

Family Precedents

There are 270+ precedents included in LexisPSL Family as at 31 March 2009 from Butterworths Family Law Service, including many written by our Professional Support Lawyers.

Pre-action

First interview

- Schedule of outgoing
- Client instruction sheet
- Divorce procedure—explanatory leaflet
- Client care/retainer letter
- Notice of Severance of a jointly held property

Jurisdiction EU

- Originating summons for financial relief after overseas divorce, annulment, legal separation or dissolution of a civil partnership order
- Affidavit in support of originating summons for financial relief after overseas divorce, annulment or legal separation
- Notice of proceedings and acknowledgement of service of originating summons in proceedings for financial relief after overseas divorce, annulment, legal separation or dissolution of a civil partnership order
- Affidavit in support of originating summons for leave to apply for financial relief after overseas divorce, annulment or legal separation or dissolution of a civil partnership order
- Originating summons for order to prevent a transaction intended to defeat prospective application for financial relief after overseas divorce, annulment or legal separation
- Affidavit in support of originating summons for order to prevent a transaction intended to defeat prospective application for financial relief after overseas divorce, annulment or legal separation

Emergency procedures

- Application to restrain disposal of assets
- Affidavit in support of application to restrain disposal of assets
- Injunction to restrain disposal of assets
- Order on undertaking being given not to dispose of assets
- Application for an avoidance of disposition order
- Affidavit in support of an application for an application of disposition order
- Injunction prohibiting disposal of assets worldwide
- Order to allow entry and search of premises

Relationship breakdown

Marriage and civil partnership

- Notice of application to a divorce county court
- Notice of application to the Principal Registry in a cause treated as pending in a divorce county court
- Summons to a High Court district judge

- Summons to a High Court judge
- High Court order: general form: Principal Registry
- High Court order: general form: District Registry
- Petition for declaration as to marital status: FLA 1986, s 55
- Petition for declaration of marital status: one party being dead
- Petition for declaration as to the validity of a foreign divorce
- Affidavit in support of petition for declaration as to marital status
- Petition for declaration of parentage (combined with an application for a declaration as to the validity of the petitioner's parents' marriage) under FLA 1986, ss 55, 56

Nullity

- Establishing jurisdiction under Council Regulation (EC) 1347/2000, Art 2
- Originating application for leave to present a nullity petition more than three years after marriage
- Affidavit in support of application for leave to file a nullity petition more than three years after marriage
- Nullity petition: general form
- Grounds for nullity petition: void marriage
- Grounds for nullity petition: voidable marriage
- Answer to petition for nullity: incapacity: cross-prayer on ground of incapacity
- Alternative defences in nullity: voidable marriages
- Application on affidavit for leave to omit address from petition
- Order giving leave to omit address from petition
- Summons to strike out answer or prayer of answer
- Application for appointment of medical inspector in nullity proceedings
- Order appointing medical inspectors
- Notice of arrangements for medical inspection
- Statement as to identity of party to be medically examined
- Affidavit of personal service
- Affidavit of service by post, document exchange, delivery or fax
- Affidavit of service on mental patient
- Application for leave to dispense with service or further service or for an order for substituted service
- Affidavit in support of application for leave to dispense with further service
- Affidavit supporting application to dispense with service of petition on respondent
- Affidavit application for an order for substituted service
- Order for substituted service by advertisement
- Draft advertisement

Divorce and judicial separation

- Petition for divorce or judicial separation: general form
- Specimen particulars relating to children for inclusion in divorce or judicial separation petition
- Specimen particulars of previous proceedings for inclusion in a divorce or judicial separation petition
- Specimen particulars of adultery
- Specimen particulars of intolerable behaviour
- Specimen particulars of two years' separation and consent
- Specimen particulars of five years' separation



