

NCA Family Law (Canada)

Preview Materials

Complete Study Package

Updated for the January 2026 syllabus

Notes

324 pages

Sample Exam Answer Script

24 pages

Questions & Answers

144 pages

IRACs

64 pages

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Chapter 1: Definition of Marriage

Meaning of marriage

Section 2 of the **Civil Marriage Act, S.C. 2005, c. 33**, defines marriage for civil purposes as **“the lawful union of two persons to the exclusion of all others.”** This is our starting point for understanding marriage in Canadian family law.

A “lawful union” means that the relationship must satisfy the legal requirements for marriage. Simply living together, sharing expenses or describing each other as spouses does not, by itself, create a legal marriage. Unmarried partners may have rights and obligations under family law, but those rights must be considered under the rules that apply to their relationship.

The words “two persons” mean that both same-sex and opposite-sex couples may marry. The words “to the exclusion of all others” reflect the exclusive nature of marriage: a person cannot enter a new marriage while an existing marriage remains legally in place.

Marriage “for civil purposes” means marriage as recognized by law. Marriage may also have religious, cultural and personal significance, but our concern in this subject is its legal recognition and the rights and obligations that follow from it.

Equal access to marriage

The *Civil Marriage Act* recognizes equal access to civil marriage for same-sex and opposite-sex couples. Its preamble connects this recognition to equality and freedom from discrimination under the Canadian Charter. Section 4 expressly provides that a marriage is **not void or voidable merely because the spouses are of the same sex**.

A void marriage is legally invalid, while a voidable marriage may be annulled on a recognized legal ground. For this topic, the important point is that the spouses being of the same sex does not itself make their marriage invalid or provide a ground for annulment.

NCA FAMILY LAW (CANADA) SAMPLE EXAM ANSWER SCRIPT

(Updated for January 2026 Syllabus)

QUESTION ONE (10 MARKS total)

Sophia and Boris have been separated for 18 months. For the past year, Sophia has resided in Vancouver. She has commenced a divorce proceeding in the British Columbia Supreme Court seeking sole custody of their son, Igor, age 10 years, who has lived with Boris in Toronto since the spousal separation. Boris seeks to transfer the divorce proceeding to the Ontario Superior Court of Justice. Advise him.

Sample Answer**Issues**

1. Does the British Columbia Supreme Court have jurisdiction over Sophia's divorce proceeding?
2. Can Boris have the proceeding transferred to Ontario?
3. What would be the effect of a transfer?

Rules

- *Divorce Act*, section 3(1): Jurisdiction over divorce proceedings.
- *Divorce Act*, section 6(1): Transfer of proceedings involving a parenting application.
- *Divorce Act*, section 6(4): Exclusive jurisdiction following transfer.
- *Droit de la famille*- 21910, 2021 QCCS 2081.

Analysis

Under section 3(1) of the *Divorce Act*, a court has jurisdiction over divorce proceedings if either spouse has been habitually resident in the province for at least one year immediately before proceedings begin.

Sophia has lived in Vancouver for the past year. Assuming Vancouver has been her settled home throughout the required period, the British Columbia Supreme Court has jurisdiction. Boris and Igor's residence in Ontario does not remove that jurisdiction because only one spouse needs to satisfy the residence requirement. The spouses' 18-month separation concerns marriage breakdown and is separate from the residence requirement.

NCA Family Law (Canada) Questions and Answers

TABLE OF CONTENTS

Sl. No.	Topic	Page No.
1.	Marriage Validity and Annulment	2-7
2.	Constitutional Jurisdiction, Applicable Law and Court	8-12
3.	Divorce Jurisdiction and Competing Proceedings	13-21
4.	Habitual Residence and International Child Abduction	22-27
5.	Grounds for Divorce and Bars to Divorce	28-33
6.	Foreign Divorce, Religious Barriers and Recognition	34-40
7.	Family Dispute Resolution Processes	41-46
8.	Settlement Privilege and Enforceability of Settlements	47-52
9.	Family Violence and Parenting Arrangements	53-59
10.	Unmarried Spouses, Support and Unjust Enrichment	60-67
11.	Spousal Support Entitlement and Support Waivers	68-74
12.	Spousal Support Quantum, Duration and Form	75-81
13.	Interim, Retroactive and Variation of Spousal Support	82-88
14.	Child Support Obligations and Step-Parents	89-93
15.	Child Support Calculation and Income Determination	94-101
16.	Retroactive Child Support and Arrears	102-109
17.	Parentage and Assisted Reproduction	110-115
18.	Parenting Arrangements and Relocation	116-123
19.	Equalization and Matrimonial Home	124-133
20.	Domestic Contracts, Support, Property and Parenting	134-143

QUESTION 1: Marriage Validity and Annulment (20 marks)

Aisha and Daniel participated in a marriage ceremony in Toronto in June 2024. Aisha was 18. Daniel was 27.

