



## 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. Evaluate the importance of the case of Payne v Payne (2001) in light of recent case law.

**(25 marks)**

2. Critically analyse the principles set out in the Supreme Court case of Jones v Kernott (2011).

**(25 marks)**

3. (a) Examine the importance of domicile to the requirement to form a valid marriage.

**(18 marks)**

- (b) Evaluate the law in relation to divorce and the dissolution of religious marriages.

**(7 marks)**

**(Total: 25 marks)**

4. Discuss the main changes brought about by the introduction of the Human Fertilisation and Embryology Act 2008.

**(25 marks)**

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

**Question 1**

Cyrus and Artemis were married to each other five years ago. They had been living together for two years before the marriage. When they got married, Artemis had two children from a previous relationship: Michael is now 16 years old and Loulla is 8 years old. Both children live with Cyrus and Artemis, but see their biological father, Stefan, every other weekend. They also spend 50% of their holiday time with him. Stefan is a teacher on a modest income, and makes CMS payments to Artemis for the amount as assessed by the CMS.

Cyrus and Artemis have one child together, Bella, who is 3 years old. Bella is in good health and does not yet go to nursery. Artemis is her main carer, as she is not in paid employment. Cyrus works full-time and provides very well for the family, as he earns £170,000 gross per annum as a surgeon. He pays for Michael and Loulla to go to private schools at a cost of £12,000 per year each. The family has a comfortable lifestyle, because of Cyrus' good income.

Cyrus and Artemis have not been getting along very well, because Cyrus works very long hours and sometimes does not spend a lot of time with Artemis or the children. Artemis has become increasingly upset, as she feels that she is bringing the children up alone and that she doesn't get to spend quality time with Cyrus. She has started to worry that Cyrus may be having an affair.

They have been to marriage guidance counselling, and Cyrus has said that he will make life very difficult for Artemis if she leaves him. He has said that he will stop paying the school fees for her children but at the same time will insist on having orders for contact with the children. Artemis is very worried about the children and their future, if she decides to leave Cyrus.

(a) Advise Artemis what orders Cyrus could apply for under the Children Act 1989 in relation to the children.

**(5 marks)**

(b) Explain to Artemis what factors the court would take into account, when considering whether to make orders for the children.

**(10 marks)**

**Divorce proceedings have now been issued by Artemis.**

(c) Advise Artemis what financial obligations Cyrus has to the children.

**(10 marks)**

**(Total: 25 marks)**

## Question 2

Hilda and Walter married 45 years ago. Hilda is now 67 years old and Walter is 65 years old. They have four adult children, aged between 30 and 38, who are all independent.

Hilda and Walter own a three-bedroomed bungalow, which has been adapted to accommodate Hilda's special needs, as she has been in a wheelchair for the last five years. She has advanced arthritis in her back and is unable to walk. Seven years ago, she received her pension lump sum of £60,000 and used most of the money to pay off the mortgage of £45,000. The remaining money was spent on adapting the house for her disability. The bungalow is valued at £250,000.

In addition to caring for the children, Hilda worked as a nurse with the NHS for 20 years on and off, and acquired a modest pension. The pension is now in payment and she receives a net income of £550 per month. The CEV is £350,000. In addition, she receives money from disability benefits and her state pension. Her total available monthly income is £1,100. It costs £1,500 to cover all the bills and household expenditure.

Walter plans to retire in two months' time from his job as a senior technician. He currently earns £60,000 gross per annum. He has a pension that has a CEV of £1.2 million. He can immediately take a tax-free lump sum of £225,000 and an income of £24,000 net per annum. He will get his state pension in a two years' time.

Walter is very active and he likes to go hill walking and sailing. He fell in love with a new partner, Maud, at one of his walking clubs, and they have been in a relationship for two years. He moved in with Maud a year ago and has been contributing to the bills at her home. He intends to continue to live there.

Walter and Hilda have agreed that Hilda should commence divorce proceedings on the basis of Walter's adultery. Hilda would like to stay in the family home but she does not know what to do regarding the finances. Both want to have a fair division of the assets and an equal income, if possible.

