



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 12 – THE 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 this question paper fully.** However, you may make notes on this question 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 ballpoint 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

Question 1

Reference: This question relates to **Documents 1 and 2** of the case study materials and **Document A** at the end of this question paper.

- (a) Advise Cristina how she can establish the ground for a divorce. **(5 marks)**

After obtaining your advice, Cristina has instructed you to commence divorce proceedings.

- (b) Your supervising lawyer, Kasha Patel, has instructed you to complete the following parts of the application (**Document A**): **Parts 1, 2, 5 and 6 only**.

IMPORTANT: Write your candidate number clearly in the space provided on Document A and attach this whole question paper securely to the inside of your answer booklet.
(10 marks)

- (c) Identify the documents that will need to be filed with the court, together with the divorce application, in order to issue divorce proceedings. **(2 marks)**

- (d) Advise Cristina what Aleksander will need to do when he is served with the divorce documentation by the court. **(3 marks)**

(Total: 20 marks)

Question 2

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

- (a) Explain the orders available to deal with the family home and advise on the most appropriate order in this case. **(7 marks)**

- (b) Advise Cristina of **two** other financial orders she could apply for. **(4 marks)**

- (c) Explain **two** factors contained in s.25(2) Matrimonial Causes Act 1973 which the court would consider in this case. **(6 marks)**

- (d) Explain the purpose of:

- (i) the First Appointment; **(3 marks)**

- (ii) the Financial Dispute Resolution Appointment. **(3 marks)**

(Total: 23 marks)

Question 3

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

- (a) Advise Julie what a non-molestation order is and why she should apply for one.
(4 marks)
- (b) Explain the factors that a court must take into account when deciding whether to make a non-molestation order in Julie's case.
(4 marks)
- (c) Advise Julie why she should apply for an occupation order.
(4 marks)
- (d) Advise Julie why it would be appropriate to make the application without giving notice to Nick.
(3 marks)
- (Total: 15 marks)**

Question 4

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

- (a) (i) Define parental responsibility.
(2 marks)
- (ii) Advise Isaac whether he has parental responsibility for Sami.
(3 marks)
- (b) Advise Isaac which order he should apply for to ensure that he continues to have contact with Sami.
(3 marks)
- (c) Describe **four** matters that will be considered at a first hearing dispute resolution appointment following an application for an order in this case.
(4 marks)
- (Total: 12 marks)**

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Candidate Number:.....

Document A

To be used with question 1(b). Only complete parts 1, 2, 5 and 6

IMPORTANT: Write your candidate number clearly in the space provided above and attach this whole question paper securely to the inside of your answer booklet.

**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	
Fee charged/ Remission ID	

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 (D8Notes) for guidance on how to complete this 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 this 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 on how to complete this section

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.

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

See the supporting notes for guidance on how to complete this section

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 how to complete this section

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 on how to complete this section

The Respondent and I last lived together as spouses 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

or

The Marriage (Same Sex Couples)(Jurisdiction and Recognition of Judgments) Regulations 2014

on the following grounds

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

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 Marriage (Same Sex Couples) (Jurisdiction and Recognition of Judgments) Regulations 2014 or under the Civil Partnership (Jurisdiction and Recognition of Judgments) Regulations 2005 on the basis that no court has, or is recognised as having jurisdiction as set out in these regulations, and

either:

the Petitioner 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 or in, the case of a same sex couple, married each other under the law of England and Wales and it would be in the interests of justice for the court to assume jurisdiction in this case.

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Part 4 Other proceedings or arrangements

See the supporting notes for guidance on how to complete this section

- 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
 - the Respondent
 - 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 on how to complete this section

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) (only conduct between the respondent and a person of the opposite sex may constitute adultery for this purpose)
- 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 on how to complete this section

(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 on how to complete this section

If you cannot agree arrangements for your children, you can make an application under the Children Act 1989. Please see leaflets CB1 Children and the family courts and CB7 Guidance for separated parents: Children and the family courts.

Children of the family		Over 16 but under 18 and in education, training or working full time	(a) Child of both parties	(b) Other child of the family
	Date of birth (or state if over 18)			
Child 1	DD/MM/YYYY <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 2	DD/MM/YYYY <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 3	DD/MM/YYYY <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 4	DD/MM/YYYY <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 5	DD/MM/YYYY <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child 6	DD/MM/YYYY <input type="text"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Part 8 Special assistance or facilities if you attend court

See the supporting notes for guidance on how to complete this section

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

- Yes (please supply details below) No

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Part 9 Service details

See the supporting notes for guidance on how to complete this section

- 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, who has signed Part 10, 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			
Name of firm			
Address to which all documents should be sent for service: Postcode <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Telephone no.		
	Fax no.		
	DX no.		
	Your ref.		
	Fee account no.		
E-mail			

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"/>
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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"/> <input type="text"/>

Box 4 Co-Respondent's details, if any

(please see the Guidance Notes for this form on the need to name the correspondent)

- 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"/>

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Part 10

See the supporting notes for guidance on how to complete this section

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/outcome
 - periodical payments order
 - secured provision order
 - lump sum order
 - property adjustment order
 - order under section 24B, 25B or 25C of the Matrimonial Causes Act of 1973/paragraph 15, 25 or 26 of Schedule 5 to the Civil Partnership Act of 2004 (Pension Sharing/Attachment Order) or section 25F or section 21B of the 1973 Act or paragraph 19B or paragraph 34A of the 2004 Act (Pension Compensation Sharing/Attachment Orders)
- (b) For the children
- a periodical payments order
 - a secured provision order
 - a lump sum order
 - a property adjustment order

Signed

Petitioner [s Solicitor]

Dated //