

Family Law

Tuesday 23 July 2024

13.00 - 16.00

(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

Anika and Kabir were married on 20 March 2014. They have no children. Throughout their 10 year marriage they lived in a four-bedroom flat at 45 Scotland Street, Edinburgh. This property is the matrimonial home. Kabir is a doctor and has been senior partner in a local medical practice for 20 years. Anika is a professor and consultant pathologist. She is employed both by the NHS and the University of Edinburgh. Anika and Kabir (“the parties”) separated on 20 March 2024. The parties’ financial circumstances are as follows:

- The value of the flat at 45 Scotland Street was £800,000 on 20 March 2024. However, by 12 July 2024, the property was estimated by an independent valuer (jointly instructed by the parties) to have increased in value by 10% to £880,000.
- Anika owned a cottage in Fife before the parties met. She sold the cottage in 2014 and the net proceeds of sale (£100,000) were used as a down-payment on the matrimonial home at 45 Scotland Street. Title to 45 Scotland Street is held in joint names.
- Kabir and Anika both have pension policies. On 20 March 2024, Kabir’s private pension policy, which he began paying into in 2005, was valued at £300,000. Anika has two pension policies. She began paying into her NHS pension, now worth £200,000, in 2002. She began paying into her University of Edinburgh, now worth £50,000, in 2015.
- Anika bought an Alfa Romeo convertible car in 2019. This was valued at £50,000 on 20 March 2024.
- Kabir inherited a painting from his father in 2021, worth £20,000. He sold the painting and used some of the proceeds of sale (£5,000) to pay for a birthday gift for Anika. The remaining proceeds of sale were used to pay for a holiday abroad.

The separation is amicable, although the parties have been unable to reach agreement about what should happen to 45 Scotland Street.

Advise the parties on the key sections in the Family Law (Scotland) Act 1985 governing financial provision on divorce and dissolution. Which assets are matrimonial property, and why? How would the Section 9 principles apply in this case?

Question 2

Outline and explain the grounds of divorce and dissolution.

Question 3

How do Scottish courts make decisions when proceedings are raised by private individuals to regulate the care and upbringing of children under Part 1 of the Children (Scotland) Act 1995?

Question 4

Hannah and Mike have three young children, Amy (age 5), Jess (age 3) and Micah (8 months). Mike, an accountant, lost his job six months ago and the family has been dependent on state support and help from local charities ever since. Although he is looking for work, Mike has been drinking heavily for months now. Hannah, a nurse, went back to work part-time last month. However, she is increasingly worried about leaving Mike alone in the house with the children. When he drinks, Mike behaves very aggressively towards Hannah and he is increasingly neglectful of the children's care. Title to the family home is in Mike's name and he has to date managed all of the family's finances.

Imagine Hannah has made an appointment to seek advice about her legal options. Outline and explain how contemporary Scots law can protect 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.

Question 5

How have courts have interpreted and applied the key provisions governing the granting of permanence orders and adoption orders in respect of children and young people?

Question 6

Ian and Joseph were in an intimate relationship for 20 years. They separated in February 2024. From 2016 to 2024, they lived together in Joseph's house in Bearsden. From 2016 onwards, they each contributed towards Joseph's monthly mortgage payments and to household expenses. Ian also supported Joseph financially between 2019 and 2023 when Joseph was a full-time LLB student at the University of Glasgow. When the couple separated, Ian moved out of the house in Bearsden and into rental accommodation. Joseph has now secured a well-paid traineeship with one of the larger law firms in Glasgow. Ian feels he has suffered financially because of his relationship with Joseph. Ian wonders if there is any way to recoup some or all of his losses.

Provide Ian with advice on the financial orders that may be sought by an ex-cohabitant following the breakdown of their relationship.

END OF PAPER