

**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

FAMILY LAW

Tuesday 7 February 2023

**1300 – 1600
(Three Hours)**

Candidates should attempt THREE questions.

Each question is worth 100 marks.

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Candidates should refer to statutory provisions and case law in all answers.

Question 1

Jennifer and Paul were married on 15 December 2012. They have three children, Chloe (age 9), Becky (age 6) and Joel (age 2). Throughout their marriage they lived at 25 Cooper Lane, Bearsden. This property is the matrimonial home. Paul has been employed as an offshore engineer since 2005, and Jennifer gave up her part-time employment as a nursery nurse in 2014 so that she could look after their children. Jennifer and Paul ("the parties") separated on 15 December 2022.

Imagine you are the solicitor advising Paul. He tells you that the parties' financial circumstances are as follows:

- Paul has a pension policy into which he has paid since 2005. On 15 December 2022, his pension was worth £450,000. Jennifer has no pension of her own.
- Jennifer inherited jewellery from her grandmother in 2015. She sold some of the jewellery to fund the installation of a new kitchen and an extension to the matrimonial home. She also retained several rings and earrings valued at £12,000 in total on 15 December 2022.
- In 2017, Paul bought £10,000 worth of shares in a software company that performed well on the stock market. The shares, held in his own name, were valued at £23,000 on 15 December 2022.
- There is a savings account in the name of the parties' children. On 15 December 2022 this savings account held £85,000. Early on in their marriage, the parties agreed that the money in this savings account could be used to pay a deposit for the first home that each of the children bought when they grew up.

- The profit from the sale of the flat Paul owned before the parties were married (£40,000) was used as a down-payment on the matrimonial home at 25 Cooper Lane in 2012. Title to 25 Cooper Lane was taken in joint names.
- The value of number 25 Cooper Lane was £650,000 on 15 December 2022. However, by 15 January 2023, the property was estimated by an independent valuer to have decreased in value to £580,000. The property is expected to continue to decrease in value throughout 2023.

Advise Paul on the following:

- a) The key provisions of the Family Law (Scotland) Act 1985 regulating financial provision on divorce and dissolution.
(50 marks)
- b) Which of the above assets would be considered matrimonial property by the court and why this would be the case.
(50 marks)

Question 2

Pola and Veronique are a same sex couple living in Glasgow. They married in April 2018, and they want to have a baby together. Pola would like to go to a licensed clinic for fertility treatment or to employ the services of a surrogate. However, Veronique has suggested that they avoid the costs and delays that going to a clinic might involve. Veronique wants instead to advertise for a sperm donor so that she or Pola can carry and give birth to the child. Veronique suggests that everyone involved simply signs an agreement at the outset.

Pola and Veronique consult you. Outline the legal framework governing whom the law recognises as a child's parents, and explain the assisted reproduction options available, setting out the positives and negatives of these options.

Question 3

Euan lived with his former partner Bill in Glasgow from January 2016 to January 2023. The couple never married, but in summer 2016 they moved from rental accommodation into a property purchased in Bill's name. Euan regularly contributed towards the monthly mortgage repayments on this property. Euan has now moved into rental accommodation, but he feels that he invested time, energy, and money into his relationship with Bill and has been left with nothing.

Advise Euan on the law concerning cohabitants' rights in Scotland, explaining any financial claims he could make against Bill.

Question 4

Does Scots law provide adequate protection for those in abusive relationships? Discuss, with particular reference to the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the Domestic Abuse (Scotland) Act 2018.

Question 5

Meera and Andrew separated 6 months ago and are intending to divorce. They have been married for 15 years and have three children, Simeon (age 14), Ishan (age 8) and Prisha (age 3). Throughout their relationship, Andrew was the primary carer for the children. He works part-time as a musician. Meera works full-time as a school head teacher. A few days after he and Meera agreed to separate, Andrew moved out of the family home.

The three children have remained with their mother, Meera, in the family home. Until last month, the children had overnight contact with Andrew on Tuesdays and at the weekend. Last week, Meera told Andrew that the children didn't want to see him anymore. The children did not attend for contact with Andrew at the weekend. Meera told Andrew that, as the children's mother, she retained the majority of parental rights over them and could make any decision she wanted without consulting Andrew. Ishan later tells his teacher at school that he misses his father and wants to see him again.

Advise Andrew on the law regulating parental responsibilities and rights, and explain the legal test a Scottish court would apply were he to raise proceedings seeking contact with his children.

Question 6

Outline and explain the grounds for divorce and dissolution (of civil partnerships) in Scotland.

END OF QUESTION PAPER