

INSTITUTE OF LEGAL EXECUTIVES

UNIT 20 – PRACTICE OF FAMILY LAW*

Time allowed: 3 hours 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 may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Family Law 2010-11, M Oldham, Oxford University Press, 2010.**
- Candidates must comply with the ILEX 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 ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL**

Question 1

Reference: Question relates to **Document 2** of the case study materials.

Tracey Walker has an appointment to see you later today. You have a file note detailing Tracey's attendance at the office late yesterday afternoon (**Document A** attached) together with Tracey's draft statement (**Document B** attached).

- (a) Using the attached **Document C**, draft Form FL401.

Important: Write your candidate number clearly in Document C and attach it securely to your answer booklet.

(12 marks)

- (b) **In your answer booklet** list the amendments that you would make to the draft statement (**Document B**) and state why they are necessary.

DO NOT RE-DRAFT DOCUMENT B

(12 marks)
(Total: 24 marks)

Question 2

Reference: Question relates to **Document 2** of the case study materials.

It is now one week later. You have just attended at Bedford County Court for the on notice hearing of Tracey Walker's injunction application where you have succeeded in obtaining the orders sought. At court Tracey confirms that in accordance with her discussion with Jenny (detailed in **Document A**) she now wishes to proceed with a divorce. She does not want to await Jenny's return from holiday so she asks if you can prepare the divorce petition for her and address the financial questions that she asked Jenny (detailed in **Document A**).

- (a) Using the attached **Document D**, draft the divorce petition for Tracey.

Important: Write your candidate number clearly on Document D and attach it securely to your answer booklet.

(16 marks)

- (b) Advise which welfare benefits Tracey will be entitled to now that she is separated from Lee.

(5 marks)

- (c) Explain whether the Child Support Agency will have jurisdiction to assess child maintenance for Tracey. How will any maintenance received affect Tracey's receipt of welfare benefits?

(6 marks)

(Total: 27 marks)

Question 3

Reference: Question relates to **Documents 3 and 4** of the case study materials.

Annette Baker attends her appointment with you to review matters prior to the FDR appointment. She asks for your advice on the following issues:-

- (a) Annette remains concerned about Phil's threats to dissipate the matrimonial assets. Discuss what action you could take on her behalf to protect the realisable assets. Explain whether you would advise Annette to pursue an application to court in these circumstances.

(7 marks)

- (b) Annette has received a copy of Howard & Co.'s letter (**Document 4**) setting out Phil's offer to settle. Firstly, advise her specifically about the proposed Mesher and pensions attachment orders referred to in paragraphs 1 and 2 of the letter. Secondly, in relation to the child maintenance referred to in paragraph 4 of the letter, advise Annette as to whether this proposal is, in your view, fair and the implications of her agreeing to this should Phil then fail to pay.

You are not required to suggest any counter-proposals.

(13 marks)

- (c) Annette is also anxious to protect her financial position should she and Chris decide to move in together at a later date. What documents can you suggest which would help the couple as cohabitants?

(5 marks)

(Total: 25 marks)

Question 4

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

- (a) What steps will you consider before applying to court? If these steps prove unsuccessful, what initial application must you make on behalf of the Cohens? Considering the factors that the court will take into account, is it likely to succeed?

(10 marks)

- (b) If the Cohens' initial application succeeds, what section 8 order should the Cohens be advised to apply for? What factors will the court consider when deciding whether to make this order?

(14 marks)

(Total: 24 marks)

Turn over

Document A – to be used with Questions 1 and 2

(Attendance note re: Tracey Walker)

Client: Tracey Walker

Date: 16 June 2011

Fee earner: Jenny Morris

File ref: JCM/LR/W2401

Time taken: 1 hour

Attendance upon Tracey Walker who turned up at the office, without an appointment, at 5pm to hand in her notes of evidence.

Initially the client was a bit distracted. She told me that when she saw me this morning she was so upset about the incident last night that she completely forgot to ask me about starting divorce proceedings for her.

Tracey has found out that Lee's girlfriend, Nicola Jones, lives nearby and her children go to the school which Casey and Ethan are due to attend.

She is adamant that her marriage is at an end and she asked me whether I could advise her about her options.

