

## 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. State which right can be found under Article 12 of the European Convention on Human Rights?  
*(1 mark)*
2. Outline **three** circumstances when the courts may require a CAFCASS officer to be involved in family matters.  
*(3 marks)*
3. Explain, with reference to statute, the effect of void and voidable marriages.  
*(5 marks)*
4. Identify **three** areas of family law.  
*(3 marks)*
5. Identify, with reference to statute, the orders available on the breakdown of a civil partnership.  
*(4 marks)*
6. Name **two** cases that deal with the definition of marriage.  
*(2 marks)*
7. Explain where the statutory and common law guidelines on the application of the clean break principle can be found.  
*(3 marks)*
8. State **three** main legal differences between marriage and cohabitation.  
*(3 marks)*
9. Explain the purpose of a Family Assistance Order.  
*(3 marks)*
10. Identify **three** of the facts that can be relied upon when seeking a legal (judicial) separation.  
*(3 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

Sandra and Robert have been married for fifteen years but have lived separately for the last four years. They have one child, Amber, who is ten years old. Every week Amber spends some time living with each parent.

Sandra and Robert have never felt the need to divorce. However, one year ago Sandra began a relationship with Greg and she is now expecting his baby. The baby is due to be born in six months time. Sandra and Greg have decided they might like to marry after the baby is born. In order for Sandra to marry Greg, she will need to be divorced from Robert.

Robert wants to make sure that after the divorce Amber will continue to spend time living with him as well as Sandra. However, Sandra would prefer Amber to live with her all the time.

Following their separation, Robert and Sandra each bought their own home. Each property is valued at approximately the same amount. Sandra works part-time as a sales adviser in a retail outlet and earns £10,000 a year. She has no savings. Robert manages a construction business and earns around £50,000 a year. He has £20,000 in savings. Neither of them has ever had a pension.

### Scenario 1 Questions

1. Advise Robert how he could prove the irretrievable breakdown of his marriage.  

**(5 marks)**
2. Discuss **five** financial orders the court could make in these particular circumstances.  

**(10 marks)**
3. List **seven** of the factors the court must take into account under s25(2) Matrimonial Causes Act 1973 when making financial orders.  

**(7 marks)**
4. Advise Robert if he has parental responsibility for Amber and, if so, what this is and how it may be exercised.  

**(4 marks)**
5. Describe the order Robert could apply for in relation to where Amber will live.  

**(4 marks)**

**(Total marks for Scenario 1: 30 marks)**

## Scenario 2

Polly and Edmund married six months ago at their local Register Office. They were both from the same town, both from single parent families and neither knew their father.

Polly's mother Lynette and Edmund's mother Mary only met for the first time at the wedding. Since then they have met and spoken to each other on the telephone on several occasions and have discussed their lives in detail, particularly their children's early years. There are striking similarities between Polly and Edmund's fathers. The similarities are so obvious that Lynette has now suggested that Polly and Edmund should undergo DNA testing to ensure that they are not related.

This potentially terrible situation has placed a huge strain on everyone in the families. Edmund's step father, Dudley, has expressed disgust at the situation and refuses to speak to Edmund or Polly. Dudley makes it difficult for Mary to keep in touch with her son. Mary and Dudley have been arguing so much recently that they have decided to separate. However, Dudley does not want to get divorced.

Lynette, and her partner, Julia, have realised how much they have supported each other through this difficult time and would like to enter into a same sex marriage but are not sure what this entails.

## Scenario 2 Questions

1. Define marriage and outline the main requirements to form a marriage.  
*(6 marks)*
2. Describe the legal effect on Polly and Edmund's marriage if the DNA test shows that they have a close blood connection.  
*(6 marks)*
3. Advise Mary whether she can be legally separated from Dudley and, if so, on what basis.  
*(6 marks)*
4. Explain **five** consequences of a legal (judicial) separation.  
*(5 marks)*
5. Explain to Lynette and Julia whether they can legally formalise their relationship as a same sex marriage and what the effect of that would be.  
*(7 marks)*

*(Total marks for Scenario 2: 30 marks)*

### Scenario 3

Laura and Jason are married. They have three children, Hope (13 years), Stanley (6 years) and Prudence (2 years). Unfortunately, their family life is violent. Laura and Jason often argue with each other and the children have witnessed several instances of violence between their parents.

Last month, during an argument, Jason assaulted Laura. Laura called the police. Jason was taken from the home by the police and has been forbidden from returning. Despite the violent circumstances of his departure, the two younger children miss their father who has never been aggressive toward them. However, Hope finds it hard to forgive her father for hurting her mother and does not wish to see him.

Since Jason left he has not given Laura any money for the family. Laura does not work because the children need a lot of attention, particularly Stanley who has leukemia and needs regular hospital treatment. Laura needs money to pay for food, household bills and some debts. Laura is afraid to ask Jason for money. She thinks he will not give her any money unless there is a court order.



### Scenario 3 Questions

1. Laura urgently needs money from Jason. Explain the financial orders available from the Family Proceedings Court and how they apply in the circumstances.

**(9 marks)**

2. Advise Jason if he has any rights in relation to Hope, Stanley and Prudence and the nature of those rights.

**(7 marks)**

3. (a) Explain the order available to Jason to enable him to see his children.

**(3 marks)**

- (b) Explain if each of the children will be able to choose whether they see their father.

**(7 marks)**

**(Total: 10 marks)**

4. Identify the fundamental principles which the court should take into consideration when making orders under the Children Act 1989.

**(4 marks)**

**(Total Marks for Scenario 3: 30 marks)**

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