

SUMMER EXAMINATIONS 1998/99

LL.B. - SECOND, THIRD & FOURTH YEAR
OCCASIONAL STUDENTS

FAMILY LAW (LW312)

Professor W. Duncan
Mrs M. McGonagle

Time Allowed: **THREE** Hours

Answer **FOUR** Questions only. ERASMUS students are required to answer **THREE** questions only.

All questions carry equal marks.

1. State the conditions for divorce under the Family Law (Divorce) Act 1996 and explain **ONE** of them in detail.

2. Answer **EITHER** (a) **OR** (b)

(a) Explain to what extent children's rights, both substantive and procedural, are protected in Irish and international law.

OR

(b) The Children Act 1997 contains a new provision in Irish law to the effect that, if the court thinks it appropriate, it may "*grant custody of a child to the child's father and mother jointly*". Discuss the development of the courts' thinking on custody and access matters under the Guardianship of Infants Act 1964, the Status of Children Act 1987, and now the Children Act 1997.

3. Tom and Anna have five children under the age of ten and just cannot cope, financially or emotionally. Tom cannot obtain steady employment and Anna is depressed and becoming increasingly neglectful of the children. Often, the eldest three are not sent to school, neighbours have to feed them as Anna no longer cooks, and recently one of the children has had cuts and bruising, consistent with a beating. Neighbours and teachers report the situation to the Health Board. Tom and Anna love their children and do not want them to be taken from them. Explain to Tom and Anna the powers and duties of the Health Board under the Child Care Act 1991, and what the Board's likely course of action would be in these circumstances.

4. Barry is nineteen, has been on drugs, lives at home and has been very disruptive. Recently, he has beaten up his younger brother in an attempt to get money from him, saved by his brother from a summer job. He has also threatened an elderly aunt who was visiting the family. She told his mother she should throw him out but his mother does not want to do that. She would like some protection from him, however, as she fears he will get worse. The aunt therefore contacts you for advice as to any remedy the family may have in law. Advise her of the options - if any - open to the family under the Domestic Violence Act 1996. She specifically asks you the following: what kind of order(s) could be obtained under the Act; who could seek an order against Barry; and what would be the position if Barry breached the order.

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5. Answer **EITHER** (a) **OR** (b):

Ann and Joe's marriage has deteriorated and they intend to live apart. They have two children aged eleven and nine. They also have some family property, as well as the family home. They are still on quite good terms and would like to enter into a separation agreement. They seek your advice as to whether this would be a sensible way to proceed.

- (a) Advise them as to the advantages of such a course of action and what precautions they would need to take in drawing up the agreement.

OR

- (b) Advise Ann and Joe (see above) as to the time factors relevant to obtaining a judicial separation in the courts, w