Given the violence I did not consider it appropriate to discuss reconciliation or mediation. I confirmed that to obtain a divorce she must prove to the court that her marriage had irretrievably broken down. I told her the five facts which she could choose from to prove this. The client was adamant that she wanted to divorce Lee on the basis of his adultery with Nicola Jones. I explained the divorce procedure to her.

She is worried about what she is going to do for money now she is living apart from Lee. She does not work and only has £500 in savings in her own name. The couple do not have a joint bank account so she has no access to Lee's earnings or savings.

She wanted to know whether Lee would have to pay her child support and how this would be calculated. She estimates that he brings home about £250 per week after tax and national insurance. He does not pay into any pension scheme.

I obtained Tracey's signature to a Legal Help (CW1) Form in connection with the divorce.

She handed me the note of her evidence in connection with the incidents of domestic abuse. Please see draft statement (**Document B**) for the details. She also handed me her original marriage certificate [**Document A(i)**].

CERTIFIED COPY of an ENTRY OF MARRIAGE Pursuant to the Marriage Act 1949

Registration District of Clayton Marriage solemnized at St. Matthew's Church Parish of Clayton in the County of Barnardshire								
Columns:-	1	2	3	4	5	6	7	8
No.	When married	Name and surname	Age	Condition	Rank or profession	Residence at the time of marriage	Father's name and surname	Rank or profession of father
86	27 June 2005	Lee David Walker	20	Bachelor	Painter and Decorator	5 Cavendish Road, Clayton, Barnardshire	Leslie Walker	Builder
		Tracey Dawn Yates	20	Spinster	Shop Assistant	5 Cavendish Road, Clayton, Barnardshire	Stephen Michael Yates	Engineer
Married in the <i>Parish Church</i> according to the rites and ceremonies of the <i>Church of England</i> after <i>Banns</i> by <i>me</i>								
The marriage was solemnized between us <i>Lee David Walker</i> in the presence of <i>L. Walker</i> <i>Tracey Dawn Yates</i> of us <i>S.M. Yates</i>								

I *Gerald Beattie* Vicar of St Matthew's Church Clayton do hereby certify that this is a true copy of entry No. 86 in the Register Book of Marriages in the said Church.

WITNESS MY HAND this 27th day of June 2005

CAUTION: Any person who (i) falsifies any of the particulars on this certificate or (ii) uses a falsified certificate as true, knowingly or otherwise is liable to prosecution

**Document B – Draft Statement of Tracey Dawn Walker- to be
Question 1**

I Tracey Dawn Walker of 5 Cavendish Road, Clayton, Barnardshire will say:

I have known Lee David Walker since we were at school together. We were married on 27th June 2005.

We live at 5 Cavendish Road Clayton Barnardshire which is a private rented tenancy.

We are both 26 years old. We have two children, Casey Amy Walker (d.o.b. 15/09/07) and Ethan Michael Walker (d.o.b. 02/03/08)

I am unemployed. Lee is a self-employed painter and decorator. I have savings of £500 in my sole name. Lee has savings in his sole name which I estimate are worth £6,500 and he also has the tools of his trade.

About two years ago after our son Ethan was born Lee began criticising my appearance telling me that I'd let myself go and that I was fat and ugly. He would complain about the state of the house saying it was untidy and that I was lazy and a "useless wife".

By 2010 Lee was spending more and more time away from the house and I began to suspect that he was having an affair. At the end of April 2010 I confronted him about it and he initially denied it but eventually admitted that he had had an affair with another woman but he told me that it was now over. We had a heated argument and Lee punched me in the face giving me a black-eye. I was very shocked by Lee's violence and his admission and I moved out to my sister's home for a few days, taking the children with me.

After the incident Lee was very apologetic and begged me to return home, promising that it would not happen again and that he would be faithful. He bought me flowers and promised to take me away for a holiday. I returned home in early May 2010 and initially things did seem to improve. Lee seemed to be making a real effort although he didn't take me on holiday like he promised.

