



## 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**

**BLANK PAGE**

## Question 1

Reference: Question relates to **Document 1** of the case study materials.

- (a) Richard is concerned that there could be a challenge to the validity of Gregory's Will. Write a briefing note for Mr Paul, setting out the matters that he will have to consider when advising Richard on whether there may be grounds for a challenge to Gregory's Will.

**(12 marks)**

- (b) Assume that Gregory's Will is valid. Write a briefing note for Mr Paul explaining, by reference to the relevant statutory provisions, whether or not each of the persons mentioned in Document 1 might be in a position to make a claim for a reasonable share of Gregory's estate and the reasons for this. Explain when any such claim should be made.

**(8 marks)**

**(Total: 20 marks)**

## Question 2

Reference: Question relates to **Documents 2 and 3** of the case study materials.

- (a) Explain the purpose of an Oath.

**(5 marks)**

- (b) Identify the relevant information required to complete the Oath for Executors in relation to Freddy's estate.

**(12 marks)**

The next day, Dean delivers to your firm some further information about Freddy's assets and a note in Freddy's handwriting (**Document A, attached**). The note was found with a Codicil to Freddy's Will, which Dean also delivers to the office (**Document B, attached**).

- (c) Explain all issues that there may be with the Codicil.

**(8 marks)**

- (d) In the light of your explanation in 2(c), calculate the value of Freddy's **residuary** estate.

**(5 marks)**

**(Total: 30 marks)**

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

**Turn over**

### Question 3

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

(a) Write a briefing note of advice for Mr Paul, explaining:

- who is entitled to Tom's estate;
- any assets that do not fall into Tom's estate;
- the nature of the entitlements;
- the amount which each beneficiary will or may take.

**(15 marks)**

**NOTE: Ignore inheritance tax for the purposes of part (a) of this question.**

(b) Write a briefing note of advice for Mr Paul, explaining:

- what a lifetime chargeable transfer (LCT) is;
- the effect of death on inheritance tax in relation to LCTs.

**(5 marks)**

**(Total: 20 marks)**

### Question 4

Reference: Question relates to **Documents 5 and 6** of the case study materials.

(a) Write a briefing note for Mr Paul, explaining the validity of Kamila's Will and any issues that may arise in that regard.

**(8 marks)**

(b) Write a briefing note for Mr Paul, explaining how Kamila's estate will be distributed, and calculate the value of the residuary estate.

**(15 marks)**

**NOTE: Assume for part (b) that Kamila's Will is valid and that there are no debts of the deceased.**

(c) Calculate the inheritance tax liability on the death of Kamila.

**(7 marks)**

**(Total: 30 marks)**

## DOCUMENT A

### (To be used with Question 2)

List of Freddy Baker's assets:

1. The house at 3 Albert Street Hull HU5 2JB, valued at £280,000.
2. A business current account with HSBC bank. The bank balance at the date of death is £25,000.
3. A personal current account with HSBC bank. The bank balance at the date of death is £3,200.
4. A deposit account with HSBC bank. The balance at date of death (to include unpaid interest) is £11,800.
5. Personal possessions valued at:

	£
a. An antique vase	1,000
b. A BMW car	10,000
c. A collection of medieval weapons	3,000
d. Music tapes and CDs	100

All assets are held in Freddy's sole name.

A note in Freddy's handwriting, found with the first codicil (**Document B**), reads as follows:

*"I am bit concerned whether changes made to my will are valid. Dean said it was okay to ask Sean from next door to be a witness of the first codicil even though Sean was a bit drunk. Also, Sean is registered blind."*

**Turn over**

**DOCUMENT B**

**(To be used with Question 2)**

I FREDDY BAKER of 3 Albert Street Hull HU5 2JB DECLARE this to be a FIRST CODICIL to my Will dated 6<sup>th</sup> November 2004 ('my Will')

1. I GIVE to my brother Dean Baker all my interest in the property known as 3 Albert Street Hull HU5 2JB free of all duties and taxes
2. I GIVE £5000 to each of the people to be named in a list, which I will write before my death
3. In all other respects I confirm the contents of my Will

IN WITNESS whereof I have hereunto set my hand to this Codicil

Signed by the above-named FREDDY BAKER )  
as his First Codicil 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 ) **Freddy Baker**  
hereunto subscribed our names as witnesses: )

*Dean Baker*

*3 Selby Street*

*Hull*

*HU4 7SW*

*Painter and Decorator*

*Sean Keyes*

*5 Albert Street*

*Hull*

*HU5 2JB*

*Chef*

**End of Examination Paper**

**BLANK PAGE**

**BLANK PAGE**