

## 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 2021 - 2022, 30th edition, Rob George, Oxford University Press, 2021.**
- 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 at least one question from this section)**

1. Critically evaluate whether the property rights of cohabitants on relationship breakdown should be amended to match the protection offered to married couples.

***(25 marks)***

2. Critically evaluate the impact of the following Acts on the common law definition of marriage:

(a) Gender Recognition Act 2004;

***(17 marks)***

(b) Marriage (Same Sex Couples) Act 2013.

***(8 marks)***

***(Total: 25 marks)***

3. Critically analyse whether the introduction of Qualifying Nuptial Agreements could bring about fairness in future financial relief proceedings.

***(25 marks)***

4. Step-parents have no rights or responsibilities in relation to their step-children.

Critically analyse this statement.

***(25 marks)***

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

**Question 1**

Andrew was born in England and has lived there all his life. He is 30 years old and is about to travel to Pakistan to marry Yasmin, who was born in Pakistan and has lived there all her life. They met 6 months ago whilst Andrew was visiting family in Pakistan.

Andrew was previously married to Sarah. Their marriage took place in England. Their marriage broke down five years ago and Sarah petitioned for divorce, but Andrew is unsure whether she ever actually applied for the Decree Absolute.

Under Pakistani law, a man can take four wives, although he does need permission from his first wife to remarry; but a woman can marry only one husband.

Andrew wants to ensure that his marriage to Yasmin in Pakistan will be recognised as valid in England and Wales, as he hopes that Yasmin will be able to live with him in England in the future.

Advise Andrew on:

- (a) the legal conditions that must be satisfied in order for the marriage in Pakistan to be recognised as valid in England and Wales, describing any further information that you would need in order to determine the validity of the marriage in England and Wales;

**(15 marks)**

- (b) any difference it would have made, if Andrew had been born and raised in Pakistan, his marriage to his first wife had taken place there, and she had given permission for him to marry Yasmin.

**(10 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

Belinda and Karim met through a dating website in 2015. The relationship developed quickly, and Karim asked Belinda and her son Joel to move in with him just before Christmas that year.

Karim had purchased his house three years previously. Belinda has a relatively low-paid part-time job in a local supermarket, whereas Karim is a successful accountant. In addition, at the time when she moved into the home, Belinda was going through a difficult divorce from Joel's father and had spent most of her savings on legal costs.

Karim told her not to worry about money, as he would support her and Joel and, once the divorce was finalised, they would get married. He refused to allow her to pay towards the bills or mortgage. To make up for this, Belinda assumed responsibility for running the home, decorating, replacing curtains and soft furnishings, and gardening.

Unfortunately, due to her ex-husband's extensive gambling debts, Belinda only received £10,000 in a lump sum from her divorce. Two years ago, she used this to pay for an extension, which was built onto the house. Karim wanted the extension to create a space for Joel to study for his GCSEs, which he is due to sit this year.

Towards the end of last year, Karim started spending more time away from home. Last week, he told Belinda that their relationship had come to an end and that he had met someone else. He told Belinda that he would give her a couple of weeks to find somewhere to live. When she asked him about repaying her for the money she had invested in the house, he said that the house was in his name and, as he had supported her and Joel for years, he owed her nothing.

Advise Belinda whether:

- (a) she will be able to recover the money she has invested in the family home, giving reasons in your answer;

**(15 marks)**

- (b) she can obtain an order allowing her and Joel to remain in the family home, giving reasons in your answer.

**(10 marks)**

**(Total: 25 marks)**

### Question 3

Dana separated from Connor, the father of her daughter, Emily, in 2017. Emily is now 11 years old. Dana and Connor tried unsuccessfully to reach an agreement about the arrangements for Emily. Connor instead commenced court proceedings.

After six months of court proceedings which were stressful for both parents, District Judge Findlay provided for Emily to live with her father on alternate weekends from Friday after school until Monday at 9am in week 1; in week 2, Emily was to stay with Connor from Tuesday at 9am until Friday at 4pm. The school holidays were to be shared 50/50.

At the moment, Connor does not pay any child maintenance, despite having a very successful business. Dana, on the other hand, lost her job recently and has had to borrow money from her mother to buy Emily's school uniform. Dana tried to calmly discuss child maintenance with Connor during contact handovers. Connor became very angry during these conversations, and has refused to contribute towards the uniform or any other outgoings for Emily.

Emily goes to a private school, something which was agreed by Connor and Dana when they were together. Until now, Connor has been paying the school fees, but he has indicated that he is not prepared to do that any longer, and he is insisting that Emily should now move to the local comprehensive school.

Last week, Dana became very upset about all of this and has told Connor that she will not send Emily to stay with him until he takes more financial responsibility for her.

Advise Dana whether she is able to do this.

**(25 marks)**

**Turn over**

#### **Question 4**

Fareeha and Gareth were married in 2010 and divorced in January 2021. During that time, Fareeha had given up her job as a hotel manager to look after their two children. In contrast, Gareth had built up a successful career as a solicitor.

On divorce, Fareeha applied for financial orders. Having considered all the circumstances of the case, the court made a property adjustment order, transferring the matrimonial home to Fareeha. This was offset against Gareth's pension and his stocks and shares, which he kept intact. In addition, Gareth was awarded a £10,000 lump sum from the couple's joint savings to use as a deposit on a new property.

However, in order to allow Fareeha a period of adjustment and to enable her to pay the outgoings on the property, Gareth was ordered to pay Fareeha periodical payments of £700 per calendar month. These payments were to last for a period of two years, during which time the couple's youngest child would have started school (in September 2021), and there was an expectation that Fareeha would have been able to find a job to provide her with an income of her own.

Unfortunately, Gareth has now been made redundant and is struggling to find another job. He has discovered that Fareeha moved a new partner into the former matrimonial home very soon after the financial orders were made, despite denying during the proceedings that she had a new partner.

He has also heard from a mutual friend that Fareeha has been bragging that she has a £30,000 inheritance in a savings account, which she had failed to disclose during the financial proceedings.

Advise Gareth whether he can ask for the financial orders to be reviewed, given this new information and his new financial circumstances.

***(25 marks)***

**End of Examination Paper**