

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 the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **The 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 in Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the ILEX 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 ball point 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 ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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SECTION A

(Answer ALL questions in Section A)

1. Name **two** cases relating to parental responsibility.
(2 marks)
2. Which Article of the European Convention on Human Rights gives the right to marry and found a family?
(1 mark)
3. Identify the grounds on which financial provision may be made under s27 Matrimonial Causes Act 1973.
(2 marks)
4. Identify **two** types of legal personnel that deal with family law and explain their roles.
(4 marks)
5. Identify **three** key provisions of the Civil Partnership Act 2004 that apply upon the breakdown of a civil partnership.
(3 marks)
6. Name **three** social relationships which are the concern of family law.
(3 marks)
7. Outline the provisions of s3 Marriage Act 1949.
(2 marks)
8. Identify **five** effects of a legal (judicial) separation order.
(5 marks)
9. Explain how the law will deal with the property rights of a cohabiting couple on the breakdown of their relationship.
(3 marks)
10. Identify the facts that have to be established to prove irretrievable breakdown of marriage.
(5 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

Angela Brentford has been separated from her husband Gareth since December 2004. She has stated that the separation was amicable and both were financially independent so no arrangement was necessary with regard to their matrimonial assets. Gareth was offered a job in Dubai which he accepted. His new job included accommodation. Gareth moved to Dubai and stopped paying his share of the bills. Angela was left to pay all the bills and remains living in the matrimonial home. The matrimonial home has been valued at £500,000 and has a small outstanding mortgage of £50,000.

Angela has started a relationship with Colin and they now wish to marry. Gareth has recently returned to the UK and needs to purchase a place to live.

Angela is 38 years old and is a regional manager for a pharmaceutical company earning £75,000 a year. She has savings and investments totalling approximately £100,000.

Gareth, aged 40, is a human resources consultant, earning £80,000 per year. He and Angela jointly own the house in which Angela still lives. Angela knows he has a pension but is unsure about the amount of his savings and investments.

Angela's sister Barbara Manning has only been married for six months. Last weekend her husband left her.

Scenario 1 Questions

1. Explain the ground and appropriate fact upon which Angela can bring marriage to Gareth to an end.

(4 marks)

2. Identify the factors the court must take into account when deciding which financial and property orders to make.

(10 marks)

3. Explain the financial and property orders the court could make in these particular circumstances.

(10 marks)

4. (a) Explain whether Barbara can end her marriage at this time?

(3 marks)

- (b) If Barbara cannot end her marriage at this time, explain whether there are any alternative proceedings she can take to formalise her separation.

(3 marks)

(Total: 6 marks)

(Total Marks for Scenario 1: 30 marks)

Scenario 2

You are a trainee Legal Executive in the family law department of Kempston. Your colleague is sick today and the receptionist has called to ask if you can assist in returning some clients' calls. You find the relevant files and read the background information before calling to answer the clients' basic questions.

Jenny Crowley

Has recently begun living with her long term partner, Phillip Rose. Jenny is a millionairess and owns many properties including the one in which they live. Jenny is concerned to protect her financial interests. She has enquired about making an agreement in case the relationship should break down in the future.

Elizabeth Blair

Is seeking advice on ending her civil partnership with Selma Lyons. They have been civil partners for five years but have had some problems in the relationship during the last year.

Selma is a police officer. She has a valuable pension scheme, to which she has contributed for over twenty years. Elizabeth has no pension. Elizabeth and Selma jointly own their home. It is worth £200,000 and there is an outstanding mortgage of £175,000. Elizabeth has recently lost her job.

A file note shows that there have been some instances of violence in the relationship and Elizabeth has stated that Selma's behaviour is often aggressive and demanding. In addition to this Selma has admitted to Elizabeth recently that she has been having a sexual relationship with another woman. This has prompted Elizabeth to instruct Kempstons in the matter.

Zachary Ploughman

Zachary married Yvette when they were both aged 15 as part of an arrangement by their parents. The two families were residents of a commune formed by a small, little known, religious sect. Zachary and Yvette left the commune this year on reaching the age of 18. Zachary and Yvette wish to end their marriage.

Scenario 2 Questions

Jenny Crowley

1. Advise Jenny on the advantages of a cohabitation contract.
(3 marks)
2. If Jenny and Phillip enter into a cohabitation contract, explain whether the courts will be bound to uphold it.
(2 marks)

Elizabeth Blair

3. Explain the basis on which Elizabeth can end her civil partnership.
(9 marks)
4. Explain the financial orders available from the court on the breakdown of Elizabeth and Selma's civil partnership.
(8 marks)

Zachary Ploughman

5. (a) State the legal definition of marriage and where it can be found.
(2 marks)
 - (b) Explain to Zachary the status of his marriage and what he should do if he wishes to bring it to an end.
(6 marks)
- (Total: 8 marks)**

(Total Marks for Scenario 2: 30 marks)

Scenario 3

You are a trainee Legal Executive in the family law department of Kemp & Co. Your principal hands you the file of Gaston Girard and asks you to prepare an offer him advice in some key areas.

Gaston met Paulette 10 years ago and married her seven years ago. He has a 12 year old daughter, Nicole, from a previous marriage. Nicole lived with Gaston and Paulette until their separation. Nicole stayed with her mother in France during the school holidays. Gaston and Paulette have three children together, Renee aged 6, Claude aged 4 and Henri aged 2.

Last year Gaston returned from a business trip to find that Paulette had moved another man into the house. Paulette informed Gaston that she had been seeing the other man for two years. Gaston moved out with Nicole and now lives in a rental property nearby. Gaston works from home so that he can be there for Nicole when she comes home from school.

Gaston wants to see his other children as often as possible but finds that even when an arrangement is made Paulette or her new partner seem to make things difficult. He has gone to collect the children at a pre-arranged time on several occasions and no-one has been at home. On one particular occasion he waited for over an hour outside the house but when Paulette did arrive with the children she told him it was far too late for him to see them and he had to leave.

On the very rare occasions that Gaston has been able to spend time with the children he has been concerned about them. Renee, in particular misses her older half sister Nicole and cries when they have to be parted. Renee has told Nicole that she would prefer to live with Nicole and Gaston and visit her mum and brothers.

Scenario 3 Questions

1. (a) Explain to Gaston the concept of parental responsibility and some examples of what it includes.

(6 marks)

- (b) Identify who has parental responsibility for Nicole, Renee, Claude and Henri.

(2 marks)

(Total: 8 marks)

2. Explain to Gaston whether Renee's wishes about where she wants to live will have any effect.

(6 marks)

3. Identify the principles the court will apply when making decisions about the children's welfare.

(4 marks)

4. Explain the orders the court could make relating to the children in Gaston's particular circumstances.

(7 marks)

Additional Information

Before his appointment to visit Kempstons, Gaston calls and says that Paulette has just informed him that she is moving over 200 miles away with the children. This is because her partner is required to move with his work. Gaston has asked her to leave the children with him, at least until she is settled but she is determined to take them even though they will have to leave school friends and family. When they arrive at their new home Paulette intends to leave them with a childminder and work full-time.

5. Advise Gaston if there are any orders, other than those mentioned in your response to question 4, the court can make to prevent Paulette moving the children so far away.

(5 marks)

(Total Marks for Scenario 3: 30 marks)

End of Examination Paper

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