



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 12 – PRACTICE OF FAMILY LAW\*

**Time allowed: 1 hour and 30 minutes plus 15 minutes reading time**

#### Instructions to Candidates

- You have been provided with a clean copy of the case study materials for you to use in this examination.
- You have **FIFTEEN** minutes to read through this question paper and the case study materials before the start of the examination.
- **It is strongly recommended that you use the reading time to read the question paper fully.** However, you may make notes on the paper or in your answer booklet during this time if you wish.
- **All questions are compulsory. You must answer ALL the questions.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the CILEX Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### Information for Candidates

- The mark allocation for each question and part question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ball point pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

## Question 1

Reference: Question relates to **Documents 1 and 2** of the case study materials.

Attachment: **Document A (Application for Divorce)**

- (a) Explain the **two** possible facts for divorce in these circumstances and recommend the most appropriate fact in this case.

**(7 marks)**

- (b) After obtaining your advice, Abbie has instructed you to commence divorce proceedings.

Your supervising lawyer, Kasha Patel, has instructed you to complete the following parts of the application (**Document A**): Parts 1, 2, 5 & 7 only.

**(10 marks)**

**Important: Write your candidate number clearly on Document A and attach it securely to the inside of your answer booklet.**

- (c) Identify other relevant documents that will need to be filed with the court together with the divorce application (petition) in order to issue divorce proceedings.

**(4 marks)**

**(Total: 21 marks)**

## Question 2

Reference: Question relates to **Document 3** of the case study materials.

- (a) Which form is required to commence an application for financial remedies?

**(1 mark)**

- (b) Describe **three** financial orders that may be made in these circumstances and explain why they are relevant.

**(6 marks)**

- (c) Discuss how any **five** factors under s.25 Matrimonial Causes Act 1973 may be applied in this case.

**(10 marks)**

**(Total: 17 marks)**

### Question 3

Reference: Question relates to **Document 4** of the case study materials.

- (a) Identify the s.8 order that Susan and Nigel may apply for under the Children Act 1989 and explain the purpose of the order.  
**(2 marks)**
- (b) Advise who else can apply for such an order in relation to Marley and why.  
**(5 marks)**
- (c) Discuss how any **five** factors in the welfare checklist may be applied by the court in deciding whether a s.8 order ought to be made in this case.

**(10 marks)**  
**(Total: 17 marks)**

### Question 4

Reference: Question relates to **Document 5** of the case study materials.

- (a) Advise Lily whether she is eligible to apply for an occupation order.  
**(5 marks)**
- (b) Identify the application form and supporting document which must be submitted to the court to commence an application for an occupation.  
**(2 marks)**
- (c) Explain the factors that a court must take into account when dealing with Lily's request for an occupation order and the test that will be applied by the court in deciding whether to grant an order.

**(8 marks)**  
**(Total: 15 marks)**

**Turn over**

**BLANK PAGE**

*StudentBounty.com*

**Document A**  
**Application for divorce to be used with Question 1(b)**

**Divorce/dissolution/  
(judicial) separation petition**

To be completed by the Court	
Name of court	
Case No.	
Date received by the court	
Date issued	
Time issued	

**Notes to Petitioners**

- This form should be used if you are making an application to the court for divorce/dissolution to end your marriage or civil partnership or (judicial) separation from your spouse or civil partner.
- Before completing this form, please read the supporting notes for guidance on completing the form.
- Please answer all questions. If you are unsure of the answer to any question, or you do not think that it applies to you, please indicate this on the form.
- If there is not enough room on the form, you may continue on a separate sheet. Please put your name, the Respondent's (your spouse/civil partner) name, and the number of the Part the information relates to, at the top of your continuation sheet.
- If completing this form by hand, please use **black ink and BLOCK CAPITAL LETTERS** and tick the boxes that apply.

**See the supporting notes for guidance**

I,  (please state your full name)

apply for a  divorce  
 dissolution  
 (judicial) separation  
in respect of my  marriage  
 civil partnership

and give the following details in support of my application.

continued over the page ⇨

## Part 1 About you (the Petitioner) and the Respondent (your spouse/civil partner)

See the supporting notes for guidance

### Petitioner

My current name is

First name(s) (in full)

Last name

My address is (including postcode)

  
Postcode  

My date of birth is

/ / 

My occupation is

I am

male  female

### Respondent

The Respondent's current name is

First name(s) (in full)

Last name

The Respondent's address is (including postcode)

  
Postcode  

The Respondent's date of birth is

/ / 

The Respondent's occupation is

The Respondent is

male  female

## Part 2 Details of marriage or civil partnership

See the supporting notes for guidance

On the \_\_\_\_\_ day of \_\_\_\_\_ [19 \_\_ ] [20 \_\_ ]

(insert your name exactly as it appears on your marriage/civil partnership certificate)

married  formed a civil partnership with

(insert the name of the Respondent exactly as it appears on your marriage/civil partnership certificate)

at

(insert the place where the marriage/civil partnership was formed, exactly as it appears on your marriage/civil partnership certificate)

**A certified copy of your marriage/civil partnership certificate must be sent to the court with this completed petition (see supporting notes for guidance).**



### Part 3 Jurisdiction

See the supporting notes for guidance

The Respondent and I last lived together as  husband and wife  civil partners  
at

Address

The court has jurisdiction to hear this case under

Article 3(1) of the Council Regulation (EC) No 2201/2003 of 27 November 2003

or

the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005  
on the following grounds

