



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 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 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 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 CILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

Question 1

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

- (a) Following his meeting with Mr Hooper, John Travers has telephoned asking him to set out in writing how his wife's estate will be distributed as he cannot remember all the details.

Draft the contents only of a letter to John Travers explaining:

- (i) what John will receive from the estate (you do not need to calculate precise values), and

(10 marks)

- (ii) what other members of the family will receive from the estate.

(5 marks)

- (b) The administration of the estate is proceeding well and you have prepared the oath for administrators for John and his daughter Cora to swear. Having read through the oath you have sent to her, Cora has called you to ask what is meant by the term 'a minority interest arises'.

Explain to her what this means and why it is included in the oath in this case.

(3 marks)

- (c) What do you need to submit to HM Revenue and Customs before you can apply for the grant of representation?

(5 marks)

- (d) John and Violet ran their respective finances separately and John is worried that there may be additional debts in his wife's estate of which he is unaware.

What should he and Cora do to protect themselves from such unknown debts and why?

(6 marks)

(Total: 29 marks)

Question 2

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

- (a) Given that Dominik can be a little forgetful, Mr Hooper wishes to check his capacity to make a will. He has asked Dominik's doctor, Dr Kline, for his opinion on Dominik's testamentary capacity.

Dr Kline has telephoned to say that he fully understands the provisions of the Mental Capacity Act 2005, but is not as familiar with the case of Banks v Goodfellow which he has been told by a colleague is of relevance too.

Draft a note for Dr Kline setting out and explaining this common law test.

(7 marks)

- (b) Dr Kline has now confirmed that he is happy with Dominik's capacity to make a will. In addition, Dominik has decided to follow Mr Hooper's advice and leave his residuary estate to his sister Elisa as a life interest, before it passes to his daughter Freja. Mr Hooper now asks you to help prepare the will.

Draft the following clauses for Dominik's will:

- (i) The residuary gift to Elisa and Freja;

(4 marks)

- (ii) An appropriate attestation clause.

(4 marks)

- (c) Dominik has now approved his draft will and you have prepared a final copy for him to sign.

In preparation for attending Dominik to sign this will at his home, prepare a checklist covering the steps you need to follow in this case to ensure the will is validly executed.

(8 marks)

(Total: 23 marks)

Question 3

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

- (a) Mr Hooper has asked you to help him prepare for a meeting with Fiona Murray about her new will. Given the size of her estate, he will need to discuss with her the various ways of reducing her inheritance tax liability. As a starting point he will need to know what the inheritance tax on her estate is likely to be.

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) In addition, Mr Hooper has asked you to consider what **further** information he will need from Fiona to complete her will instructions.

Prepare a checklist covering this additional information.

(8 marks)

(Total: 18 marks)

End of Examination Paper