In about December last year Lee's business started to struggle and he began to be really moody and drank heavily when he got home. We rowed all of the time, usually about money and often these arguments would end in Lee hitting me. He knew how to hit me so that the bruising wasn't too obvious so he would hit me on my body. Recently I found out that Lee is continuing to have an affair with the same woman he was seeing in 2010. I'm worried that his violence is getting worse. Two weeks ago when we were arguing he pinned me against the wall and threatened me with a kitchen knife. I sustained cuts to my arms trying to fight him off.

Last night during a further argument about his affair with this woman, Nicola Jones, Lee lost control and began punching me repeatedly about the face and body. He shouted "You're a liability and I'd be better off without you". When I tried to get away from him by running upstairs he grabbed my legs and dragged me back down the stairs. He told me that if I told anyone I would "live to regret it".

This morning as soon as Lee left for work I got some of my and the children's belongings together and went to my sister's house. I'm really scared and I don't

Document C – Form FL401 to be used with Question 1(a)

Application for:
 a non-molestation order
 an occupation order

Family Law Act 1996 (Part IV)

The court

To be completed by the court

Date issued

Case number

Please read the accompanying notes as you complete this form.

1 About you (the applicant)

State your title (Mr, Mrs etc), full name, address, telephone number and date of birth (if under 18):

State your solicitor's name, address, reference, telephone, FAX and DX numbers:

2 About the respondent

State the respondent's name, address and date of birth (if known):

3 The Order(s) for which you are applying

This application is for:

- a non-molestation order
- an occupation order
- Tick this box if you wish the court to hear your application without notice being given to the respondent. The reasons relied on for an application being heard without notice must be stated in the statement in support.

**4 Your relationship to the respondent
(the person to be served with this
application)**

Your relationship to the respondent is:

(Please tick only one of the following)

- 1 Married
- 2 Civil Partners
- 3 Were married
- 4 Former civil partners
- 5 Cohabiting
- 6 Were cohabiting
- 7 Both of you live or have lived in the same
household
- 8 Relative
State how related:
- 9 Agreed to marry.
Give the date the agreement was made.
If the agreement has ended, state when.
- 10 Agreed to form a civil partnership.
Give the date the agreement was made.
If the agreement has ended, state when.
- 11 Both of you are parents of, or have parental
responsibility for, a child
- 12 One of you is a parent of a child and the other
has parental responsibility for that child

13 One of you is the natural parent or grandparent of a child adopted, placed or freed for adoption, and the other is:

- (i) the adoptive parent
- or (ii) a person who has applied for an adoption order for the child
- or (iii) a person with whom the child has been placed for adoption
- or (iv) the child who has been adopted, placed or freed for adoption.

State whether (i), (ii), (iii) or (iv):

14 Both of you are the parties to the same family proceedings (see also Section 11 below).

5 Application for a non-molestation order

If you wish to apply for a non-molestation order, state briefly in this section the order you want.

Give full details in support of your application in your supporting evidence.

6 Application for an occupation order

If you do not wish to apply for an occupation order, please go to section 9 of this form.

(A) State the address of the dwelling-house to which your application relates:

(B) State whether it is occupied by you or the respondent now or in the past, or whether it was intended to be occupied by you or the respondent:

(C) State whether you are entitled to occupy the dwelling-house: Yes No

If yes, explain why:

(D) State whether the respondent is entitled to occupy the dwelling-house: Yes No

If yes, explain why:

On the basis of your answers to (C) and (D) above, tick one of the boxes 1 to 6 below to show the category into which you fit

1 a spouse or civil partner who has home rights in the dwelling-house, or a person who is entitled to occupy it by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation.

If you tick box 1, state whether there is a dispute or pending proceedings between you and the respondent about your right to occupy the dwelling-house.

2 a former spouse or former civil partner with no existing right to occupy, where the respondent spouse or civil partner is so entitled.

3 a cohabitant or former cohabitant with no existing right to occupy, where the respondent cohabitant or former cohabitant is so entitled.

4 a spouse or former spouse who is not entitled to occupy, where the respondent spouse or former spouse is also not entitled.

5 a civil partner or former civil partner who is not entitled to occupy, where the respondent civil partner or former civil partner is also not entitled.

6 a cohabitant or former cohabitant who is not entitled to occupy, where the respondent cohabitant or former cohabitant is also not entitled.

