



## 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.

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

- (a) Identify the type of legacy contained in clause 4 of the Will **and** explain whether or not it will take effect.

**(4 marks)**

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

**(10 marks)**

- (c) Identify which is the appropriate IHT form to send to HMRC in relation to Mari's estate **and** explain why this is the case.

**(8 marks)**

The appropriate grant of representation has now been obtained.

- (d) Identify any **six** steps which will need to be taken in order to complete the administration of Mari's estate.

**(6 marks)**

**(Total: 28 marks)**

## Question 2

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

Mr Hooper has prepared a letter to Sofia's doctor, Dr Evans, requesting a report on Sofia's testamentary capacity. To assist Dr Evans, 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 Evans telephones to say that she is confident that Sofia 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. **(6 marks)**

### **Additional information**

Sofia's sister Luciana has telephoned Mr Hooper. She says that Sofia inherited their father's collection of gold sovereigns. Luciana believes that her father would have wanted the collection to be passed to her sons on Sofia's death. Luciana has asked Mr Hooper to include a paragraph in Sofia's Will leaving the sovereigns to her two sons, Mateo and Rafael.

- (d) Explain whether, when preparing Sofia's Will, you are able to include such a gift. **(5 marks)**

**(Total: 23 marks)**

**Turn over**

### Question 3

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

(a) You have examined Ralph's 2010 Will and concluded that it is not valid. Explain your reasons.

**(4 marks)**

(b) Given that the Will is not valid, explain:

(i) how Ralph's estate will be distributed;

**(9 marks)**

(ii) why will it be distributed in this way.

**(3 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 Ralph's estate.

**(3 marks)**

**(Total: 19 marks)**

**End of Examination Paper**