

Family Law

Wednesday 23 July 2025

13.00 – 16.00

(three hours)

Candidates should attempt THREE of the six questions in this paper.

All questions carry equal weight.

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

Question 1

Trisha and Maya are cohabitants. They have lived together in a property owned by Maya since 2006. They have one adopted daughter, Jessica, age 14. Trisha and Maya decide to separate. Although the split is reasonably amicable Trisha's best friend Euan tells her that she needs to take legal advice. He says that he read somewhere on the internet that Trisha needs to 'act fast' to secure her rights to a fair financial settlement.

Imagine that you are the family lawyer Trisha consults. Provide her with legal advice about the financial orders that can 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 2

Outline and explain how the key provisions of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and the Domestic Abuse (Scotland) Act 2018 protect individuals who are in, or who have left, abusive relationships.

Question 3

Jing and Philip were in a relationship from 2012 until 2020. They lived in Edinburgh and when they separated their twin sons, Kai and Chen, were 6 years old. The boys are now 11 years old. Since 2020 the boys have resided with their mother, Jing, in Edinburgh and have residential contact with their father, Philip, every weekend. Philip moved to Glasgow in 2020, and the established pattern is that he collects the boys every Saturday at 12 noon, returning them to Jing at 6pm on Sunday evenings. Philip also has extensive school holiday contact with the boys.

Jing has been in a relationship with a colleague, Michael, for the last two years and she recently discovered that she is pregnant. She would like to move in with Michael, who lives in Dundee, taking Kai and Chen to live with her there. Philip does not agree with her planned move. He asks Jing to invite Michael to live with her instead of moving the boys. When Jing refuses Philip gets angry and says that she is being selfish. He instructs solicitors to write to Jing on his behalf. The solicitors' letter says that Philip will apply for a court order asking for the boys to live with him in Glasgow if Jing goes ahead with her move to Dundee. The letter says that the boys don't want to move to Dundee and that they have family and friends in Glasgow and would rather live there.

With reference to case law, explain how a court would apply section 11 of the Children (Scotland) Act 1995 in resolving this dispute about the care and upbringing of Kai and Chen.

Question 4

Zofia and Piotr are a married couple living in Aberdeen. They have three children, Antoni, age 6, and Lukasz, age 4, and Julia, age 1. All children were born using assisted reproductive technologies and were conceived using donated eggs and sperm. Zofia carried and gave birth to Antoni and Lukasz, but a surrogate carried and gave birth to Julia. Julia was also conceived using an egg donated by the surrogate who carried her.

Outline and explain the legal framework governing who will be recognised in law as the parents of Antoni, Lukasz and Julia.

Question 5

With reference to relevant statute and case law outline and explain the grounds of divorce in Scotland.

Question 6

Leah and Joshua recently separated after 10 years of marriage. They married on 20 April 2015 and separated on 20 April 2025. They have two children, Sophia, aged 9 and Max, age 7. During their marriage, they lived at 9 Scott Street, a terraced house in Portobello. This property is the matrimonial home. Leah wants to continue to live there with the children after the couple divorce. Leah is an accountant, employed by the Scottish Government. She worked part-time when the children were pre-school age, but she returned to full-time employment in 2023. Joshua is a mechanic. He has worked full-time since 2010 and now owns several successful garages in the Edinburgh area.

On 20 April 2025, the date Leah and Joshua separated, their financial circumstances were as follows:

- No. 9 Scott Street was valued at £800,000 on 20 April 2025. However, by 30 June 2025 the property was estimated by an independent valuer to have increased in value to £860,000. Title to this property is held in joint names and the property is not burdened with a mortgage.
- Joshua's business was estimated to have a net worth of around £600,000.
- In 2019, Leah inherited a flat in the Edinburgh New Town from her late aunt and this flat is valued at £350,000. The flat has no mortgage and has been rented out over the last 6 years.
- Leah's pension with the Scottish Government, which she began paying into in 2010, was valued at £120,000. Joshua has no pension.
- Joshua owns four classic cars, all purchased since 2015. Their combined worth is £120,000. One of the cars, worth £40,000, was bought using money gifted by Joshua's father on Joshua's 40th birthday.

- Joshua bought shares in 2014, and they have a value of £50,000.

Referring to the Family Law (Scotland) Act 1985 explain which assets are matrimonial property and describe how section 9 of this Act can assist the court in ordering a fair division of matrimonial property.

END OF PAPER