



**THE LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

FAMILY LAW

Tuesday 7 August 2018

**1330 – 1530
(Two Hours)**

Candidates should answer THREE questions.

***Materials permitted in exam hall: Avizandum Family
Law Statutes***

**LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

FAMILY LAW

**Tuesday 7 August 2018
(Two hours)**

Candidates should answer THREE questions.

Question 1

Craig and Amy married in 2010 and have one child, Chloe, born in 2011. Amy is employed as a speech therapist with the local education authority and Craig has his own plumbing business. Their incomes are similar. They have recently separated and agreed to divorce. They have also agreed that, after the divorce, Chloe will have her main residence with Amy although Craig will have regular contact, including overnight stays. Their assets are as follows:

- (a) The matrimonial home, purchased in joint names in 2009 for £250,000. A deposit of £100,000 was paid using money that Amy had inherited from her grandparents and they took out a mortgage for the remainder. Craig pays the monthly mortgage payments direct from his bank account. The house was valued at £300,000 when the couple separated but is now worth £310,000.
- (b) Amy owns a car worth £10,000 at the date of separation while Craig has a large 4x4 worth £15,000 which has the name of his plumbing business painted on the side.
- (c) At the date of separation the furniture in the matrimonial home was worth £40,000.
- (d) In 2011, Amy bought Craig premises for him to run his business. The premises were worth £50,000 at the date of separation but are now worth £40,000.

What order(s) for financial provision is the court likely to make in a divorce action?

Question 2

“The Matrimonial Homes (Family Protection) (Scotland) Act 1981 offers effective protection and remedies to those in abusive relationships.”

Discuss.

Question 3

Katy meets John online whilst taking part in the virtual world of *Second Life* – an online site devoted to believers in reincarnation. They quickly become friends, and within weeks Katy finds that they are messaging and emailing each other several times a day. After three months, Katy tells John that, despite never having met him in person, she has fallen in love with him. John tells Katy he feels the same way. They decide to marry and, after the wedding, to set up home together in John's three-bedroom flat in Edinburgh.

The couple meet in person for the first time the day before the wedding. Katy is secretly slightly disappointed to discover that John is shorter and balding than he had claimed to be but their emotional and spiritual connection is stronger than ever.

John has made all of the arrangements for the ceremony, which is to take place in the beautiful surroundings of Loch Lomond. It is a *Second Life* wedding ceremony, specially designed for 'members and believers' and conducted by one of their wedding celebrants. Katy is delighted that her 12 year-old daughter Fiona is able to be part of their happy day by signing the marriage schedule as a witness.

When they arrive in Edinburgh that evening, Katy is horrified to discover that John's three-bedroom flat is actually owned by his parents, with whom she and Fiona are now expected to live. It becomes quickly apparent that John has also told Katy many other lies: he eats meat despite having claimed to be vegan; he is allergic to cats and refuses to have one in the house even though they had agreed to get a kitten as soon as Katy was settled in Edinburgh.

Katy feels completely betrayed. She feels the man she is now living with is a stranger, not the person she agreed to marry at all.

Advise Katy whether she has any grounds on which to challenge the validity of the marriage, and any action she should take if she wishes to do so.

[Please turn over]

Question 4

James and Gillian have been living happily together for the past seven years. Although they are committed to each other, they have decided not to marry.

They have three children. The eldest, 14-year-old Alan, is James's son from a previous relationship. James was married to Alan's mother, who died in a tragic accident when Alan was still a baby.

James and Gillian's only daughter, Bertha, was born following donor insemination treatment which Gillian received during the fourth year of her relationship with James. The sperm was donated by Kevin, who is an old friend of James. Kevin visits regularly and the children call him "Uncle Kevin", although there is no biological connection between him and either James or Gillian.

A year after Bertha's birth, Gillian conceived naturally and gave birth to their youngest child, Christopher. James is registered as the father on the birth certificates of all three children.

Gillian recently read a story in the newspaper that suggested unmarried parents had far fewer rights over their children than they might think. Gillian seeks your advice on the current legal position of both herself and James in respect of all three children, and asks whether there is anything you think she should do clarify their parental status, responsibilities or rights.

Question 5

With reference to relevant statutory provisions and cases, outline the principles which govern the court in making an order in respect of parental responsibilities and rights.

Question 6

The grounds for divorce in Scotland are a compromise between fault and no-fault and should be reformed.

Outline the current legal grounds and discuss the case for or against reform.

END OF QUESTION PAPER