The Petitioner and Respondent are both habitually resident in England and Wales

Other (please state any other connection(s) on which you wish to rely)

or

The court has jurisdiction other than under the Council Regulation on the basis that no court of a Contracting State has jurisdiction under the Council Regulation and the  Petitioner  Respondent is domiciled in England and Wales on the date when this application is issued

or

The court has jurisdiction other than under the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations on the basis that no court has, or is recognised as having jurisdiction as set out in the Regulations, and

either:

the  Petitioner  and/or the Respondent is domiciled in England or Wales

or

the Petitioner and Respondent registered as civil partners of each other in England or Wales and it would be in the interests of justice for the court to assume jurisdiction in this case.

continued over the page ➡

## Part 4 Other proceedings or arrangements

See the supporting notes for guidance

- There are and/or have been
- proceedings in any court in England and Wales or elsewhere with reference to the
    - marriage
    - civil partnership
    - or to any child of the family
    - or between the Petitioner and Respondent with reference to any property of either or both of them  
(please enter details below)

or

- no other proceedings in any court in England and Wales or elsewhere.

- This is an application based on five years' separation and
- agreement has been made or is proposed to be made between the parties for the support of the Petitioner (and any child of the family)  
(please enter details below)

or

- no agreement has been made or is proposed to be made.

## Part 5 The fact(s)

See the supporting notes for guidance

I apply for a

- divorce on the ground that the marriage has broken down irretrievably, or
- dissolution on the ground that the civil partnership has broken down irretrievably, or
- (judicial) separation

and

I rely on the following fact(s) in support of my application:

- The Respondent has committed adultery and the Petitioner finds it intolerable to live with the Respondent (this fact is not applicable in relation to a civil partnership)
- The Respondent has behaved in such a way that the Petitioner cannot reasonably be expected to live with the Respondent
- The Respondent has deserted the Petitioner for a continuous period of at least two years immediately preceding the presentation of this petition
- The parties to the marriage/civil partnership have lived apart for a continuous period of at least two years immediately preceding the presentation of the petition and the Respondent consents to a decree/order being granted
- The parties to the marriage/civil partnership have lived apart for a continuous period of at least five years immediately preceding the presentation of the petition.



### Part 6 Statement of case

See the supporting notes for guidance

(in all cases, please state briefly any relevant details about the fact(s) on which you rely)

### Part 7 Details of the children

See the supporting notes for guidance

#### Children of the family

Full names of the children of the family	Gender		Date of birth (or state if over 18)	Over 16 but under 18 and in education, training or working full time	(a) Child of both parties	(b) Other child of the family
	male	female				
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### Statement of arrangements for children

See the supporting notes for guidance

- I attach a completed statement of arrangements in respect of those children of the family who are either aged under 16, or aged under 18 and at school, college, or in training for a trade, profession or vocation
- or
- No statement of arrangements is attached, because there are no children of the family, or no children of the family are either aged under 16 or aged under 18 and at school, college, or in training for a trade, profession or vocation.

**Children of either party who are not children of the family**

Full names of the children of either party who are not children of the family	Gender		Date of birth (or state if over 18)	Born to or adopted by Petitioner	Born to or adopted by Respondent
	male	female			
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	DD / MM / YYYY	<input type="checkbox"/>	<input type="checkbox"/>

**Part 8 Special assistance or facilities if you attend court**

See the supporting notes for guidance

If you are required to attend court during these proceedings will you need any special assistance or facilities?

Yes (please supply details below)  No

continued over the page ⇨

## Part 9 Service details

See the supporting notes for guidance

- I am not represented by a solicitor in these proceedings
- I am not represented by a solicitor in these proceedings but am receiving advice from a solicitor
- I am represented by a solicitor in these proceedings and all documents for my attention should be sent to my solicitor whose details are as follows:

### Box 1 Solicitor's details

Name of solicitor	KASHA PATEL						
Name of firm	KEMPSTONS						
Address to which all documents should be sent for service THE MANOR HOUSE BEDFORD  Postcode	Telephone no.	01234 845700					
	Fax no.	01234 854018					
	DX no.						
	Your ref.	KP/13206					
	M	K	4 2	7	A	B	
E-mail	patel@kempston.co.uk						

### Box 2 Petitioner's address for service

Address (including postcode)	
	Postcode <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

### Box 3 Respondent's address for service

Address (including postcode)	
	Postcode <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

### Box 4 Co-Respondent's details, if any

- There is no Co-Respondent
- There is a Co-Respondent whose details are as follows:

First Name	
Last Name	
Address (including postcode)	
	Postcode <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>

**Part 10**

See the supporting notes for guidance

**Prayer**

The Petitioner therefore prays

**(1) The application**

- That the  marriage  civil partnership be dissolved  
or  
 That the Petitioner be (judicially) separated from the Respondent.

**(2) Costs (if you wish to claim costs from the Respondent or Co-Respondent)**

- That the  Respondent  Co-Respondent shall be ordered to pay the costs of this application

**(3) Financial Order (if you wish to make an application for a Financial Order)**

- (a) That the Petitioner may be granted the following Financial Order(s):
- an order for maintenance pending suit
  - periodical payments order
  - secured provision order
  - lump sum order
  - property adjustment order
  - order under section 24B, 25B or 25C of the Act of 1973 (Pension Sharing/Attachment Order)
- (b) **For the children**
- a periodical payments order
  - a secured provision order
  - a lump sum order
  - a property adjustment order

Signed

Dated

/ /