Two months after the wedding, Aisha discovered that Daniel had previously married Priya in India. Daniel tells her that he and Priya had been separated for four years before his marriage to Aisha, but admits that he had never obtained a divorce.

Aisha also alleges that she agreed to marry Daniel only after Daniel and his family repeatedly told her that her parents would be publicly embarrassed if she cancelled the wedding. She says she was extremely distressed but nevertheless attended the ceremony, signed the required documents and lived with Daniel for six months

NCA Family Law (Canada) IRACs

TABLE OF CONTENTS

Sl. No.	Topic	Covers	Page No.
1.	Is the marriage valid, and can it be annulled?	Definition of marriage; same-sex marriage; marriages involving non-residents; capacity, consent and formalities; essential and formal validity; void and voidable marriages; annulment. Include <i>X.W.L. v. J.L.</i>	4-7
2.	Which legislature, law and court govern the dispute?	Constitutional division of powers; federal and provincial legislation; fragmentation of judicial jurisdiction; Ontario Court of Justice, Superior Court and unified Family Court; identifying the correct statute and court for each remedy.	8-10
3.	Does the court have jurisdiction, and should the proceeding or child be moved to another jurisdiction?	Divorce, corollary-relief and variation jurisdiction; competing proceedings; interprovincial transfer; contact jurisdiction; habitual residence; wrongful removal or retention; children outside Canada; Hague return proceedings. Include <i>Balev</i> , <i>Dunmore</i> and <i>Droit de la famille — 21910</i> .	11-15
4.	Can a divorce be granted, when does it take effect, and will foreign decisions be recognized?	Separation, adultery and cruelty; reconciliation attempts; collusion, child-support arrangements, condonation and connivance; religious barriers to remarriage; effective date, appeal and proof of divorce; recognition of foreign divorces and foreign parenting variations. Include <i>Bruker</i> , <i>Sonia</i> and <i>Vyazemskaya v. Safin</i> .	16-20
5.	Which process should be used to resolve the family dispute?	Emotional dynamics; reconciliation; negotiation; collaborative law; mediation; arbitration and mediation-arbitration; duties of parties and advisers; parenting assessments; confidentiality and settlement privilege; recording and enforcing settlements. Include <i>Bouvier</i> .	21-25
6.	Does the conduct constitute family violence, and what response is appropriate?	Physical, psychological and financial abuse; coercive control; post-separation abuse and stalking; children's exposure; evidence; effects on parenting and dispute resolution; protective orders and safe arrangements. Apply the <i>Nonomura</i> and <i>Katz</i> readings alongside the legislation.	26-28
7.	What support and property rights arise from an unmarried relationship?	Qualification as a spouse for provincial support; distinction between support and equalization rights; ownership; unjust enrichment; juristic reasons; joint family ventures; monetary remedies and constructive trusts; avoiding double recovery. Include <i>Kerr</i> and <i>Vanasse</i> .	29-31
8.	Is a spouse entitled to support despite employment, assets or a support waiver?	Compensatory, non-compensatory and contractual entitlement; statutory factors and objectives; marital roles; hardship; self-sufficiency; misconduct versus its consequences; effect of property division; support agreements. Include <i>Moge</i> , <i>Bracklow</i> , <i>Miglin</i> , <i>Leskun</i> , <i>Chutter</i> and <i>Fisher</i> .	32-34

9.	How much spousal support should be paid, for how long and in what	SSAG formulas; income determination and imputation; ranges, ceilings, floors, exceptions and restructuring; child-support priority; high incomes; post-separation income increases; repartnering; retirement and pension double recovery; lump sums; indefinite, time-limited and review orders. Include <i>Bos</i> , <i>Davis</i> , <i>Fisher</i> and <i>R.L. v. M.F.</i>	35-37
10.	Can support be varied retrospectively or changed later?	Separate routes for interim child and spousal support; prima facie spousal entitlement; retroactive spousal support; variation, rescission and suspension of child and spousal support; material change; agreement-based orders; expired fixed-term support. Include <i>Emery</i> , <i>Golden</i> , <i>Kerr</i> and <i>J.M.B.</i>	



