



## **NATIONAL COMMITTEE ON ACCREDITATION**

### **SAMPLE EXAMINATION**

## **ALBERTA FAMILY LAW**

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**SAMPLE FAMILY LAW EXAMINATION - ALBERTA**

**TIME: 3 HOURS**

**INSTRUCTIONS: ANSWER ALL QUESTIONS. QUESTIONS ARE OF UNEQUAL VALUE. PROPORTION YOUR TIME CAREFULLY.**

**N.B.: EXAMINEES MAY CONSULT ANY MATERIAL THEY WISH TO BRING INTO THE EXAMINATION ROOM (WITH THE EXCEPTION OF PERSONAL TYPED OR HANDWRITTEN NOTES). THE TIME LIMIT MUST BE STRICTLY OBSERVED. BOOKLETS HANDED IN AFTER EXPIRY OF THE ALLOTTED TIME WILL NOT BE ACCEPTED. IF YOU ARE USING EXAMINATION BOOKLETS, YOU MAY ANSWER MORE THAN ONE QUESTION IN EACH BOOK – PLEASE ENSURE THAT THE QUESTION NUMBER IS CLEARLY IDENTIFIED.**

**THE EXAM CONSISTS OF 5 QUESTIONS AND A TOTAL OF THREE PAGES INCLUDING THE COVER SHEET**

**YOU MUST RETURN THIS EXAM WITH YOUR ANSWERS. FAILURE TO DO SO WILL RESULT IN AN AUTOMATIC EXAM FAILURE.**



**QUESTION ONE (10 MARKS)**

Harry and Penelope have been married for ten years. Their marriage was turbulent by reason of Harry's cruelty towards Penelope. They separated on June 1, 2007 when Harry established a cohabitational relationship with Jane. This relationship terminated in September whereupon Harry resumed cohabitation with Penelope in an attempt to achieve reconciliation. After 24 days, Harry withdrew from matrimonial cohabitation. In December, Harry and Penelope again resumed cohabitation in an attempt to reconcile, but after 65 days, they mutually agreed that any further attempts to reconcile would be futile. They nevertheless engaged in sexual intercourse on five separate occasions in April and May, 2008, notwithstanding their perception of the marriage as ended. Can either or both spouses apply for a divorce? If so, on what basis? Discuss all relevant statutory provisions.

**QUESTION TWO ( 20 MARKS FOR PART A; 10 MARKS FOR PART B )**

A. Jo and Robin lived together for eight years in a lesbian relationship. They never went through any marriage ceremony. Two years ago, they agreed that Jo would be artificially inseminated with the semen of Harry, a mutual friend at that time. Jo and Robin continued to live together for eight months after the birth of the child, during which time Robin assumed the primary parenting responsibilities because of Jo's much higher earning capacity. Jo and Robin separated six weeks ago. Jo has applied for a parenting order under the *Family Law Act* that will give her day-to-day care and control of the child. Robin has cross-applied for an order that will provide for a shared parenting arrangement whereby the child will spend alternate weeks with Robin and Jo. Harry seeks a contact order, regardless of the parenting order that the court will make. Define the relevant legal principles that will govern each of the above issues.

B. Advise them of the various alternative dispute resolution processes that may enable them to avoid going to court.

**QUESTION THREE (10 MARKS FOR EACH PART)**

A. Ahmed and Serena separated four month ago. They have two children, aged 6 and 10 years respectively. Ahmed earns \$80,000 per annum. Serena earns \$20,000 per annum. The children spend 40 per cent of their time with Ahmed and 60 per cant of their time with Serena. Advise Serena of her child support rights and obligations.

B. Denise and Pierre have one child. Denise earns \$35,000 per annum. Pierre conducts his business through a private corporation which has pre-tax earnings of \$200,000 per annum. He withdraws \$60,000 as his annual salary and leaves the remaining earnings in the corporation. Many of Pierre's personal expenses are paid directly by the corporation. Pierre asserts that his child support payments should be based on his salary of \$60,000. Denise asserts that an income of \$200,000 should be judicially imputed to Pierre. Discuss.

C. John has been married to Mary for three years. Mary has two children, age 8 and 9, from her previous marriage to Bert. John, Mary and Bert entered into an agreement three years ago whereby Bert would pay no child support and he would have no access to the children. John has acted as a father to Mary's children since their marriage. The children have had no contact with Bert for the past three years and are opposed to re-establishing contact with him. John and Mary have now separated. She has instituted legal proceedings seeking the full table amount of child support from Bert who earns \$40,000 per annum and the full table amount from John, who earns \$60,000 per annum. Discuss the respective child support obligations of Bert and John having regard to the applicable legal criteria.

**QUESTION FOUR (10 MARKS)**

Homer and Venus married twenty-seven years ago. Homer is now sixty years of age and Venus is fifty years of age. They have two children, aged twenty-six and twenty-two years of age, both of whom are financially independent. The marriage was a traditional one in which Venus did not work outside the home but devoted all her time and energy to the home and family. Homer currently earns \$65,000 per annum. Venus now earns \$15,000 per annum as a cashier in a retail store. They separated last month. Venus seeks spousal support in the amount of \$3,000 monthly. Homer is willing to pay \$1,000 per month spousal support for a fixed term of two years. Each spouse has assets of \$140,000 after equalization of their spousal net family properties. What is your opinion concerning the right to, amount and duration of spousal support available to Venus pursuant to the *Divorce Act*? Define the relevant legal criteria.

**QUESTION FIVE (20 MARKS)**

Compare the property rights of spouses with those of common law couples in Alberta.