



**LAW SOCIETY OF SCOTLAND
EXAMINATIONS**

FAMILY LAW

Tuesday 13 February 2024

**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

Flora and Isabelle are a married couple living in Glasgow. They have two children, Euan, age 4, and Polly, age 2. Flora carried and gave birth to Euan, and Isabelle carried and gave birth to Polly. Both children were conceived using sperm from Flora's best friend, Jonathan. Jonathan is married to Horace.

Outline and explain the legal framework governing who will be recognised in law as the parents of Euan and Polly.

Question 2

How do Scottish courts decide whether to grant permanence orders and adoption orders? Refer to the Adoption and Children (Scotland) Act 2007 and relevant case law in your answer.

Question 3

Prish and Mike separated when their son, Amir (now age 11), was 4 years old. Amir has lived with Prish since he was age 4 but he has also enjoyed regular, and extensive, residential contact with Mike at weekends and during school holiday periods. One year ago, Prish began a long-term relationship with John, who now resides with her and Amir. John is also Amir's football coach. Relations between Prish and Mike have gradually deteriorated, and they are now arguing over almost every aspect of Amir's care and upbringing. Prish believes that Amir wants to spend less time with Mike at weekends and more time engaged in football activities with John. Some of these activities involve football trips abroad. Mike believes Prish is engineering ways to exclude him from Amir's life and thinks it would be better for Amir to come and live with him. None of the adults has asked Amir how he feels because they do not want to put pressure on him.

Explain, with reference both to statutory provisions and relevant case law, how a court would apply the provisions of section 11 of the Children (Scotland) Act 1995 in resolving this dispute about the care and upbringing of Amir.

Question 4

Outline and explain the financial orders that may be sought by an ex-cohabitant following the breakdown of their relationship. Refer to the relevant statutory provisions and case law in your answer.

Question 5

Alana and Brian were married on 5 January 2014. They separated on 5 January 2024 and intend to divorce. Alana and Brian have two children, Clara (age 7) and David (age 4). Throughout their marriage they lived at 14b Russell Street, Edinburgh. This property is the matrimonial home, and it is jointly owned by Alana and Brian. Brian is a nurse. He worked from 2010 until 2017 when he gave up his work to look after the children full-time. The parties are agreed that the children will reside with Brian after the divorce. Alana works full-time as an accountant. The parties' financial circumstances are as follows:

- The value of number 14b Russell Street was £400,000 on 5 January 2024. However, by 25 January 2024, the property was estimated by an independent valuer to have decreased in value to £360,000. The property is expected to continue to decrease in value throughout 2024.
- Brian owned a flat in Glasgow when he was single. He sold it for £55,000 shortly before the parties were married. Some of this money (£20,000) was used to pay for the wedding and honeymoon. The remaining funds (£35,000) were used as a down-payment on the matrimonial home at 14b Russell Street.
- Alana's parents gave the couple £25,000 when they got married. This money paid for renovation of the basement at 14b Russell Street.
- Brian has a pension policy into which he has paid since 2005. On 5 January 2024, his pension was worth £100,000.
- Alana has no pension, although since 2014 she has possessed an investment portfolio worth around £300,000, which is in her sole name.
- In 2017, Brian 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 £18,000 on 5 January 2024.
- Alana inherited an antique world globe from her godmother in 2015. This is estimated to be worth around £5,000.

Advise Alana and Brian 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 are 'matrimonial property' in Scottish Law and why this is the case?
(50 marks)

Question 6

Outline and explain how contemporary Scots law protects those currently in, and those who have left, abusive relationships. Refer in particular to the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the Domestic Abuse (Scotland) Act 2018.

END OF QUESTION PAPER