



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 who is entitled to apply for a s.8 order without leave of the court.
(3 marks)
2. State the ground on which a civil partnership may be dissolved.
(2 marks)
3. Explain the requirement of capacity to enter a valid marriage.
(4 marks)
4. Explain **two** ways in which the rights of cohabitants differ from those of married couples.
(4 marks)
5. James and Anna are married with two young children. They recently separated and the children live with Anna.

Identify how James can ensure that he regularly sees the children.
(2 marks)
6. Explain the difference between a void and a voidable marriage.
(2 marks)
7. State **five** grounds which render a marriage voidable.
(5 marks)
8. State the grounds upon which a judicial separation can be granted.
(5 marks)
9. Describe **two** financial orders available to the court to deal with the family home of a divorcing couple.
(2 marks)
10. State what the Human Rights Act 1998 incorporated into domestic law.
(1 mark)

(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

Kudzai and Ashanti met at their local church. They are now in their mid-fifties and have been married for 30 years but don't have any children.

Kudzai is a marketing manager for an international charity. He currently earns £75,000 a year. He has a generous pension, which he can realise in three years' time. Kudzai and Ashanti live in a house, with no mortgage, worth £450,000. It is registered in Kudzai's name only.

Kudzai wanted to be the only wage earner, so Ashanti looked after the home and was discouraged from developing a career. She works part-time in a boutique, but has no pension provision. Recently, Ashanti attended an evening class on candle-making. She enjoyed this and believes she could start her own business.

Two years ago, Ashanti noticed a change in Kudzai. He became moody and short-tempered. Eventually, Kudzai admitted having had a brief affair with a colleague while they were attending a conference. He explained he was feeling lonely at the time and begged Ashanti to give their marriage another try. Ashanti was very angry but agreed as she believed in the sanctity of marriage.

Kudzai promised to spend more time with Ashanti, but life continued as before. Their relationship did not improve. Kudzai still expected their home to be immaculate, and for Ashanti to have a meal ready when he arrived home, despite his arrival time being erratic. He showed no interest in Ashanti's plans to set up her own business and constantly criticised her and belittled her in front of friends.

Their relationship reached a crisis at a recent event at their local church. Friends were talking about Ashanti's business plans when Kudzai suddenly lost his temper. He threw his drink at Ashanti and stormed off. He is now sleeping in the spare room and refuses to talk to Ashanti. He has, however, told her that he has a new girlfriend, Ilse. He plans to sell the house and buy a flat for himself and Ilse.

Scenario 1 Questions

1. Advise Ashanti whether she can divorce Kudzai and, if so, on what basis.
(10 marks)

2. Explain to Ashanti which orders the court could make on divorce in relation to:

(a) the house;

(4 marks)

(b) Kudzai's pension.

(6 marks)

(Total: 10 marks)

3. Identify and apply **three** factors under s.25(2) Matrimonial Causes Act 1973 that the court is required to consider when making these orders.

(6 marks)

4. Ashanti is reluctant to begin divorce proceedings due to her religious beliefs.

Advise Ashanti:

(a) how judicial separation differs from divorce;

(2 marks)

(b) on the court's powers with regard to financial and property orders on granting judicial separation.

(2 marks)

(Total: 4 marks)

(Total Marks for Scenario 1: 30 marks)

Turn over

Scenario 2

Jason and Ellie met six years ago while travelling. At the time, Jason was 21 and Ellie was 17. They were immediately attracted to each other and on impulse they went through an informal marriage ceremony in Bali.

They completed their travels and when they returned to the UK, they bought a flat and set up home together. Ellie's parents gave her the money to pay half the deposit, but the flat was registered in Jason's name only, as Ellie was too young to obtain a mortgage.

Two years ago, Jason and Ellie had a daughter, Bea. Six months after giving birth, Ellie returned to work and her mother looked after Bea. Ellie missed being with Bea. She found the pressure of being the mother of a young child and working full-time increasingly stressful. Jason did not help matters. He doted on Bea and was good at looking after her. Otherwise, he expected his life to continue much as before, working as a sports coach and enjoying time with his friends at weekends. He did not help Ellie with cleaning, cooking or shopping. This led to arguments, which have increased over recent months.

Last week, Jason told Ellie that he realised their relationship had been a mistake. He felt that they were both too young when they made the commitment and that they should now separate. Jason said that he had just been offered a job managing a leisure centre in another town, so he intended to sell the flat and move away.

Ellie told Jason that she has joined a new religious movement, which requires members to live separately from mainstream society. She said that she was taking Bea to live at one of their centres and he wouldn't see Bea again. She also said that, as she had not named Jason as Bea's father on the birth certificate, he could not stop her.

Jason is concerned for Bea's welfare.

Scenario 2 Questions

1. Advise Jason whether he and Ellie are legally married. **(7 marks)**

2. Advise Jason whether Ellie has a claim to the flat. **(10 marks)**

3. Explain the concept of parental responsibility. **(3 marks)**

4. Advise Jason:
 - (a) who has parental responsibility for Bea; **(4 marks)**

 - (b) how an unmarried father can obtain parental responsibility. **(3 marks)****(Total: 7 marks)**

5. Advise Jason which order he should apply for to prevent Ellie from taking Bea to live at the religious centre. **(3 marks)**

(Total Marks for Scenario 2: 30 marks)

Turn over

Scenario 3

Zak, a singer/songwriter, started a relationship with Tim in 2006. In 2007, Zak asked Tim to become his manager. Under Tim's management, Zak's success and earnings increased dramatically, enabling them to enjoy a very good lifestyle. Zak bought a house in London in his sole name, as a home for them. Zak also bought a holiday home on a Mediterranean island in his sole name. Zak then started to invest the royalties from his work in a portfolio of properties that has increased in value. He calls this his 'pension pot'. Zak only paid Tim a small salary as his manager because he said Tim enjoyed the benefits of his work in other ways. Tim has no savings or pension provision.

In January 2010, they entered into a civil partnership. In June 2014, they adopted twin boys, aged six months. They agreed that as Zak's work provided their income, Tim should stay at home and look after the twins. To enable Tim to care for the twins properly, Zak decided that he would appoint a new manager. After a number of interviews, Suzi was selected.

Tim soon noticed that Zak was working longer hours in his studio, and spending little time with the family. When he was working, Suzi was always with him. Tim suspected that their relationship was more than a professional one.

Last week, Zak told Tim that he was leaving him as he is now in an intimate relationship with Suzi. Zak and Suzi plan to live permanently in his holiday home with the twins, who would be looked after by a nanny.

Tim has just been diagnosed with a serious illness. He is very concerned about his financial position and his rights regarding the twins.

Scenario 3 Questions

1. (a) Explain the ground for dissolution of a civil partnership and how this can be established.

(8 marks)

- (b) Advise Tim on what basis he can apply for dissolution.

(2 marks)

(Total: 10 marks)

2. Identify and explain **three** financial and property orders the court may make on the dissolution of Tim and Zak's civil partnership.

(9 marks)

3. Describe the order that Tim should apply for, to prevent Zak from taking the twins out of the country.

(2 marks)

4. Explain **three** factors from the welfare checklist that the court must take into account when considering an application for an order in this case.

(9 marks)

(Total Marks for Scenario 3: 30 marks)

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