



## 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) Mr Thatcher has asked you to advise him as to the position regarding Samantha's Will. Draft the contents **only** of a memo to Mr Thatcher, explaining:

(i) why the Will is no longer valid;

**(2 marks)**

(ii) how Samantha's estate will be distributed.

**(6 marks)**

(b) Identify which inheritance tax form should be sent to HM Revenue & Customs in this estate **and** explain why this is the appropriate form to send.

**(8 marks)**

(c) Explain why a grant of letters of administration is appropriate in this case **and** explain who is entitled to apply for it.

**(6 marks)**

(d) The grant of letters of administration has now been obtained.

Identify **six** of the steps you will need to take to complete the administration of Samantha's estate.

**(6 marks)**

**(Total: 28 marks)**

## Question 2

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

(a) In the light of the notes made by Mr Hooper from his meeting with Kabir Sidhu (**Document 4**); explain why Kabir may not have mental capacity to make a Will by applying the tests in:

(i) *Banks v Goodfellow* (1870);

**(6 marks)**

(ii) the Mental Capacity Act 2005.

**(7 marks)**

### Additional Information

Jamil, Avani's husband, has telephoned Mr Hooper. He explains that his father-in-law has been admitted to hospital after a fall at home yesterday. He says that when their son Vijay was born four years ago, Kabir was delighted and told Jamil and Avani that he was going to leave everything to his new grandson. Jamil says that both he and Avani were witnesses to this statement and he wants Kabir's word to be honoured. Jamil is insisting that Mr Hooper draft the Will on the terms outlined to him by Avani when she attended the office. Jamil says that he can then take the Will to the hospital for Kabir to sign.

(b) Explain why you cannot write a Will for Kabir in the way that Jamil has asked.

**(5 marks)**

**(Total: 18 marks)**

**Turn over**

### Question 3

Reference: Question relates to **Document 5** of the case study materials.

- (a) Outline the potential inheritance tax consequences of the lifetime gifts made by Harold for his estate.

You do **not** need to provide a mathematical calculation unless you think that this will help to illustrate your answer.

**(9 marks)**

- (b) Mr Hooper has asked you to assist with the preparation of Harold's Will.

Identify the key points that should be included in the clause appointing the executors in the Will.

**(6 marks)**

- (c) Since Harold is going away soon, he has asked Mr Hooper to post the Will to him to sign. Mr Hooper has asked you to help with a letter setting out clear instructions on how to sign the Will.

Draft the contents **only** of this letter.

**(9 marks)**

**(Total: 24 marks)**

**End of Examination Paper**