Home Rights

If you do have home rights please:

State whether the title to the land is registered or unregistered (if known):

If registered, state the Land Registry title number (if known):

If you wish to apply for an occupation order, state briefly here the order you want. Give full details in support of your application in your supporting evidence:

7 Application for additional order(s) about the dwelling-house

If you want to apply for any of the orders listed in the notes to this section, state what order you would like the court to make:

8 Mortgage and rent

Is the dwelling-house subject to a mortgage?

Yes No

If yes, please provide the name and address of the mortgagee:

Is the dwelling-house rented?

Yes No

If yes, please provide the name and address of the landlord:

9 At the court

Will you need an interpreter at court?

Yes No

If yes, specify the language:

If you require an interpreter, you must notify the court immediately so that one can be arranged.

If you have a disability for which you require special assistance or special facilities, please state what your needs are. The court staff will get in touch with you about your requirements.

10 Other information

State the name and date of birth of any child living with or staying with, or likely to live with or stay with, you or the respondent:

State the name of any other person living in the same household as you and the respondent, and say why they live there:

11 Other Proceedings and Orders

If there are any other current family proceedings or orders in force involving you and the respondent, state the type of proceedings or orders, the court and the case number. This includes any application for an occupation order or non-molestation order against you by the respondent.

This application is to be served upon the respondent

Signed:

Date:

Application for non-molestation order or occupation order

Notes for guidance

Section 1

If you do not wish your address to be made known to the respondent, leave the space on the form blank and complete Confidential Address Form C8. The court can give you this form.

If you are under 18, someone over 18 must help you make this application. That person, who might be one of your parents, is called a 'next friend'.

If you are under 16, you need permission to make this application. You must apply to the High Court for permission, using this form. If the High Court gives you permission to make this application, it will then either hear the application itself or transfer it to a county court.

Section 3

An urgent order made by the court before the notice of the application is served on the respondent is called an ex-parte order. In deciding whether to make an ex-parte order the court will consider all the circumstances of the case, including:

- any risk of significant harm to the applicant or a relevant child, attributable to conduct of the respondent, if the order is not made immediately
- whether it is likely that the applicant will be deterred or prevented from pursuing the application if an order is not made immediately
- whether there is reason to believe that the respondent is aware of the proceedings but is deliberately evading service and that the applicant or a relevant child will be seriously prejudiced by the delay involved.

If the court makes an ex-parte order, it must give the respondent an opportunity to make representations about the order as soon as just and convenient at a full hearing.

'Harm' in relation to a person who has reached the age of 18 means ill-treatment or the impairment of health, and in relation to a child means ill-treatment or the impairment of health and development.

'Ill-treatment' includes forms of ill-treatment which are not physical and, in relation to a child, includes sexual abuse. The court will require evidence of any harm which you allege in support of your application.

Section 4

For you to be able to apply for an order you must be related to the respondent in one of the ways listed in this section of the form. If you are not related in one of these ways you should seek legal advice.

Cohabitants are two persons who, although not married to each other, nor civil partners of each other, are living together as husband and wife or civil partners. People who have cohabited, but have then married or formed a civil partnership will not fall within this category but will fall within the category of married people or people who are civil partners of each other.

Those who live or have lived in the same household do not include people who share the same household because one of them is the other's employee, tenant, lodger or boarder.

You will only be able to apply as a relative of the respondent if you are:

(A) the father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, grandmother, grandfather, grandson, granddaughter of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

(B) the brother, sister, uncle, aunt, niece, nephew or first cousin (whether of the full blood or of the half blood or by marriage or by civil partnership) of the respondent or of the respondent's spouse, former spouse, civil partner or former civil partner.

This includes, in relation to a person who is living or has lived with another person as husband and wife or as civil partners, any person who would fall within (A) or (B) if the parties were married to, or civil partners of, each other (for example, your cohabitee's father or brother).

Agreements to marry: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

evidence in writing

- or the gift of an engagement ring in contemplation of marriage
- or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Agreements to form a civil partnership: You will fall within this category only if you make this application within three years of the termination of the agreement. The court will require the following evidence of the agreement:

evidence in writing

- or a gift from one party to the agreement to the other as a token of the agreement
- or evidence that a ceremony has been entered into in the presence of one or more other persons assembled for the purpose of witnessing it.

