

## 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. Explain what is meant in law by a civil partnership. **(3 marks)**
2. Explain how the five facts in s1 Matrimonial Causes Act 1973 are used in relation to judicial separation. **(3 marks)**
3. Identify in which court each of the following matters is likely to begin:
  - (i) a claim for urgent financial relief for a child of the family during a marriage **(1 mark)**
  - (ii) an undefended divorce **(1 mark)**
4. Identify one right afforded by the European Convention on Human Rights which could apply to family law. **(1 mark)**
5. Identify **three** relationships the breakdown of which may be the concern of family law. **(3 marks)**
6. Explain the principle relating to children which can be found in the case of *Gillick v West Norfolk and Wisbech Area Health Authority* (1985). **(3 marks)**
7. Define marriage with reference to case law. **(4 marks)**
8. Describe the grounds upon which the Family Proceedings Court can grant financial provision during marriage. **(4 marks)**
9. Using cases, briefly explain the law relating to an unmarried couple's property rights when their cohabitation breaks down. **(5 marks)**
10. Explain the difference between void and voidable marriages. **(2 marks)**

**(Total marks for Section A: 30 marks)**

**Turn over**

## SECTION B

(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)

### Scenario 1

You are a trainee Legal Executive assisting your principal, Nina Patel. Kimberley Harshorn has sought legal advice from your firm.

Kimberley and Max Harshorn met at University five years ago and married a year later. They live in the house in Bedford that they purchased jointly. They both work as nurses at their local hospital.

Kimberley and Max have a three year old daughter, Elizabeth, whom they care for jointly by working opposite shifts to ensure that one of them is always at home.

In Kimberley's case file there is an attendance note from the initial interview between Kimberley and Nina Patel. You have been asked to assist Nina to prepare notes for a letter which Nina will send to Kimberley to confirm her instructions and answer the questions raised during this interview.

On reading the attendance note, you learn that since the birth of their daughter Elizabeth, Kimberley and Max have slipped into a pattern of living separate lives. The arrangement to work opposite shifts in order to care for Elizabeth means that they rarely see each other. To avoid disturbing Kimberley when coming in from a shift, Max began sleeping in the spare bedroom. This has been a regular arrangement for the past two years, even at weekends.

Kimberley says they have now grown apart and find they don't enjoy each others company when they are together. As the family does not eat meals together Kimberley and Max now shop for and prepare their own meals separately at a time to fit in with their own shifts as well as Elizabeth's routine. Max's mum does all his laundry. They use a system of texts and leaving notes on the fridge to communicate about matters relating to Elizabeth.

Kimberley raised questions during her initial interview with Nina Patel about her ability to petition for a divorce and whether her domestic situation provides a basis for this. Kimberley also had questions about the future arrangements for Elizabeth.

### Scenario 1 Questions

1. Explain the basis on which Kimberley can petition for divorce.  
**(10 marks)**
  
2. (a) Define parental responsibility with reference to statute and give two examples illustrated by case law.  
**(7 marks)**  
  
(b) Explain who has parental responsibility for Elizabeth.  
**(3 marks)**  
**(Total: 10 marks)**
  
3. Explain the orders the court might put in place in relation to the arrangements for Elizabeth and the overriding principles it must consider when doing so.  
**(10 marks)**

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

**Turn over**

## Scenario 2

You are a trainee Legal Executive assisting your principal, Nina Patel. The following clients have sought legal advice from your firm.

### **Joseph and Sarah**

Joseph and Sarah have been married for two years. They do not own their own home and live with Joseph's parents. Joseph works as a delivery driver and earns £13,000 a year. Sarah is employed by a high street store and earns approximately £10,000 a year. They have savings of £5,000. Neither of them has a pension. When her father died recently, Sarah inherited £50,000.

Joseph wants to divorce his wife, Sarah, as he believes their marriage has irretrievably broken down. Sarah admitted recently that she has been having a relationship with another man. Joseph has also finds her excessive drinking and aggressive attitude towards him increasingly difficult to live with. Joseph and Sarah have no children.

### **Edward and Fatima**

Edward and Fatima have been married for four months and Fatima is six months pregnant. Last week Fatima told Edward that he is not the father of her baby and the father is her former partner, Alan. Since then they have been arguing furiously about this and Edward wishes to end their marriage.

## Scenario 2 Questions

### Joseph and Sarah

1. (a) Explain to Joseph whether he has been married long enough to petition for a divorce.  

**(3 marks)**
- (b) Explain which of the five facts in the Matrimonial Causes Act 1973 Joseph can rely on to prove that his marriage has irretrievably broken down.  

**(7 marks)**  
**(Total: 10 marks)**
2. Identify and explain the financial relief orders the court is likely to make on the breakdown of Joseph and Sarah's marriage.  

**(10 marks)**

### Edward and Fatima

3. (a) Explain whether the marriage can be annulled.  

**(8 marks)**
- (b) Advise Edward of the consequences of an application for annulment. (do **not** discuss financial issues)  

**(2 marks)**  
**(Total: 10 marks)**

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

### Scenario 3

You are a trainee Legal Executive assisting your principal. Toby Smith has sought legal advice from your firm.

Perry Greaves and Toby Smith entered into a civil partnership five years ago and adopted Ebony, now aged 13 and Marcus, now aged five. They live in a three bedroom semi-detached house owned by Toby. Toby works as a freelance journalist and earns £40,000 a year. Toby has a good private pension and savings of £20,000. Perry stays at home looking after Ebony and Marcus full-time.

Toby also owns an apartment in the city which he uses when he has to work late away from home.

Perry and Toby have decided to part and Toby is seeking advice on the dissolution of their relationship and its implications. You can see from a telephone note on file that Toby is considering allowing Perry and the children to stay in the house and moving permanently to his apartment.

Toby says that Marcus appears happy with this as Toby has explained to him that he will still see him often. However, Ebony has asked Toby if she can live with him in the apartment as she will miss him and the apartment is near to her school and friends.



### Scenario 3 Questions

1. Identify and explain the financial and property orders the court may make on the dissolution of Perry and Toby's relationship.

**(10 marks)**

2. Apply to Perry and Toby's situation, the main factors the court will take into account when deciding which financial and property orders to make.

**(10 marks)**

3. (a) Identify and explain the orders the court can make in respect of the children.

**(5 marks)**

- (b) Advise Toby whether Ebony will be able to choose with whom she lives.

**(5 marks)**

**(Total: 10 marks)**

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

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