- Supplemental petition alleging further instances of behaviour after the filing of the petition and the birth of another child of the family
- Supplemental petition alleging adultery
- Application for leave to file a supplemental petition
- Affidavit supporting application for leave to file supplemental petition
- Affidavit in support of application to file a further petition
- Order giving leave to file a further petition Particulars of previous divorce proceedings to be included in a further petition
- Affidavit in support of application to lift a stay imposed on the giving of leave to file a further petition
- Answer to divorce petition: admission of breakdown: cross- prayer
- Answer by husband to petition for divorce or judicial separation
- Answer by husband to petition for divorce or judicial separation: denial of jurisdiction or breakdown
- Answer by wife to petition for divorce or judicial separation: denial of a breakdown
- Answer by wife to petition for divorce: five years' separation: grave hardship
- Co-Respondent's answer to petition: denial of adultery
- Co-Respondent's answer to petition: admission of adultery: defence as to costs
- Reply to answer: wife's reply to husband's answer which contained cross-prayer for dissolution on allegation of behaviour
- Application for leave to amend petition]
- Affidavit in support of application for leave to amend petition
- Request for further and better particulars of the petition
- Further and better particulars of the petition
- Application to dismiss petition
- Affidavit in support of application to dismiss petition
- Summons to stay prayer of petition and proceed on prayer of answer
- Order for leave to proceed on petition or answer
- Order for consolidation
- Notice of discontinuance
- Notice of abatement
- Application for leave to file a schedule of unreasonable behaviour
- Scott schedule of allegations of unreasonable behaviour
- Application for leave to file answer out of time
- Affidavit in support of application for leave to file answer out of time
- Order giving leave to file answer out of time
- Notice of withdrawal of consent to a decree of dissolution: MCA 1973, s 1(2)(d)
- Application for a stay under DMPA 1973, Sch 1, para 8
- Affidavit in support of application for a stay under DMPA 1973, Sch 1, para 8
- Application for a stay under DMPA 1973, Sch 1, para 9
- Affidavit in support of application for a stay under DMPA 1973, Sch 1, para 9
- Summons for leave to file a rejoinder
- Rejoinder
- Notice or summons for trial of an issue
- Order for directions for trial of an issue
- Specimen form of issue
- Order on issue as to jurisdiction
- Order for trial of issue as to whether child is child of the family on application for ancillary relief
- Issue as to whether child is child of the family
- Notice of desired place of trial of defended cause

- Statement acknowledging receipt of notice of desired place of trial
- Summons for directions for venue
- Request for directions for trial: defended cause
- Request for directions for trial: undefended cause not proceeding in special procedure list
- Notice of setting down in High Court list
- Notice of setting down in county court list to be heard at the Royal Courts of Justice
- Application to set aside district judge's certificate in special procedure case
- Application to set aside decree nisi and for rehearing
- Affidavit in support of application to set aside decree nisi
- Application to rescind decree nisi on reconciliation
- Affidavit in support of application to rescind decree nisi on reconciliation
- Application to abridge time for decree absolute
- Affidavit in support of application to abridge time for making decree absolute
- Application to judge or district judge to make decree absolute more than 12 months after pronouncement of decree nisi
- Affidavit in support of application to make decree absolute more than 12 months after pronouncement of decree nisi
- Application to make decree absolute: by party against whom decree nisi pronounced
- Affidavit in support of application to make decree absolute by party against whom obtained
- Order for exchange of witness statements
- Application for order for examination of witness out of court
- Order for examination of witness out of court: High Court]
- Application for evidence to be given on affidavit
- Affidavit in support of application for leave to give evidence on affidavit
- Order for evidence to be given on affidavit
- Notice of application for appointment of a special examiner
- Affidavit in support of application for appointment of an examiner
- Order on application to appoint special examiner
- Summons for appointment of special examiner to take evidence out of the jurisdiction with variation for issue of letter of request
- Affidavit supporting application for appointment of special examiner or issue of letter of request
- Order for appointment of special examiner
- Solicitor's undertaking as to expenses in respect of letter of request
- Consent of next friend or guardian ad litem to act
- Certificate of fitness of next friend or guardian ad litem
- Order assigning guardian ad litem to act for respondent
- Notice endorsed in document to be served on person under disability
- Affidavit acknowledging service of petition on mental patient

Cohabitants

Property rights

- Claim form (Part 8): trustee refusing to exercise powers
- Order for an application where trustees refuse to exercise powers
- Witness statement in support of claim for rent and order for sale
- Married Women's Property Act 1882 originating summons (High Court) or originating application (county court)
- Married Women's Property Act 1882 application affidavit in support
- Married Women's Property Act 1882 application—affidavit in reply

- Married Women's Property Act 1882 application—order for directions
- Summons for injunction under Married Women's Property Act 1882 (High Court)
- Summons for injunction under Married Women's Property Act 1882 (County court)
- Affidavit in support of application for injunction under Married Women's Property Act 1882
- Injunction in Married Women's Property Act 1882 proceedings

