

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 the question paper fully.** However, you may make notes on the 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 ILEX 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 ball point 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 ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND**

Question 1

Estate of Tom Matlock

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

- (a) Draft the **contents only** of a letter to Sandra Matlock setting out what she is entitled to receive from Tom's estate. Calculations are **not** required.
(8 marks)
- (b) (i) What type of grant of representation is appropriate here and why?
(2 marks)
- (ii) Explain, giving reasons, who can apply for this grant.
(5 marks)
- (c) Which assets shown in the attendance note (**Document 1**) will you need to include in the form IHT 400 or supplementary schedules?
(6 marks)
- (d) Sandra tells you that she has been reading a booklet from the Citizens' Advice Bureau which mentions 'statutory notices'. Explain what these are and whether they are necessary in Tom's estate.
(5 marks)

(Total: 26 marks)

Question 2

Malcolm Burgess' new will

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

Additional information

You have received a telephone call from Malcolm's carer, Lucy, who tells you that Malcolm is becoming increasingly confused, even forgetting his own name on more than one occasion.

In view of this information, Mr Hooper is concerned about Malcolm's testamentary capacity and decides to write to his doctor, Dr Tennison, to ask for his opinion on whether Malcolm is able to give instructions for a will.

- (a) Mr Hooper has prepared the letter to Dr Tennison. He asks you to set out in an explanatory note the common and statutory law to help Dr Tennison understand what is required of him when assessing Malcolm's capacity.

Draft the explanatory note you would send with this letter.

(10 marks)

- (b) Apart from Malcolm's mental capacity, identify what other potential problems you would need to consider.

(4 marks)

- (c) You have now heard from Dr Tennison who has provided a favourable report on Malcolm's testamentary capacity. Mr Hooper has met Malcolm at the hospital and is happy with the instructions contained in his letter of 17 January (**Document 3** of the case study materials).

Mr Hooper has asked you to help him to draft the will.

Draft the clauses containing the gifts to Lucy and Terry **only**.

You do **not** need to draft the entire will.

(6 marks)

(Total: 20 marks)

Question 3

Bernard Wilkinson's will

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

- (a) Explain whether or not Bernard has validly executed his will.

(8 marks)

- (b) Bernard has now telephoned you to say it has occurred to him that one of the witnesses to his will, Andrea Boticelli, is in fact the wife of one of the beneficiaries, Colin Fraser. It is not obvious as, despite having been married for ten years, Andrea has kept her maiden name, but he wonders if it might appear a little suspicious.

Explain whether, and if so how, this affects Bernard's will.

(6 marks)

- (c) Bernard has made an appointment to see Mr Hooper to obtain some advice on his likely inheritance tax liability. Mr Hooper has asked you to help him prepare for this meeting.

Draft a memorandum to Mr Hooper explaining Bernard's current inheritance tax position.

You do **not** need to provide mathematical calculations unless this will help you to illustrate your answer.

(10 marks)

(Total: 24 marks)

End of Examination Paper