



**CILEX Level 3 Certificate in Law and Practice/  
CILEX Level 3 Professional Diploma in Law and Practice**

**Unit 14 – Probate Practice**

**Question paper**

**November 2023**

**Time allowed: 1 hour and 45 minutes (includes 15 minutes reading time)**

**Instructions and information**

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- You must answer **all** questions.
- This question paper is out of 70 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to use your own printed copy of the pre-release case study materials, as long as the materials are not annotated in any way. Alternatively, you can access the electronic version of the pre-release case study materials available in the examination.
- You are allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- A basic calculator is provided should you require the use of one.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

***Turn over***

**Answer ALL questions**

**Question 1**

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

(a) Explain why Colin does not appear to have the mental capacity to make a Will using the tests contained in:

(i) Banks v Goodfellow (1870);

**(5 marks)**

(ii) the Mental Capacity Act 2005.

**(7 marks)**

(b) Kerrie Haymes has asked you to set out the current position regarding Colin's Will.

(i) Explain to Kerry Haymes why the 1995 Will is no longer valid.

**(2 marks)**

(ii) Explain to Kerry Haymes how Colin's estate would be distributed on his death if the current circumstances do not change.

**(8 marks)**

**(10 marks)**

**ADDITIONAL INFORMATION**

Dexter has telephoned Kerrie Haymes to talk about his father's Will. He is very concerned that he and his brother, Ewan, will not receive what his father intended.

Dexter has told Kerrie Haymes that, a year or so ago, Colin had told Dexter and Ewan that he would be leaving his estate to them equally and that Abigail had sufficient funds to support herself without needing anything from him. Dexter feels that this should be legally binding and demanded that Kerrie Haymes draft a Will in these terms and arrange for Colin to sign it without any further delay.

(c) Explain the reasons why Kerrie Haymes cannot draft a Will for Colin in the way that Dexter has requested.

**(5 marks)**

**(Total: 27 marks)**

## Question 2

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

- (a) Identify which Inheritance Tax form should be sent to HMRC in this estate and explain why this is the appropriate form.

**(6 marks)**

- (b) Identify the type of grant of representation appropriate in this estate and explain who is entitled to apply for it.

**(7 marks)**

The Grant of Representation has now been obtained.

- (c) Identify **six** of the steps you will need to take to complete the administration of Remmy's estate.

**(6 marks)**

**(Total: 19 marks)**

## Question 3

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

- (a) Explain the potential consequences of the lifetime gifts made by Hardeep to Imogen, Jasper and Leonie.

**PLEASE NOTE:** you do not need to provide a mathematical calculation unless this will help you to illustrate your answer.

**(8 marks)**

Kerrie Haymes asks you to assist in the preparation of the Will.

- (b) Draft the clause disposing of the residuary estate.

**(5 marks)**

- (c) Describe the precautions that should be taken in relation to Hardeep's daughter, Sian, given that he does not intend to include her in his Will.

**(3 marks)**

The draft Will has been sent to Hardeep for his approval. He has contacted Kerrie Haymes and asked if it would be possible to have the Will sent to him for signature as he is very busy at work and does not know when he will have the time to come in to sign it. Instead, he would like to take his Will with him to work, where some of his colleagues have agreed to act as witnesses.

Kerrie Haymes asks you to help with a letter setting out clear instructions on how to sign the Will.

- (d) Draft the **contents only** of this letter.

**(8 marks)**

**(Total: 24 marks)**

**End of the examination**

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