



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 14 – PROBATE PRACTICE*

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

- (a) You have examined Jessica's 2014 Will and concluded that it is not valid.
- (i) Identify the legal formalities for validly executing a Will. **(7 marks)**
 - (ii) Explain why Jessica's Will is not valid. **(1 mark)**
- (b) Given that Jessica's Will is not valid, explain how her estate will be distributed and why it will be distributed in that way. **(10 marks)**

Additional information

Monica has instructed you to proceed with the administration of Jessica's estate. Monica tells you that she has been contacted by a local garage, explaining that they carried out some work on Jessica's sports car two months ago but have not been paid. Monica is worried that Jessica may have other debts that Monica does not know about.

- (c) Explain what Monica should do, in order to protect herself from such unknown liabilities and why.

(7 marks)

(Total: 25 marks)

Question 2

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

Mr Hooper has prepared a letter to Aisha's doctor, Dr Molloy, requesting a report on Aisha's testamentary capacity.

To assist Dr Molloy, draft a note to accompany Mr Hooper's letter, setting out and explaining the following tests:

(a) the common law test in Banks v Goodfellow (1870); **(6 marks)**

(b) the statutory test in the Mental Capacity Act 2005. **(6 marks)**

Dr Molloy telephones to say that Aisha has the capacity to make a Will, and that she will confirm this in writing over the next few days.

Mr Hooper asks you to assist with the preparation of a draft Will.

(c) Draft the clause for the appointment of Kempstons Solicitors as executors. **(7 marks)**

Additional information

Aisha's god-daughter, Saima, has telephoned Mr Hooper. She says that Aisha inherited Fahad's gold pocket watch when he died. Saima believes that Fahad would have wanted the gold pocket watch to be passed to her on Aisha's death. Saima has asked Mr Hooper whether it is possible to include a paragraph in Aisha's Will, leaving a gift of the gold pocket watch to Saima.

(d) Explain whether, when preparing Aisha's Will, you are able to include this gift, based on Saima's request. **(6 marks)**

(Total: 25 marks)

Question 3

Reference: Question relates to **Documents 4 and 5** of the case study materials.

Assume, for the purpose of this question, that Betty's Will is valid.

(a) Identify which is the appropriate Inheritance Tax form to send to HMRC in relation to Betty's estate, and explain why this is the case.

(8 marks)

(b) Identify which grant of representation is appropriate in relation to Betty's estate, and explain who is entitled to apply for it.

(7 marks)

(c) Identify what you will need to submit to the Probate Registry in order to apply for the grant of representation in relation to Betty's estate.

(5 marks)

(Total: 20 marks)

End of Examination Paper