Parents and parental responsibility:

You will fall within this category if

- both you and the respondent are either the parents of the child or have parental responsibility for that child
- or if one of you is the parent and the other has parental responsibility.

Section 4 continued

Under the Children Act 1989, parental responsibility is held automatically by a child's mother, and by the child's father if he and the mother were married to each other at the time of the child's birth or have married subsequently. Where, a child's father and mother are not married to each other at the time of the child's birth, the father may also acquire parental responsibility for that child, if he registers the birth after 1st December 2003, in accordance with section 4(1)(a) of the Children Act 1989. Where neither of these circumstances apply, the father, in accordance with the provisions of the Children Act 1989, can acquire parental responsibility.

From 30 December 2005, where a person who is not the child's parent ("the step-parent") is married to, or a civil partner of, a parent who has parental responsibility for that child, he or she may also acquire parental responsibility for the child in accordance with the provisions of the Children Act 1989.

From 1st September 2009, specific provision has been made in relation to parental responsibility in certain cases involving assisted reproduction. Parental responsibility is held automatically by a woman if—

- she and the child's mother were in a civil partnership with each other at the time of treatment unless that woman did not consent to the treatment; or
- she is a parent of the child by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 and subsequently enters into a civil partnership with the mother.

A woman who is a parent of the child by virtue of section 43 of the 2008 Act but who does not subsequently enter into a civil partnership with the mother may acquire parental responsibility in accordance with the provisions of section 4ZA of the Children Act 1989

Section 5

A non-molestation order can forbid the respondent from molesting you or a relevant child. Molestation can include, for example, violence, threats, pestering and other forms of harassment. The court can forbid particular acts of the respondent, molestation in general, or both.

Section 6

If you wish to apply for an occupation order but you are uncertain about your answer to any question in this part of the application form, you should seek legal advice.

(A) A dwelling-house includes any building or part of a building which is occupied as a dwelling; any caravan, houseboat or structure which is occupied as a dwelling; and any yard, garden, garage or outhouse belonging to it and occupied with it.

(C) & (D) The following questions give examples to help you to decide if you or the respondent, or both of you, are entitled to occupy the dwelling-house:

- Are you the sole legal owner of the dwelling-house?
- Are you and the respondent joint legal owners of the dwelling-house?
- Is the respondent the sole legal owner of the dwelling-house?
- Do you rent the dwelling-house as a sole tenant?
- Do you and the respondent rent the dwelling-house as joint tenants?
- Does the respondent rent the dwelling-house as a sole tenant?

If you answer

- **Yes** to (a), (b), (d) or (e) you are likely to be entitled to occupy the dwelling-house
- **Yes** to (c) or (f) you may not be entitled (unless, for example, you are a spouse or civil partner and have home rights – see notes under 'Home Rights' below)
- **Yes** to (b), (c), (e) or (f), the respondent is likely to be entitled to occupy the dwelling-house
- **Yes** to (a) or (d) the respondent may not be entitled (unless, for example, he or she is a spouse or civil partner and has home rights).

Box 1 For example, if you are sole owner, joint owner or if you rent the property. If you are not a spouse, former spouse, civil partner, former civil partner, cohabitant or former cohabitant of the respondent, you will only be able to apply for an occupation order if you fall within this category.

If you answer yes to this question, it will not be possible for a magistrates' court to deal with the application, unless the court decides that it is unnecessary for it to decide this question in order to deal with the application or make the order. If the court decides that it cannot deal with the application, it will transfer the application to a county court.

Box 2 For example, if the respondent is or was married to you, or if you and the respondent are or were civil partners, and he or she is sole owner or rents the property.

Box 3 For example, if the respondent is or was cohabiting with you and is sole owner or rents the property.

Home Rights

Where one spouse or civil partner "**(A)**" is entitled to occupy the dwelling-house by virtue of a beneficial estate or interest or contract or by virtue of any enactment giving him or her the right to remain in occupation, and the other spouse or civil partner "**(B)**" is not so entitled, then **B** (who is not entitled) has home rights.

