



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 21 – PROBATE PRACTICE\*

**Time allowed: 3 hours 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 may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Property Law 2017-2018, 25th edition. Meryl Thomas, Oxford University Press, 2017.**
- 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 following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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## Question 1

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

- (a) Write a briefing note for Mr Rose, setting out matters that he will have to consider when advising Joshua and Gloria on the types of grant of representation, which may be relevant in relation to David's estate and the practical steps involved in applying for a grant of representation.

**(14 marks)**

- (b) Write a briefing note for Mr Rose, explaining how any jointly owned assets will devolve in this scenario, and how the assets in David's estate that are the subject of specific bequests will be distributed, on the assumption that the Will is valid.

**(8 marks)**

- (c) Gloria has now supplied a list of additional assets owned by David (**Document A**). Write a briefing note for Mr Rose, explaining how the value of David's residuary estate will be calculated. You should also include in your briefing note advice on who is entitled to the assets that fall into David's residuary estate.

**NOTE: You should assume that there are no other debts of the estate. Ignore inheritance tax for the purposes of this question.**

**(8 marks)**

**(Total: 30 marks)**

**Turn over**

## Question 2

Reference: Question relates to **Documents 3, 4 and 5** of the case study materials.

- (a) Write a briefing note for Mr Rose, explaining the matters he will need to address when advising Jimmy on how Thomas' estate will be distributed.

**NOTE: Ignore inheritance tax for the purposes of this question.**

**(11 marks)**

The next day, Jimmy delivers to your firm his father's third testamentary document (**Document B**). He confirms that the amendments to that document are in his father's handwriting.

- (b) Explain whether there would be any problems with the alterations made to the Will by this document with regard to the pecuniary legacies. In the light of your explanation, calculate the value of Thomas' residuary estate.

**(11 marks)**

- (c) Write a briefing note for Mr Rose, setting out the matters he will need to address when advising Jimmy on how Christiana's estate will be distributed.

**NOTE: Ignore inheritance tax for the purposes of this question.**

**(6 marks)**

**(Total: 28 marks)**

### Question 3

Reference: Question relates to **Document 6** of the case study materials.

- (a) Write a briefing note for Mr Rose, explaining the relevant categories of assets that will be exempt from IHT on Katherine's death, and calculate how much inheritance tax will be payable on Katherine's estate.

**(13 marks)**

- (b) Write a briefing note for Mr Rose, explaining Helen's powers and responsibilities in relation to the renewal of the building's insurance on Rob's house.

**(7 marks)**

**(Total: 20 marks)**

**NOTE:** The current nil band rate is **£325,000** and the nil band rate at the time of Unwin's death was **£118,000**.

### Question 4

Reference: Question relates to **Document 7** of the case study materials.

- (a) Write a briefing note for Mr Rose, explaining how Dawn's estate will be distributed under the intestacy rules.

**(5 marks)**

- (b) Write a briefing note for Mr Rose, explaining how inheritance tax liability is calculated with regard to the gift to Paul.

**(5 marks)**

- (c) Write a briefing note for Mr Rose, explaining:

- the steps required in calculating the inheritance tax, if any, that will be payable on Dawn's estate;
- where the burden of any such tax falls; and
- how much Paul would receive under his entitlement on the intestacy.

**(12 marks)**

**(Total: 22 marks)**

**Turn over**

## **DOCUMENT A**

### **To be used with Question 1(c)**

Enquiries have discovered that David Hussey deceased held the following additional assets:

1. A business current account with Natwest bank. The bank balance at the date of death is £4,000.
2. A business current account with HSBC bank. The bank balance at the date of death including unpaid interest is £20,800.
3. Quoted stocks and shares worth £700,000.
4. An unpaid retirement pension for the period up to the date of death totalling £900.

All assets are held in David's sole name, save for those previously identified as being held in joint names.

## DOCUMENT B

### To be used with Questions 2(b) and 2(c)

I THOMAS PLATT of 3 Kirkwood Park Hull HU99 0QW, DECLARE this to be a SECOND CODICIL to my Will dated 10<sup>th</sup> August 1999 ('my Will').

1. I GIVE to my son Jimmy Platt all my interest in the property known as The Boathouse free of all duties and taxes.

2. I GIVE the following legacies free of all duties and taxes;

- a. my BMW 1 Series 2007 car to my daughter Sarah Platt
- b. to my friend Patricia White of 13 Staple Close, Manchester ~~£1000~~
- c. to my neighbour Ada Miles of 5 Kirkwood Park, Hull [REDACTED] £200
- d. to my friend Anthony Sykes of 23 Hornsea Avenue, Hull £ [REDACTED] 90

3. In all other respects I confirm the provisions of my Will and the First Codicil thereto dated 6 September 2017.

IN WITNESS whereof I have hereunto set my hand this Tenth day of October 2017

Signed by the above-named THOMAS PLATT )  
as his last Will in the presence of us )  
both present at the same time who at his request in his )  
presence and in the presence of each other have ) Thomas Platt  
hereunto subscribed our names as witnesses: )

*Eugene Davis*

9 Kentish Street  
The Grove  
Hull  
Painter

*Jess Parker*

20 Kentish Street  
The Grove  
Hull  
Chef

I give £10,000 to my son Jimmy Platt if he does not relocate to the US.

Signed: Thomas Platt 11/10/2017

**End of Examination Paper**

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