house. This included painting, wallpapering, making a deck and new garden area, and overseeing the renovation of the loft to make an additional bedroom.

Emma and Greg have now separated, and Emma has moved with the children to her mother and father's house. Emma is looking for work, but needs somewhere permanent for her to live with Joseph and Pippa. Emma wants to keep Joseph in his current school, as she is very happy with the learning support that Joseph is receiving for his dyslexia and ADHD.

Greg has put the family home up for sale. He has also written to Emma, saying that he wants the children to live with him when he gets settled in a new house. Emma insists that the children stay with her and is angry that Greg has put the house up for sale without consulting her.

Turn over

Scenario 1 Questions

1. Explain whether Emma can stop the sale of the house, and, if not, whether she is entitled to any of the proceeds of sale.

(10 marks)

2. (a) State the legal definition of 'parental responsibility'.

(2 marks)

- (b) Explain whether Greg has parental responsibility for Joseph and Pippa.

(2 marks)

(Total: 4 marks)

3. Identify the order that Emma should apply for with regard to Joseph and Pippa, and define the **four** principles that the court will follow in considering her application.

(6 marks)

4. Identify and apply **three** relevant factors from the welfare checklist that will support Emma's application with regard to Joseph and Pippa.

(6 marks)

Since separating from Greg, Emma has been seeing an old friend, Mark, and is considering moving to Mark's house to live with him.

5. Explain what advice you would give to Emma on finances and property, if she moves in with Mark.

(4 marks)

(Total Marks for Scenario 1: 30 marks)

Scenario 2

Eric and David became civil partners in 2006, having lived together for five years before that. Eric is 60 years old and runs his own business; David is 55 years old and is a teacher.

Eric and David have been living together in London in a house which is in their joint names. The house is worth £800,000 and there is an outstanding mortgage of £100,000. Eric has a small private pension; David is employed in a secondary school and has a teacher's pension. Eric earns £30,000 per year from the business and David earns £40,000 per year. They have investments in joint names worth £450,000. Eric receives an income of £40,000 per year from a trust fund set up by his grandparents, and anticipates a large inheritance when his parents die. Eric had planned on selling the business when he retired and using the proceeds as a pension for both himself and David.

Eric and David's relationship has now ended. Eighteen months ago, David discovered that Eric was having a relationship with another man. This did not come as a huge surprise to David, as Eric had started staying out late and socialising with his colleagues. Frequent arguments had taken place, with Eric threatening to leave David because he felt suffocated by their relationship. David has been very confused and hurt at Eric's behaviour. Eric has been staying at various friends' houses during this time, leaving David alone in the house.

David says that he still loves Eric and does not want to end their civil partnership. He has told Eric that he would like the two of them to have counselling, to see if they can save their civil partnership. Eric thinks that David is desperate to benefit from Eric's inheritance and that this is motivating David's desire to stay together.

Turn over

Scenario 2 Questions

1. (a) Explain whether Eric can end his civil partnership to David and, if so, on what basis.

(6 marks)
- (b) Explain what difference it will make if Eric waits until the Divorce, Dissolution and Separation Act 2020 is in force.

(2 marks)
(Total: 8 marks)
2. (a) State which court order is available to Eric, if he chooses not to pursue a dissolution of the civil partnership at this time but does not want to remain living with David.

(2 marks)
- (b) Identify **three** consequences for Eric and David that follow from making the above order.

(3 marks)
(Total: 5 marks)
3. (a) Identify **two** financial orders that David can apply for, if the civil partnership is ended, and explain why they are relevant to this case.

(4 marks)
- (b) Explain whether a clean break order is appropriate in David and Eric's circumstances.

(2 marks)
(Total: 6 marks)
4. Identify and apply **three** relevant factors which the court will consider when making a financial order in David's favour.

(7 marks)
5. Explain the process of mediation that David will have to comply with if he applies for the above orders, and how it may work to his and Eric's advantage.

(4 marks)

(Total Marks for Scenario 2: 30 marks)

Scenario 3

Amira came to England as a single parent from Turkey three years ago. She has no family in England and would eventually like to return to Turkey to live closer to her family, as she has been desperately homesick.

After coming to England, Amira met Pete and they have lived together for two years. Amira has a five-year-old son, Hassan. They currently rent a house, but would like to buy a house together. Pete has a job, but Amira is unemployed. Amira attends English lessons at the college near their home.

Pete has suggested to Amira that they should think about getting married. Amira is not sure that she wants to marry Pete, but knows she has no income and nowhere else to live. Pete has put quite a lot of pressure on Amira and, on more than one occasion, has threatened to throw her out of the house if she does not agree to marry him.

Pete has become very attached to Hassan. He takes Hassan to play football every weekend, and many of the other parents think that Pete is Hassan's father. He also takes Hassan to school and picks him up when Amira is at her college class. Hassan never knew his birth father and has also become very attached to Pete.

Two weeks ago, Pete and Amira went through a marriage ceremony at a register office.

Turn over

Scenario 3 Questions

1. Explain whether Amira and Pete have a valid marriage. **(8 marks)**

2. Explain the legal consequences that marriage will have for Amira and Pete, as opposed to being cohabitants. **(6 marks)**

3.
 - (a) Identify and define the order that Pete can apply for, to prevent Amira from taking Hassan back to Turkey. **(3 marks)**

 - (b) State the basis on which Pete can apply for this order, if the marriage with Amira is valid. **(2 marks)**

 - (c) State the basis on which Pete can apply for this order, if the marriage with Amira is **not** valid. **(3 marks)**

(Total: 8 marks)

Pete decides to make an application for the order in Question 3(a).

4. Identify and apply **three** factors that the court will apply, when considering Pete's application. **(8 marks)**

(Total Marks for Scenario 3: 30 marks)

End of Examination Paper