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9.	How much spousal support should be paid, for how long and in what form?	SSAG formulas; income determination and and imputation; ranges, ceilings, floors, exceptions and restructuring; child-support priority; high incomes; post-separation income increases; repartnering; retirement and pension double recovery; lump sums; indefinite, time-limited and review orders. Include <i>Boston, Davis, Fisher</i> and <i>R.L. v. M.F.</i>	35-37
10.	Can support be ordered temporarily, retrospectively or changed later?	Separate routes for interim child and spousal support; prima facie spousal entitlement; retroactive spousal support; variation, rescission and suspension of child and spousal support; material change; agreement-based orders; expired fixed-term support. Include <i>Enyedy-Goldner, Kerr</i> and <i>L.M.P.</i>	38-39
11.	Who must pay child support, and can an agreement remove that obligation?	Eligible children, including adult dependants; biological and step-parent obligations; standing in the place of a parent; attempted withdrawal from parenthood; multiple support payors; support waivers and special provisions; validity and purpose of the Guidelines. Include <i>Chartier, H.(U.V.), Wright</i> and <i>Auer</i> .	40-41
12.	How should child support be calculated?	Correct income and table; high-income payors; special or extraordinary expenses; children's contributions; split and shared parenting; undue hardship; financial disclosure; unemployment, underemployment and corporate income. Include <i>Francis, Contino, Drygala, Peters</i> and <i>Kowalewich</i> .	42-44
13.	Can past child support be increased, reduced or forgiven?	Retroactive increases and decreases; statutory jurisdiction after adulthood or termination of an order; effective notice; disclosure; delay; blameworthy conduct; hardship; historical income calculations; distinction between recalculation and rescission of valid arrears. Include <i>Michel</i> and <i>Colucci</i> .	43-46
14.	Who is legally recognized as the child's parent?	Birth and biological parentage; assisted reproduction; donors; spousal consent; pre-conception agreements; multiple parents; surrogacy; posthumous conception; declarations; genetic testing, surnames and registration; statutory limits on judicial intervention. Include <i>Leckey's</i> assigned article.	47-48
15.	What parenting arrangement best serves the child?	Federal and provincial best-interests frameworks; standing of parents and non-parents; parenting time, decision-making and information rights; shared arrangements; interim orders; contact; conditions and supervision; parenting plans; review and variation; child's voice; Indigenous heritage; religious upbringing; school choice; conflict and alienation. Include <i>Barendregt, C.N.L., L.L., S.K., Tolushe</i> and <i>J.B. v. B.F.</i>	49-51
16.	Can a parent change residence or relocate with the child?	Ordinary moves versus relocation; notice, objections and exceptions; best interests and additional relocation factors; burdens of proof; interim arrangements; proposed continuing relationships; travel costs; family violence; effect on existing orders. Include <i>Barendregt</i> .	52-53

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17.	Who can claim support under Ontario's provincial legislation?	Definitions of spouse, parent, child and dependant; married and unmarried spouses; adult children in education or with continuing dependency; withdrawal from parental control; adult children supporting parents; standing of applicants and public bodies; provincial statutory criteria and Guidelines.	54-55
18.	Who owns the property, and what equalization payment is owing?	Eligible spouses and court; choice of law; reserve and foreign property; ownership and trusts; valuation date; assets, debts, pensions and taxes; premarital deductions; exclusions and tracing; contractual exclusions; NFP calculation; unequal equalization; limitation periods and extensions; death and election; bankruptcy; disclosure; enforcement, interest and preservation; retrospective operation; occupation rent and accounting. Include <i>Kassabian</i> and <i>Schreyer</i> .	56-58
19.	Who may occupy, sell or mortgage the matrimonial home?	Matrimonial-home status; multiple homes and designation; ownership versus possession; exclusive possession and interim relief; children and violence; consent to transactions; court-authorized dispositions; third-party protection, notice and redemption; variation; death; registration and Ontario situs.	59-60
20.	Is the domestic contract enforceable, and can its terms be challenged or changed?	Marriage, cohabitation and separation agreements; permissible subjects; matrimonial-home restrictions; formalities and capacity; disclosure, understanding and contract-law defects; child-related provisions; support overrides; religious barriers; incorporation, merger and survival; filing, enforcement, variation, termination and indexing. Include <i>Miglin</i> where federal spousal support is sought.	61-63

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5 of 64

Issues and application paragraphs raised by the question. Replace the [bracketed text] with facts and explain what they establish.

IRAC 1: IS THE MARRIAGE VALID, AND CAN IT BE ANNULLED?

Issues

1. Did the parties have capacity and freely consent to marry?
2. Were the marriage formalities satisfied?
3. Does the foreign connection affect validity or access to divorce?
4. Is annulment available?

Rules

- *Civil Marriage Act*, ss. 2–5 and 7–11.
- *Marriage (Prohibited Degrees) Act*, ss. 2–4.
- *Ontario Marriage Act*, including s. 31.
- *Ontario Family Law Act*, s. 1(1).
- Common-law principles of capacity, consent and annulment.
- *X.W.L. v. J.L.*, 2021 BCSC 860.

Analysis

A valid marriage requires essential capacity, free consent and compliance with applicable formalities. Annulment requires a recognized defect; dissatisfaction with a valid marriage ordinarily calls for divorce. The alleged defect here is [identify it], which concerns [capacity/consent/formal validity].

Capacity to marry

At the ceremony, [name] was [age]. This [satisfies/fails] the federal minimum age of sixteen; any applicable Ontario consent requirement was [satisfied/not satisfied/dispensed with], as shown by [facts].