

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 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 3 CERTIFICATE IN LAW AND**

Question 1

Reference: Question 1 relates to **Document 1** of the case study material.

You continue to attend Donna Burke in the office. You are required to explain the following points to her:

- (a) Explain why Donna and her children qualify to make an application for a non-molestation order under the Family Law Act 1996.

(2 marks)
- (b) Explain the procedure for obtaining and effecting without notice non-molestation and occupation orders.

(10 marks)
- (c)
 - (i) Explain the criteria for attaching a power of arrest to a without notice occupation order.

(4 marks)
 - (ii) Explain the criteria for attaching a power of arrest to a with notice occupation order and conclude whether the court will grant such an order in this case.

(4 marks)

(Total: 20 marks)

Question 2

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

Attachment: **Document A (Petition for Divorce)**.

- (a) After the domestic violence application Donna instructs you to issue divorce proceedings. Your supervising solicitor, Kasha Patel instructs you to complete the divorce petition (**Document A**). As she has already completed parts of the form, you need only complete those areas she has left blank for you.

(10 marks)

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

You attend Donna Burke in the office so that she can check the divorce petition and sign it.

- (b) State what you will be required to file with the court in order to issue divorce proceedings in this case.

(5 marks)

(Total: 15 marks)

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Question 3

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

You continue to attend Dinesh Choudray in the office. You are required to explain the following points to him:

- (a) Explain when simultaneous exchange of completed Form E's should take place.
(1 mark)
- (b) Identify any **three** documents that must be filed with the court 14 days before the First Appointment in the ancillary relief proceedings.
(3 marks)
- (c) Discuss the possible orders that the court could make in respect of the matrimonial home in this case.
(6 marks)
- (d) State the name of the public/state funding scheme that Dinesh has been granted to pursue a claim for ancillary relief.
(1 mark)
- (e) Explain briefly whether it is possible for Dinesh to obtain money for child maintenance other than by court proceedings.
(2 marks)
- (f) State the nature and effect of the Certificate of Decree Nisi.
(3 marks)

(Total: 16 marks)

Question 4

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

You continue to attend Victor Coleman in the office. You are required to explain the following points which are of concern to him:

- (a) State the definition of 'parental responsibility' and explain the day-to-day legal implications for Victor if this is obtained in respect of Charlotte.

(5 marks)

- (b) Explain why Victor does not automatically have parental responsibility in respect of Charlotte.

(1 mark)

- (c) Explain the appropriate methods available to Victor to attain parental responsibility in respect of Charlotte.

(2 marks)

- (d) Identify the form that Victor will need to complete in order to issue a contact application.

(1 mark)

- (e) Discuss how any **five** points on the welfare checklist may be applied by the court in this case.

(10 marks)

(Total: 19 marks)

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Candidate number:

DOCUMENT A
Petition for divorce – to be used with question 2(a)

Before completing this form, read carefully the attached **Notes for Guidance**.

In the Kempston County Court*

*Delete as appropriate

~~In the Principal Registry*~~ _____ ~~No.~~

Introduction

This petition is issued by *(1 mark)*

The other party to the marriage is *(1 mark)*

(1) On _____ day of _____
was lawfully married to *(1 mark)*

At _____ *(1 mark)*

(1 mark)

(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

Lakeside House, Manor Drive, Kempston East.

(3) The court has jurisdiction under Article 3(1) of the Council Regulation on
the following ground(s):

The petitioner and respondent are both domiciled in England and Wales

- (4) The petitioner is by occupation a housewife and resides at Lakeside Manor Drive, Kempston East.

The respondent is by occupation a professional golfer and resides at Oak Tree Farm, Thornbury, Bedford

- (5) There are no children of the family now living except

(2 marks)

- (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) The respondent has behaved in such a way that the petitioner cannot reasonably be expected to live with the respondent.

(13) **Particulars**

1.

2.

3.

(3 marks)

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

Signed

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

Respondent: **DO NOT COMPLETE**

Co-Respondent (adultery case only):

Dated this

day of

20

Address all communications for the court to: The Court Manager, County Court,
The Court }

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.

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