



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 2016–2017, 25th edition, M Oldham, Oxford University Press, 2016.**
- 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**

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

1. Critically analyse the difference between marriage, (including Civil Partnership) and cohabitation specifically in relation to:
 - (a) the parties' finances following relationship breakdown;
(13 marks)
 - (b) the maintenance of children following relationship breakdown.
(12 marks)**(Total: 25 marks)**

2. 'Voluntary union for life of one man to one woman to the exclusion of all others.'
Hyde v Hyde and Woodmansee (1866)

Evaluate the above definition of marriage in the light of the Gender Recognition Act 2004, the Civil Partnership Act 2004 and the Marriage (Same Sex Couples) Act 2013.
(25 marks)

3. Analyse the court's approach to Child Arrangements Orders for contact where there has been domestic violence between the parents.
(25 marks)

4. Critically evaluate the relevance of void and voidable marriages in modern society.
(25 marks)

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

Question 1

George and Savannah married on 3 May 2005 after four years of living together. They have two children, Christina, aged 12, and Martha, aged 8.

When Martha was born, Savannah had to have an emergency caesarean section. She lost a lot of blood during childbirth and had 90 stitches. It took her three months to recover from the birth. After that, Savannah lost all interest in a sexual relationship with George. They attended marriage guidance counselling and discussed the problem. They agreed that George could pursue sexual relationships outside the marriage on condition that Savannah never found out and that she and the children always came first. It was clear that George was never to pursue a romantic relationship with anyone. They both hoped that Savannah would regain her sexual interest in George and that this would be a temporary solution.

Just before Christmas 2011, George had a minor road traffic accident and broke his leg. His leg was put into a plaster and he was in a lot of pain. As a result, he needed to sleep in a separate bed to Savannah, because he had to keep his leg at an awkward angle. After his leg plaster came off, they both agreed that they preferred to sleep separately from each other. George moved out of the marital bedroom and into the spare room permanently.

George and Savannah still spend time together and with the children as a family. They go on holiday together, eat dinner every night as a family and share the household chores between them. Apart from their sleeping arrangements, nothing has changed between them.

In November 2016, Savannah accidentally discovered that George had been having a relationship with Petros for two years. She had not known until then that George had been involved with another man, nor did she know that they had been together for so long, and she is distraught. She would never have given George permission to have extramarital sexual relationships if she had thought that this was going to happen. Savannah immediately ejected George from the marital home and she has thrown his belongings in the bin. She says she never wants to see him again.

Advise the parties what action they can take to bring the marriage to an end.

(25 marks)

Question 2

Rajiv is 19 years old. He started work at his local supermarket two years ago, where he met Stefan, who is his manager. They began a sexual relationship with each other one year ago. They started to live together shortly after that, in a property that Stefan rents. Rajiv has a poor credit history and did not want to put the tenancy in their joint names.

Six months ago, Rajiv started to lose his temper regularly with Stefan. He called him names and pushed him during their arguments. The arguments were usually about Stefan spending too much time with his mother, who has Parkinson's disease. Rajiv does not want Stefan to see his mother so often, as he thinks that Stefan is using this as an excuse to see someone else. Rajiv is very jealous and checks Stefan's mobile phone regularly to see who he has been talking to and sending text messages to.

In the past month, Rajiv's bad behaviour towards Stefan has escalated, because he found out that Stefan had downloaded a dating app on his phone. Stefan told Rajiv that he only did this for a laugh, but Rajiv would not believe him. Since he found out, he has hit Stefan in the chest and on his arms and legs; Stefan has been bruised as a result of these attacks. Rajiv hits Stefan where other people cannot see the bruises, as he doesn't want people at work to know about the abuse.

Unknown to Stefan, Rajiv placed a location app on Stefan's phone and found out that he was at the home of an ex-boyfriend, Tariq. Rajiv went to Tariq's house and confronted Stefan. Their argument became heated and he punched Stefan in the face. Stefan has a black eye and a fractured cheekbone, and he is sleeping on Tariq's sofa as he is too scared to go home. He has heard from mutual friends that Rajiv is staying with his parents.

