

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

Reference: Question relates to **Documents 1 and 2** of the case study materials.

Will of Mr Alpha Bah

- (a) Explain why you are not prepared to proceed with Mr Bah's new will on the basis of the instructions contained in the letter of 3 January.

(3 marks)

- (b) Given Tom Wilberforce's concerns that Mr Bah seems a "little confused", Mr Hooper has decided to ask Mr Bah's doctor, Dr Patience, for his opinion on Mr Bah's testamentary capacity. Mr Hooper has prepared the letter to Dr Patience. He asks you to set out in an explanatory note the common and statutory law to help Dr Patience understand what is required of him when assessing Mr Bah's capacity.

Draft the explanatory note you would send with this letter.

(10 marks)

- (c) Having received a favourable report from Dr Patience, Mr Hooper is happy for you to visit Mr Bah to take instructions for his new will. During this meeting you will need to confirm that the instructions contained in Mrs Unwin's letter are correct. There is also further information you will need from Mr Bah to prepare his new will.

Prepare a checklist covering this additional information.

(8 marks)

(Total: 21 marks)

Question 2

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

Estate of Mrs Sara le Chat

- (a) Explain how inheritance tax will be calculated on this estate.

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

(10 marks)

- (b) Identify the type of legacy left to Denise in clause 3(b) of the will and explain how this will take effect.

(5 marks)

- (c) Following their meeting, Henry has telephoned Mr Hooper to tell him that he has received news that Charles was killed in a road accident in Bhutan on 27 December 2011.

Explain how the residue of this estate will be divided.

(9 marks)

- (d) What type of grant of representation is appropriate here and who should apply?

(6 marks)

(Total: 30 marks)

Question 3

Reference: Question relates to **Documents 5 and 6** of the case study materials.

Estate of Mr Marvin Gayle

Following Mr Gayle's letter of the 2 December 2011 (**Document 5**) he was involved in a serious car accident and died later in hospital on 2 January 2012. You have been assisting Mr Hooper with the administration of Mr Gayle's estate and, having received sufficient information about the assets and debts, you are about to prepare the inheritance tax account IHT 400.

- (a) Mr Hooper has received a letter from solicitors acting for Mr Gayle's brother, Peter, which states that they have advised Peter that his brother's will (**Document 6**) is not valid because:

- (i) it has been witnessed by one of the beneficiaries; and
- (ii) there is no attestation clause.

Explain whether or not these points have any bearing on the **validity** of the will.

(7 marks)

- (b) Explain which of the assets Mr Gayle has listed in his letter you will need to include in the form IHT 400 or supplementary schedules.

(7 marks)

- (c) Mr Hooper is concerned that Kempstons may not have full details of Mr Gayle's finances and asks you to arrange for statutory notices under s25 Trustee Act 1925 to be published.

Explain what these notices are, and why they are important in this case.

(5 marks)

(Total: 19 marks)

End of Examination Paper