The rights are

- if **B** is in occupation, not to be evicted or excluded from the dwelling-house except with the leave of the court; and
- if **B** is not in occupation, the right, with the leave of the court, to enter into and occupy the dwelling-house.

Section 6 (continued)

Note: Home Rights do not exist if the dwelling-house has never been, and was never intended to be, the matrimonial or civil partnership home of the two spouses or civil partners. If the marriage or civil partnership has come to an end, home rights will also have ceased, unless a court order has been made during the marriage or civil partnership for the rights to continue after the end of that relationship.

Occupation Orders

The possible orders are:

If you have ticked box 1 above, an order under section 33 of the Act may:

- enforce the applicant's entitlement to remain in occupation as against the respondent
- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both parties
- if the respondent is also entitled to occupy, the order may prohibit, suspend or restrict the exercise by him, of that right
- restrict or terminate any home rights of the respondent
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house
- declare that the applicant is entitled to occupy the dwelling-house or has home rights in it
- provide that the home rights of the applicant are not brought to an end by the death of the other spouse or civil partner or termination of the marriage or civil partnership.

If you have ticked box 2 or box 3 above, an order under section 35 or 36 of the Act may:

- give the applicant the right not to be evicted or excluded from the dwelling-house or any part of it by the respondent for a specified period
- prohibit the respondent from evicting or excluding the applicant during that period
- give the applicant the right to enter and occupy the dwelling-house for a specified period
- require the respondent to permit the exercise of that right
- regulate the occupation of the dwelling-house by either or both of the parties
- prohibit, suspend or restrict the exercise by the respondent of his right to occupy
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

If you have ticked box 4 or box 5 above, an order under section 37 or 38 of the Act may:

- require the respondent to permit the applicant to enter and remain in the dwelling-house or part of it
- regulate the occupation of the dwelling-house by either or both of the parties
- require the respondent to leave the dwelling-house or part of it
- exclude the respondent from a defined area around the dwelling-house.

You should provide any evidence which you have on the following matters in your evidence in support of this application. If necessary, further statements may be submitted after the application has been issued.

If you have ticked box 1, box 4 or box 5 above, the court will need any available evidence of the following:

- the housing needs and resources of you, the respondent and any relevant child
- the financial needs of you and the respondent
- the likely effect of any order, or any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise.

If you have ticked box 2 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the length of time that has elapsed since you and the respondent ceased to live together
- where you and the respondent were married, the length of time that has elapsed since the marriage was dissolved or annulled
- where you and the respondent were civil partners, the length of time that has elapsed since the dissolution or annulment of the civil partnership

Section 6 (continued)

- the existence of any pending proceedings between you and the respondent:
 - under section 23A of the Matrimonial Causes Act 1973 (property adjustment orders in connection with divorce proceedings etc.)
- or** under Part 2 of Schedule 5 to the Civil Partnership Act 2004 (property adjustment on or after dissolution, nullity or separation)
- or** under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 (orders for financial relief against parents)
- or** relating to the legal or beneficial ownership of the dwelling-house.

If you have ticked box 3 above, the court will need any available evidence of:

- the housing needs and resources of you, the respondent and any relevant child
- the financial resources of you and the respondent
- the likely effect of any order, or of any decision not to make an order, on the health, safety and well-being of you, the respondent and any relevant child
- the conduct of you and the respondent in relation to each other and otherwise
- the nature of your and the respondent's relationship
- the length of time during which you have lived together as husband and wife or civil partners
- whether you and the respondent have had any children, or have both had parental responsibility for any children
- the length of time that has elapsed since you and the respondent ceased to live together
- the existence of any pending proceedings between you and the respondent under Schedule 1 para 1(2)(d) or (e) of the Children Act 1989 or relating to the legal or beneficial ownership of the dwelling-house.

Section 7

Under section 40 of the Act the court may make the following additional orders when making an occupation order:

- impose on either party obligations as to the repair and maintenance of the dwelling-house
- impose on either party obligations as to the payment of rent, mortgage or other outgoings affecting it
- order a party occupying the dwelling-house to make periodical payments to the other party in respect of the accommodation, if the other party would (but for the order) be entitled to occupy it
- grant either party possession or use of furniture or other contents

- order either party to take reasonable care of any furniture or other contents
- order either party to take reasonable steps to keep the dwelling-house and any furniture or other contents secure.

