

Unit 12



Title:	The Practice of Family law
Level:	3
Credit Value:	7

Learning outcomes	Assessment criteria	Knowledge, understanding and skills
The learner will:	The learner can:	
1 Understand the requirements for the termination of a marriage	<p>1.1 Explain the way in which undefended divorce is initiated</p> <p>1.2 Explain the way in which undefended divorce proceedings are conducted</p> <p>1.3 Identify the requirements of undefended divorce where children are involved</p>	<p>1.1 Ground for divorce; the facts that have to be established; documents required for commencement of proceedings; the petition; certificate with regard to reconciliation and application for exemption from fees; procedures on issue of the petition and service on the respondent, including the acknowledgment of service; consequences of a respondent filing an answer; serving the petition to co-respondents and the right to file an answer</p> <p>1.2 The special procedure; contents of the affidavit in support; the nature and effect of the district judge's certificate and of the decree nisi; the respondent's right to apply for decree absolute; relevant details of Access to Justice Act 1999 and the (Funding) Order Community Legal Services Regulations; assistance from public funds; methods of application for both divorce proceedings and ancillary relief</p> <p>1.3 Three main principles of the Children's Act 1989; the content of Statement Arrangements document for children; the role of the district judge in considering the evidence for the</p>

	<p>1.4 Apply an understanding of the process of divorce to a given situation</p>	<p>divorce and the arrangements for the children; the district judge's options if unsatisfied with proposed arrangements; possible orders that may be made under s.8 Children's Act 1989</p> <p>1.4 Completing a divorce petition (part-completed); application to a scenario</p>
<p>2 Understand the consequences of terminating a relationship</p>	<p>2.1 Compare and contrast the consequences of ending a marriage, a civil partnership, a cohabitation</p> <p>2.2 Describe ancillary relief procedure in overview from issue to final hearing</p> <p>2.3 Explain the orders available and identify their appropriate use</p> <p>2.4 Explain the factors the court will take into account in making an order for ancillary relief</p>	<p>2.1 In outline only: the legal formalities and consequences for finance, probate etc; cohabitation and TOLATA implied trusts</p> <p>2.2 In outline only: applications and typical directions/ timelines requirement for mediation, duty of full and frank disclosure, costs and funding</p> <p>2.3 Order and use for each of the following: maintenance pending suit, lump sum, periodical payments, clean break, transfer, settlement, sale, pensions</p> <p>2.4 Principles which govern the exercise of the court's discretion; s.25 Matrimonial Causes Act (MCA) 1973; first consideration to the welfare of minor children; income, earning capacity, property and other financial resources; financial needs, obligations and responsibilities; standard of living; age of the parties and duration of the marriage; physical or mental disability of either party; contribution made by each party to the marriage; conduct of the parties; value of any benefit; pension orders; s.166 Pensions Act 1999; the reasonable needs of the parties and the children of the family, <i>Conran v Conran (1997)</i>; <i>White v White (2000)</i>; <i>Cowan v Cowan (2001)</i>; <i>Lambert v Lambert (2002)</i>; <i>Parra v Parra (2002)</i>; <i>McFarlane v McFarlane (2004)</i>; <i>Parlour v Parlour (2004)</i>;</p>

	<p>2.5 Describe the financial provision for children on the breakdown of a relationship</p> <p>2.6 Apply an understanding of the consequences of termination of a relationship to a given situation</p>	<p>'clean break' provisions; Consent Order can be varied or discharged; prenuptial agreements</p> <p>2.5 An outline of provision for children re financial orders including awareness of CSA or any body established in its place to similarly deal with financial provision by an absent parent and schedule 1 of the Children Act 1989, as well as the Child Support Acts 1991 & 1995 or any legislation which amends or replaces it</p> <p>2.6 Application to a scenario</p>
<p>3 Understand the remedies available in cases of domestic violence</p>	<p>3.1 Explain the role of the police as the first point of contact in the event of domestic violence</p> <p>3.2 Explain the orders available in the event of domestic violence and how these are used</p> <p>3.3 Explain the procedure used to apply for these orders</p> <p>3.4 Outline the methods of enforcement at the court's disposal</p> <p>3.5 Apply an understanding of the remedies available in cases of domestic violence to a given situation</p>	<p>3.1 The priority given by the police to domestic incidents; the increase in matters being dealt with through criminal proceedings; bail conditions and preventing the respondent from returning home/molesting victim rather than injunctions; using this as an alternative to applying for injunctions</p> <p>3.2 Definitions of non-molestation and occupation orders; the relevant statutory provisions, ss33-41 & 42 Family Law Act; their uses</p> <p>3.3 An outline of on notice/ex parte applications, what they mean, their format and venue; which order the application relates to and which factors will apply; balance of harm test; public funding, its availability</p> <p>3.4 In outline only: the court has powers of enforcement e.g. power of arrest; when these powers may be used</p> <p>3.5 Application to a scenario</p>

<p>4. Have a working knowledge of the private law aspects of the Children Act 1989</p>	<p>4.1 Identify the orders available, who may apply and when they are appropriate</p> <p>4.2 Explain the procedure for obtaining a section 8 order</p> <p>4.3 Explain the overall intent of the Act</p> <p>4.4 Apply an understanding of the private law aspects of the Children Act to a given situation</p>	<p>4.1 Parental responsibility (s.3(1)); welfare checklist; s.8 orders: residence, contact, prohibited steps, specific issue; who may apply with and without leave: s.10(4); who is entitled to apply for any section 8 order: parent/ guardian, person with residence; s.10(5), those entitled to apply for residence or contact orders: party to marriage where this is a child of the family, child has lived with for 3 years or more or with consent of those with residence, local authority or all with parental responsibility as appropriate in circumstances</p> <p>4.2 Section 8 order can be made in Family Proceedings Court under DPMCA 1978 as well as in county court; procedure: staged application consisting of first appointment, finding of fact, final hearing; C1 application for order, C2 for existing proceedings; who must be informed; the role of CAFCASS and the mediation service looking after child's interests in court proceedings and trying to reach agreement without court intervention; public funding, means and merits test</p> <p>4.3 Welfare, no delay and no order principles; s.1(1) Children Act 1989: "the child's welfare is the court's paramount consideration", welfare checklist is applied; the "no order" principle, section 1 (5) of the CA; ethos of act; requirement for practitioners to consider before application and court to consider throughout proceedings; impact of HRA 1998</p> <p>4.4 Application to a scenario</p>
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Additional information about the unit	
Unit aim(s)	The learner will understand key concepts, terms and processes in the practice of Family Law
Unit expiry date	31 December 2010
Details of the relationship between the unit and relevant national occupational standards (if appropriate)	This unit may provide relevant underpinning knowledge and understanding towards units of the Legal Advice standards; specifically, Unit 63 First Line Family Law Advice and Unit 64 Family Law Advice and Casework
Details of the relationship between the unit and other standards or curricula (if appropriate)	Courses of study leading towards the achievement of the unit may offer the learner the opportunity to satisfy requirements across a number of Level 3 Key Skill areas; most specifically, Communication, Improving own learning and performance, Problem solving and Working with others
Assessment requirements specified by a sector or regulatory body (if appropriate)	Na
Endorsement of the unit by a sector or other appropriate body (if required)	Na
Location of the unit within the subject/sector classification	15.5 Law and Legal Services
Name of the organisation submitting the unit	ILEX (Institute of Legal Executives)
Availability for use	Only available to owning awarding body
Availability for delivery	1 September 2008