Advise Hilda what financial orders the court is likely to make in this case.

**(25 marks)**

**Turn over**

### Question 3

Shreena is 32 years old and works as a primary school teacher. She earns £30,000 gross per annum. She has been in a relationship with Hari for seven years. Hari is 35 years old and is a train driver, earning £45,000 gross per annum.

Five years ago, Shreena and Hari decided to live together. They bought a two-bedroomed flat for £180,000, near the school where Shreena teaches. Hari already owned a property when they met. He sold that property and used the net proceeds to pay for the deposit of £25,000. Shreena paid for the stamp duty on the property and the legal fees, which totalled £3,000. They purchased the property as joint tenants. It was their intention that the property would be a home for them and any children they might have.

Three years ago, Shreena gave birth to a baby girl, Nikky. Shreena took some maternity leave and returned to work on a part-time basis 18 months ago. She is the primary carer for Nikky; Hari has continued to work full-time.

Shreena suffered from post-natal depression but refused to see her GP about it. She became increasingly irrational and abusive towards Hari. He thought that her behaviour would change after she went back to work, but she became more stressed and tired. She has often told Hari that she doesn't love him and that she wishes he was dead.

In the past six weeks, Shreena has started to threaten Hari in the middle of the night. She has woken him up several times to tell him that she is going to kill him. He is so worried that he is unable to sleep well and he is concerned about the impact that this behaviour is having on his work. He cannot carry on the way things are.

To make matters worse, Shreena has told Hari that Nikky is not his daughter. She says there is no way that he can prove that Nikky is his daughter, as his name is not on her birth certificate.

(a) Advise Hari what legal steps he can take to protect himself in the future.

**(20 marks)**

(b) Advise Hari what he can do to establish Nikky's parentage.

**(5 marks)**

**(Total: 25 marks)**

#### **Question 4**

Joseph is 50 years old. He entered into a civil partnership with his long-term partner, Iftikar, on 1 July 2007. Iftikar is 38 years old. He met Joseph when he was only 18 years old, and they moved in together when Iftikar was 21. When they were able to do so, they converted their civil partnership into a marriage. They did this on the seventh anniversary of their civil partnership, on 1 July 2014.

They have lived together happily until the last 12 months, when they have not been getting along as well. Joseph asked Iftikar to attend marriage guidance counselling, so that they could talk about the things that each felt was wrong with their marriage. Initially, Iftikar was resistant to attending counselling. However, Joseph kept pushing him and eventually Iftikar admitted that he had had a sexual encounter with a woman he works with. He admitted to Joseph that, although it only happened once, a year ago, the woman had since been harassing him at work. This had made him very unhappy and he agreed that it had impacted on their marriage. He agreed to go to marriage guidance counselling to discuss matters, as he wants their marriage to work.

The parties had been attending counselling sessions for three months when Joseph admitted that he had had a brief sexual relationship with another man when he found out that Iftikar had slept with a woman. Iftikar can't forgive him this infidelity and has stopped going to counselling.

Iftikar says that Joseph made him sign an agreement before they entered into their civil partnership, to protect Joseph's income and assets, including his pension. Joseph is very wealthy, although he has never disclosed to Iftikar how much money he has. Iftikar didn't take legal advice when he signed the agreement, as he trusted Joseph to look after him, although he remembers that Joseph told him to see a lawyer. The agreement says that if their relationship were to break down, Iftikar should not make any financial applications against Joseph.

Joseph owns several properties in England and abroad, and the couple have always had a very good standard of living due to Joseph's wealth. Joseph has always paid for everything and Iftikar can do what he pleases with his own income. Iftikar earns £35,000 gross per annum; he has no pension, and no savings or other assets, but nor does he have any debts. Iftikar is very worried that he won't be entitled to anything on the breakdown of the marriage.

Advise the parties on all issues.

**(25 marks)**

**End of Examination Paper**

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