Stefan has not been to the police about these attacks, because he is ashamed of the situation he has found himself in. He does not think the police will be sympathetic to him and he is worried about getting Rajiv into trouble. Stefan has been to the hospital with his injuries. He told the doctor that he fell down the stairs, as he did not want to admit what had happened.

- (a) Advise Stefan what he can do to protect himself against Rajiv's violence and what he can do to return to his home.

(10 marks)

- (b) Advise Stefan what factors a court will take into account under the Family Law Act 1996 and the likely outcome in this situation.

(15 marks)

(Total: 25 marks)

Turn over

Question 3

Marcus, aged 32, and Antoinette, aged 31, have been in a cohabiting relationship with each other for ten years. They live together in a rented property and have been trying to have a child together for the past two years. They have not been successful, so their GP referred them both to take fertility tests. This has been a very stressful time for them and although they were planning to get married, they have postponed the marriage to see what their options are to have a child.

They have just found out that Marcus is infertile; the only way that they could have a biological child of Antoinette's is if they use donor sperm. Antoinette is keen to ensure that she is able to use her own eggs, and she is adamant that they should not adopt a child.

Antoinette has spoken to a few people about this matter to get some advice. Omar, who is a friend of hers, is willing to donate his sperm. He has told Antoinette that he would not wish to have anything to do with the child, as he has never wanted children. Omar is a very successful lawyer and Antoinette is tempted to take him up on his offer, as she is reluctant to use sperm from an unknown donor.

Marcus and Antoinette have discussed Omar's offer, but Marcus is not sure if he wants to accept. Although he knows Omar and thinks it might be a good option, he is worried what might happen when the child is born. Omar lives close by and Marcus is worried that Omar will change his mind about the level of his involvement when he sees the baby.

Marcus and Antoinette both want to be recognised as the legal parents of any child they have together. They agree that they want to ensure that whoever donates the sperm does not have any rights or obligations in relation to their child.

(a) Advise Marcus and Antoinette what steps they would need to take to ensure that Marcus is legally recognised as the child's father.

(18 marks)

(b) Explain the position if the child was conceived and born after the marriage.

(7 marks)

(Total: 25 marks)

Question 4

Helen, aged 55, and Anna, aged 60, entered into a civil partnership in England on 5 November 2006. They had lived together for five years before then. There are no children of the relationship. They have agreed that their relationship has changed over the years and they are now more like sisters than civil partners. They agree that their civil partnership should be dissolved and they have taken steps to do this themselves. They have reached the interim certificate stage. They have not yet done anything to divide their finances and want to do this as soon as possible.

Helen is a tax officer and she earns £22,000 gross per annum. Anna is a local government administration assistant, earning £25,000 gross per annum. They both work full time.

They own their home together as joint tenants. The property is a one-bedroomed flat, valued at £150,000. They have a mortgage in their joint names secured against the property. This is now in the sum of £85,000. The costs of selling this property would be £1,500.

When they entered into the civil partnership, Helen's father had just died. He left her £40,000 in his will, which she used to fund the deposit on the flat. She and Anna discussed whether or not they should protect that money for Helen in the event that their relationship broke down. Anna was against entering into a pre-nuptial agreement, but Helen insisted that they have one. Ten days before the civil partnership ceremony, they both signed the agreement. They gave each other full financial disclosure and they both took independent legal advice.

The agreement set out that in the event of a breakdown of the parties' relationship, Helen would be repaid her investment of £40,000 and that any equity above that sum would be divided equally between them. The agreement is silent about the division of other assets, pensions and income between the parties.

Anna has a local government pension, which has a total fund value of £250,000, and Helen has a pension through her work with a total fund value of £120,000. As Anna is 60 years old, she is allowed to take her pension early; she has been advised that she could take a tax-free lump sum of £60,000.

Advise Anna about the financial orders that a court could make and the factors that the court will take into account.

(25 marks)

End of Examination Paper

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