



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 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 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 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 CILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE**, **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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SECTION A

(Answer ALL questions in Section A)

1. Identify **two** methods by which property disputes between cohabitants may be resolved when their relationship breaks down. Please illustrate with a case.

(3 marks)
2. Peter has been married to Amy for five years and they have a daughter, Xanthe, who is two years old. Explain who will have parental responsibility for Xanthe and why.

(2 marks)
3. Identify the grounds for seeking a judicial separation.

(5 marks)
4. Identify which courts have jurisdiction to hear divorce proceedings.

(2 marks)
5. Identify and describe **two** Articles of the European Convention on Human Rights which apply to family law.

(4 marks)
6. (a) In relation to financial provision during marriage, state any **four** factors which the court must take into account when making orders under the Domestic Proceedings and Magistrates Courts Act 1978?

(4 marks)

(b) Under what section of the Domestic Proceedings and Magistrates Courts Act 1978 can these factors be found?

(1 mark)

(Total: 5 marks)
7. Explain the legal position of a couple who have been married for less than one year and who wish to obtain a divorce.

(2 marks)
8. Explain what is meant by consortium and give **four** examples of the obligations that may arise.

(5 marks)
9. Identify any **two** rights of civil partners which are similar to those of a married couple.

(2 marks)

(Total Marks for Section A: 30 marks)

SECTION B

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

Scenario 1

Tom had a relationship with Alison when they were very young. Alison and Tom have a daughter called Chelsea, who is 17 years old. Soon after Chelsea's birth Alison and Tom decided on an amicable split and both agreed to a parental responsibility agreement through the court. Tom has maintained regular contact with Chelsea.

Tom has since met Melissa and they have been married for eight years. Melissa has two children, Emily and Oliver, from a previous relationship with Steven. Emily is 12 years old and Oliver is 11 years old. Emily and Oliver live with Tom and Melissa and call Tom 'Dad'.

During their marriage Tom and Melissa have had two more children, Laura who is seven years old and Poppy who is three years old.

Six months ago Tom and Melissa separated after Tom discovered that Melissa had renewed her relationship with Steven. Tom has only seen Laura and Poppy twice in the past six months because Melissa keeps cancelling the arrangements.

Since Melissa and Tom separated Melissa has not allowed Tom to see Emily or Oliver as Steven has forbidden it, saying that he is their real father not Tom.

Steven is starting a new job 300 miles away. Melissa has told Tom that she and all the children will be moving in a couple of weeks to live with Steven. Tom is very worried about the implications of this as he does not drive. Therefore, it will be difficult to visit the children regularly and maintain his close relationship with all the children. Tom is worried that if the children have to move so far away, they will suffer as they will miss him as well as their friends and family.

Scenario 1 Questions

1. (a) Define parental responsibility, giving examples.

(3 marks)

- (b) Explain who has parental responsibility for Chelsea, Emily, Oliver, Laura and Poppy.

(6 marks)

(Total: 9 marks)

2. (a) Advise Tom if he is entitled to apply for an order to see Emily and Oliver.

(3 marks)

- (b) Explain if there are any orders Tom can apply for to prevent Melissa taking Laura and Poppy with her when she moves.

(10 marks)

(Total: 13 marks)

3. Advise Tom whether he can divorce Melissa and if so on what basis.

(8 marks)

(Total Marks for Scenario 1: 30 marks)

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Scenario 2

Geneva

One year ago Geneva (age 25) married Maximillian (age 40) on an island in the Caribbean. The couple spent 10 days undergoing local ceremonies and marriage rituals.

Since returning Geneva and Maximillian have been leading a settled married life in their new home. Geneva felt all was going well until she received an anonymous letter claiming that Maximillian was leading a double life and giving an address that she should visit.

Geneva visited the address where she met Lydia who told her she had been married to Maximillian for 10 years and showed her their marriage certificate and photographs of their wedding. Maximillian regularly spent periods of time away from home and Geneva had assumed this was related to his business. Lydia thought the same. In fact he had been spending time with one of them while the other thought he was on a business trip.

After discovering the truth Geneva is devastated and has moved back to her parents' home. She wishes to end her marriage to Maximillian.

Saskia

Saskia lives with her partner, Ray, and their two young children. Ray works night shifts whilst Saskia cares for the children. She rarely has time to go out.

However, just over a year ago, Saskia joined a group of friends on a holiday to Las Vegas. The holiday was a series of parties and she had the time of her life.

While in Las Vegas, Saskia and her friends met up with a group of men enjoying a holiday. After drinking a lot one evening Saskia and Jack, one of these men, drunkenly stumbled into one of the marriage chapels for a joke and went through a ceremony of marriage. When the person conducting the ceremony said you may now kiss the bride, Jack kissed Saskia's hand and asked her to join him in his room. Saskia refused, telling him they weren't really married and she had a partner at home. Saskia and Jack stumbled back to their friends and have not seen each other since.

Saskia has always thought the event was just very silly but recently when Ray proposed to Saskia and she accepted she became concerned about her Las Vegas marriage and whether it could, in fact, be a real marriage.

Scenario 2 Questions

1. (a) Define marriage.

(2 marks)

(b) Explain the key elements necessary to contract a valid marriage.

(7 marks)

(Total: 9 marks)

Geneva

2. (a) Advise Geneva if her marriage to Maximillian is valid, giving reasons for your answer.

(6 marks)

(b) What steps, if any, should Geneva take to bring the relationship with Maximillian to an end?

(4 marks)

(Total: 10 marks)

Saskia

3. (a) Explain why Saskia's marriage to Jack may not be valid.

(8 marks)

(b) What steps should Saskia take to end any marriage to Jack?

(3 marks)

(Total Marks for Scenario 2: 30 marks)

Scenario 3

Jonathan and Hope have lived together for 15 years and have been married for five years. They have one child, a daughter named Chloe who is 13 years old. Jonathan and Hope jointly own their two bedroom terraced house worth £150,000 outright without a mortgage.

Jonathan and Hope run their own internet business selling furniture that Jonathan has made. They rent a workshop nearby to make and store the furniture. The business is still quite new and does not make a lot of money. Each month they just about manage to cover their bills and they have a lot of debt.

The pressure of trying to make the business a success, coping with debt and getting by each month has put a huge strain on the couple. In the last year Jonathan and Hope have argued a lot. Hope loses her temper and storms out frequently. On a number of occasions after opening bills for expensive new wood and tools, which she had not agreed to purchase, Hope has become extremely angry. On these occasions she would go to the workshop where Jonathan spends most of his time and shout and throw tools at him.

Jonathan is scared of Hope's violent rages and has left the home. He is now sleeping in the workshop. He has been there for the past two weeks while he is looking for somewhere he can afford to rent. This is proving particularly difficult because Hope controls their income and she has refused to give him any money.

Chloe wishes to live with Jonathan when he moves into his rented property.

Scenario 3 Questions

1. Advise Jonathan if he can divorce Hope and, if so, on what basis.
(4 marks)
2. Identify the factors the court will take into account when considering which financial and property orders to make in Jonathan's particular circumstances.
(10 marks)
3. Explain to Jonathan the financial and property orders the court could make in his particular circumstances.
(10 marks)
4. Explain whether the court will take into account Chloe's wishes about where she should live.
(6 marks)

(Total Marks for Scenario 3: 30 marks)

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