Section 8

If the dwelling-house is rented or subject to a mortgage, the landlord or mortgagee must be served with notice of the proceedings in Form FL416. He or she will then be able to make representations to the court regarding the rent or mortgage.

Section 10

A person living in the same household may, for example, be a member of the family or a tenant or employee of you or the respondent.

Document D

Petition for Divorce – to be used with Question 2(a)

In the County Court*

*Delete as appropriate

In the Principal Registry* No.

Introduction

- 1. THIS PETITION IS ISSUED BY
- 2. THE OTHER PARTY TO THE MARRIAGE IS

- (1) On the day of was lawfully married to at
- (1a) Since the date of the marriage the name of the petitioner has not changed [has changed]
- (1b) The petitioner believes that since the date of the marriage the name of the respondent has not changed [has changed]
- (2) The petitioner and respondent last lived together as husband and wife at
- (3) The court has jurisdiction under Article 3(1) of the Council Regulation on the following ground(s):
- (4) The petitioner is by occupation and resides at
The respondent is by occupation and resides at
- (5) There are no children of the family now living *except*
- (6) No other child, now living, has been born to the petitioner/respondent-during the marriage (so far as is known to the petitioner) *except*

- (7) There are or have been no other proceedings in any court in England and Wales or elsewhere with reference to the marriage (or to any child of the *family*) or between the petitioner and respondent with reference to any property of either or both of them except
- (8) There are or have been no proceedings in the Child Support Agency with reference to the maintenance of any child of the family except
- (9) There are no proceedings continuing in any country outside England or Wales which are in respect of the marriage or are capable of affecting its validity or subsistence except
- (10) (This paragraph should be completed only if the petition is based on five years' separation.)
No agreement or arrangement has been made or is proposed to be made between the parties for the support of the petitioner/respondent (and any child of the family) except
- (11) The said marriage has broken down irretrievably.
- (12)

(13) **Particulars**

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2.1. PRAYER

The Petitioner therefore prays

(1) **The suit**

That the said marriage be dissolved

(2) **Costs**

That the _____ may be ordered to pay the costs of this suit

(3) **Ancillary relief**

That the petitioner may be granted the following ancillary relief:

- (a) an order for maintenance pending suit
- a periodical payments order
- a secured provision order
- a lump sum order
- a property adjustment order
- an 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

2.1.1. SIGNED

The names and addresses of the persons to be served with the petition are:

Respondent:

Co-Respondent (adultery case only):

The Petitioner's address for service is:

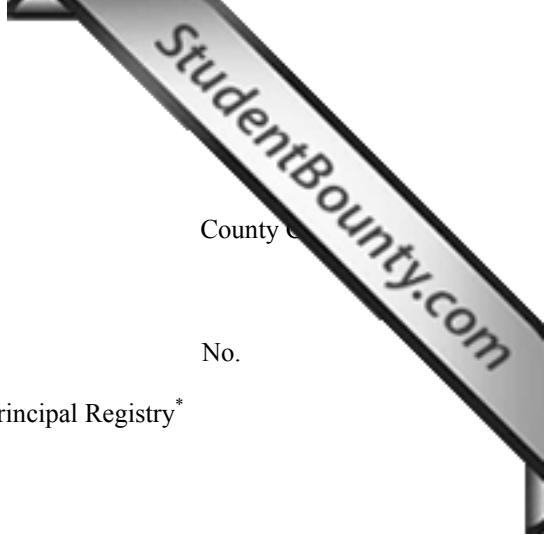
3. DATED THIS

DAY OF

20

Address all communications for the court to: The Court Manager, County Court,
The Court } May House 29 Goldington Road, Bedford, Bedfordshire, MK40 3NN
office at }

is open from 10 a.m. to 4 p.m. (4.30 p.m. at the Principal Registry of the Family Division) on Mondays to Fridays.



In the

County of

*Delete as appropriate

No.

In the Principal Registry*

Between

Petitioner

and

Respondent

3.1.1.1. DIVORCE PETITION

Full name and address of the petitioner or of solicitors if they are acting for the petitioner.

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