Special cases practice and procedure

Disclosure

- Notice of application or summons for a production appointment
- Affidavit supporting application for a production appointment order
- Production appointment order
- Notice to produce documents
- Notice as to production of documents
- Notice of allegation in proceedings for ancillary relief

Appeals

- Notice of appeal from district judge: High Court
- Notice of appeal from district judge: county court
- Notice of application for rehearing where no error of the court is alleged
- Affidavit in support of application for rehearing where no error of the court is alleged

Financial provision

Applications for financial provision

- Typical directions
- Originating application on ground of failure to maintain
- Affidavit in support of originating summons for alteration of maintenance agreement after death of one of the parties: Matrimonial Causes Act 1973, s 36 / Part 9 of Schedule 5 to the Civil Partnership Act 2004
- Affidavit in support of an application under Matrimonial Causes Act 1973, s 27 / Part 9 of Schedule 5 to the Civil Partnership Act 2004
- Affidavit by respondent to an application under Matrimonial Causes Act 1973, s 27 / Part 9 of Schedule 5 to the Civil Partnership Act 2004 where the respondent is challenging the jurisdiction of the court
- Affidavit in answer to an application under Matrimonial Causes Act 1973, s 27 / Part 9 of Schedule 5 to the Civil Partnership Act 2004
- Suggested precedent of letter to client in relation to appointment to discuss discovery of documents (to be adapted as appropriate)
- Discovery: list of documents
- Summons for specific discovery
- Affidavit in support of a summons for specific discovery
- Affidavit verifying list of documents relating to means
- Letter from applicant's solicitors to a mortgagee enclosing, by way of service, notice of application for a property adjustment order in relation to the mortgaged property together with copy of affidavit in support
- A letter written under the principles in *Calderbank v Calderbank*

Spousal periodical payments

- Precedent of a maintenance agreement by way of deed
- Originating application for alteration of maintenance agreement during parties' lifetime
- Affidavit in support of originating application for alteration of maintenance agreement during the parties' lifetime under Matrimonial Causes Act 1973, s 35 / Civil Partnership Act 2004, Sch 5, para 69
- Originating summons for alteration of maintenance agreement after the death of one of the parties
- Order for periodical payments
- Order dismissing periodical payments and preventing further applications
- Order for deferred clean break—including s 28(1A) direction
- Order for deferred clean break—extendable on application
- Secured periodical payments order
- Maintenance order to increase by Retail Price Index
- Discharge of magistrates court order made under the Domestic Proceedings and Magistrates Court Act 1978
- Leave to enforce arrears

Periodical payments for children

- Written agreement for the purpose of giving the court jurisdiction to make a maintenance order under the CSA 1991, s 8(5)
- Child maintenance order
- Global interim maintenance order with pro tanto reduction to take account of Child Support Act Assessment (Segal order)
- Undertaking to pay school fees
- Child periodical payments
- School fees order Lump sum orders
- Order for the payment of a lump sum
- Order for the payment of lump sum by instalments with interest being paid until payment made

Property adjustment orders

- Recital recording sale of matrimonial home
- Undertaking to discharge mortgage and for
- Undertaking to discharge all outgoings and for indemnity
- Property transfer order
- Order for sale of property
- Deferred trust for sale—Mesher order
- Deferred trust for sale—Martin order
- Property adjustment order subject to a charge-back
- Property adjustment order subject to a transferable charge-back

Pensions and insurance

- Recital as to agreed shares of proceeds of surrendered life policies
- Undertaking to maintain insurance policies
- Undertaking to take out an assurance policy
- Undertaking to take out term insurance
- Undertaking to assign the benefit of a policy
- Deferred lump sum order from pension (directed to the Respondent)
- Deferred lump sum order against pension trustees
- Order to commute pension

Consent orders

- Recital that order satisfies all claims
- Recital as to division of chattels
- Undertaking to discharge all outgoings and for indemnity
- Undertaking to indemnify in respect of tax demands
- Undertaking to indemnify against Capital Gains Tax liability
- Undertaking to indemnify in respect of joint liability
- Undertaking as to sharing costs of repairs
- Undertaking to notify changes in financial circumstances

Enforcement

Methods of enforcement

- Attachment of earnings order
- Summons to High Court for attachment of earnings order
- Charging order absolute
- Charging order nisi (notice to show cause)
- Affidavit in support of an application for a charging order
- Garnishee order absolute
- Garnishee order to show cause (High Court)
- Affidavit in support of application for garnishee order
- Notice of method of payment (indorsed on the reverse of the garnishee order absolute)

