



## 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) Identify the type of legacy contained in clause 3 of Brian's Will **and** explain whether or not the legacy will take effect.

**(5 marks)**

(b) Identify which grant is appropriate in this case **and** explain who is entitled to apply for it.

**(8 marks)**

(c) Explain the inheritance tax consequences of the gifts made by Brian during his lifetime.

**Note to candidates:** You do **not** need to provide a mathematical calculation, unless this will help you to illustrate your answer.

**(9 marks)**

The administration of the estate is proceeding well and you now have valuations of all assets and liabilities.

(d) Explain what you need to submit to HMRC, before you can apply for the grant of representation.

**(8 marks)**

**(Total: 30 marks)**

## Question 2

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

Mr Andrews has concerns about Morag's mental capacity. He has prepared a letter to request a report from Morag's GP, Dr McGregor. To assist Dr McGregor, draft a note to accompany Mr Andrew's letter, setting out and explaining the following tests:

- (a) The common law test in *Banks v Goodfellow* (1870); and *(6 marks)*
- (b) The statutory test in the Mental Capacity Act 2005. ***(5 marks)***

Dr McGregor has confirmed that Morag has the capacity to make a Will. Mr Andrews asks you to assist with the preparation of a draft Will.

- (c) Draft the clause for the gift to the British Heart Foundation. ***(6 marks)***

Since Morag is going to Scotland soon, she has asked Mr Andrews to post the Will to her to sign. Mr Andrews has asked you to help with a letter setting out clear instructions on how to sign the Will.

- (d) Draft the **contents only** of this letter. ***(10 marks)***
- (Total: 27 marks)***

## Question 3

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

Mr Matthews has asked for advice as to the position regarding Emily's Will.

- (a) Explain why the 2010 Will is no longer valid. ***(3 marks)***
- (b) Given that the 2010 Will is not valid, explain how Emily's estate will be distributed and why. ***(10 marks)***

***(Total: 13 marks)***

**End of Examination Paper**

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