

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 PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

Question 1

Andre Theroux's will

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

- (a) Explain why you should deal with Andre's instructions promptly and to whom you owe a professional duty of care.

(6 marks)

- (b) You realise that you will need further information and instructions from Andre before you can draft his will. List **four** of the questions you might ask him about his instructions and in each case explain briefly why you need this further information. Do **not** consider administrative clauses at this stage.

(8 marks)

- (c) In view of Andre's concerns about Wayne, Mr Hooper has suggested that any gift to Belinda should be as a life interest.

Draft the **contents only** of a letter to Andre explaining what Mr Hooper means by a life interest and how it will help in this case.

(7 marks)

- (d) Having received further instructions from Andre, you have now drafted a will which Andre has approved. He is not able to come into the office to sign before he leaves the country so Mr Hooper has asked you to send the will to Andre to sign at home.

Draft an instruction sheet to enclose with the will, setting out how Andre should sign his will to ensure it complies with legal formalities.

(9 marks)

(Total: 30 marks)

Question 2

Sonia Angela Clarke's Estate

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

Attachment: **Document A (Oath for Administrators) – pages 5 and 6 of this question paper.**

(a) How will Sonia's estate be distributed?

(7 marks)

(b) Carolyn has agreed that she will apply for the grant of letters of administration on her own. Complete the oath for administrators for her to swear. (**Document A**). Some parts have been completed for you.

Important: Write your candidate number clearly on Document A and attach it securely to your answer booklet.

(9 marks)

(c) Identify and list everything you will need to submit to HM Revenue and Customs before you can apply for the grant of representation.

(4 marks)

(d) The administration is almost at an end. Identify **four** sources of income that will need to be included in the administration income tax return in Sonia's estate.

(4 marks)

(Total: 24 marks)

Question 3

Victor Treble's will

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

- (a) Victor would like some advice on his likely inheritance tax liability. Mr Hooper has asked you to help him with this.

Draft the **contents only** of a memorandum to Mr Hooper setting out Victor's current inheritance tax position based on the information and instruction contained in Victor's letter. You should **not** provide a mathematical calculation unless this will help you to illustrate your answer.

(8 marks)

- (b) Following Victor's instructions, draft an appropriate clause dealing with the appointment of his chosen executors.

(4 marks)

- (c) Given Victor's blindness, what extra steps will you need to take on execution of his will to ensure that it has been validly executed.

(4 marks)

(Total: 16 marks)

DOCUMENT A

Candidate Number:



OATH FOR ADMINISTRATORS
To be used with question 2(b)

Oath for Administrators

Extracting Solicitor KEMPSTONS

Address MANOR HOUSE, BEDFORD, MK42 7AB

IN THE HIGH COURT OF JUSTICE

DX 23452 BEDFORD

Family Division

The* DISTRICT PROBATE

Registry AT BEDFORD

**Principal* or *District Probate*. If *District Probate* add *at-----*.

†If necessary to include alias of deceased in grant, add *otherwise (alias name)* and state below which is true name and reason for requiring alias.

IN the Estate of† Sonia Angela Clarke

deceased,

(1)

make Oath and say (2) that† Sonia Angela Clarke of 33 The Lane, Oundle MK44 5TY

deceased,

who was born on the (3) 7 day of January 1949

and died on the 5 day of May 2011

aged (4) 62 years domiciled in (5)

intestate (6)

(7) [or] any other

person entitled in priority to share in h estate by virtue of any enactment and that (8) minority (8) life interest arises under the intestacy; and that to the best of knowledge, information and belief there was (9) [no] land vested in the said deceased which was settled previously to h death and which remained settled land notwithstanding h death (10)

And (1) further make Oath and say (2) that (11) the (12)

of the said Intestate,

and that (1) will (i) collect, get in and administer according to law the real and personal estate (13) of the said deceased; (ii) when required to do so by the Court, exhibit in the Court a full inventory of the said estate (13) and when so required render an account thereof to the Court; and (iii) when required to do so by the High Court, deliver up the grant of letters of administration to that Court; and that to the best of knowledge, information and belief

(17) [the gross estate passing under the grant amounts to £ 1,204,384 and the net estate amounts to £ 1,174,500].

(18) [the gross estate passing under the grant amounts to (19) £ and the net estate amounts to (20) £ and that this is not a case in which an Inland Revenue Account is required to be delivered]

(1) 'I' or 'We'. Insert the full name, place of residence and occupation or, if none, description of the deponent(s). State the post code of the deponent(s) and deceased's place of residence, if known.

(2) or *do so solemnly and sincerely affirm*.

(3) This should be the date of birth as shown in the Register of Deaths.

(4) If exact age is unknown, give best estimate.

(5) Where there are separate legal divisions in one country, the state, province, etc., should be stated.

(6) Here give the status of deceased: *a spinster*, *a widower*, etc., and where necessary clear off the classes entitled in order of priority to applicant, e.g., *without issue or parent*.

(7) The words which follow clear illegitimate, legitimated and adopted children and should be deleted if application made by surviving spouse (unless in the special circumstances it is necessary to clear issue) or a child. If appropriate substitute *without for *or*.

(8) Complete both blanks. When either such interest arises two grantees may be required unless a trust corporation is applying.

(9) Delete *no*, if there was land vested in deceased which remained settled land notwithstanding his death.

(10) If there was settled land such land may no longer be included in the scope of the grant.

(11) *I am* or *we are*.

(12) Show applicant's title, e.g., *brother of the whole blood and one of the persons entitled to share in the estate*.

(13) If there was settled land and the grant is to include it, insert *including settled land*, but, if the grant is to exclude the settled land, insert *save and except settled land*.

(14) Complete this paragraph only if the deceased died on or after 1 April 1981 and an Inland Revenue Account is not required; the next paragraphs should be deleted.

(15) The amount to be inserted here should be in accordance with the relevant figure shown in paragraph 1 of the PEP List.

(16) The amount to be inserted here should be the net value of the estate, rounded up to the next whole thousand.

(17) Complete this paragraph only if an Inland Revenue Account is required and delete the previous and following paragraphs.

(18) Complete this paragraph only if the estate qualifies under paragraph 2 of the PEP list and delete the previous two paragraphs.

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