



EULawInEN

EU LAW TRAINING IN ENGLISH LANGUAGE:
BLENDED AND INTEGRATED CONTENT AND LANGUAGE TRAINING
FOR EUROPEAN NOTARIES AND JUDGES



This Project is funded
by the European Union's
Justice Programme 2014-2020

LEGAL ENGLISH IN PRACTICE

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Fondazione
Italiana
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Partners



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Notary Chamber of Bulgaria



International
Association of
Judges

promoting an independent judiciary worldwide

THE ORIGINS OF LEGAL ENGLISH

1362 - STATUTE OF PLEADINGS

WRITTEN IN **FRENCH** - LEGAL PROCEEDINGS SHOULD BE SPOKEN IN **ENGLISH**
BUT RECORDED IN LATIN

1730 - PROCEEDINGS IN COURTS OF JUSTICE ACT

DEVELOPMENT OF MIDDLE ENGLISH “**NOTWITHSTANDING**” “**AFORESAID**” “**WHEREBY**”

DOUBLETS - COMBINING SYNONYMS: **NULL AND VOID** **LAST WILL AND TESTAMENT**
TERMS AND CONDITIONS



LEGAL LANGUAGE AND COMMON LAW

UK COURT STRUCTURE

- COURT OF FIRST INSTANCE

MAGISTRATES COURT – CROWN COURT (CRIMINAL MATTERS)

COUNTY COURT- HIGH COURT (CIVIL MATTERS)

CHANCERY DIVISION – QUEEN'S BENCH DIVISION – FAMILY DIVISION

- COURT OF APPEAL

- SUPREME COURT (Previously House of Lords)



LEGAL LANGUAGE AND COMMON LAW

UK COURT STRUCTURE

THE COURTS OF **EQUITY** DEVELOPED PARALLEL TO THE COMMON LAW COURTS, AS **COMMON LAW** COURTS WERE NOT CONSIDERED TO BE PROVIDING JUSTICE OR FAIR REMEDIES

PETITIONS BEGAN TO BE MADE TO THE KING FOR EQUITABLE REMEDIES

THE COURT OF CHANCERY WAS ESTABLISHED IN 1474



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LEGAL LANGUAGE AND COMMON LAW

UK COURT STRUCTURE

CHANCERY DIVISION OF THE HIGH COURT

- PROBATE – DISTRICT PROBATE REGISTRY
- TRUSTS
- EQUITY DISPUTES IN PROPERTY MATTERS



LEGAL LANGUAGE IN SUCCESSION LAW

PROBATE

The procedure by which the Courts of England and Wales authorises a personal representative (P.R.) to administer the estate of the deceased

WHERE DECEASED LEFT WILL

GRANT OF PROBATE
P.R. = EXECUTOR

WHERE DECEASED DIED INTESTATE

GRANT OF ADMINISTRATION
P.R. = ADMINISTRATOR



LEGAL LANGUAGE IN SUCCESSION LAW

PROBATE

DUTIES OF THE P.R. ARE TO:

Confirm that the will proved is the original Last Will of deceased

Collect in the whole estate

Make an inventory of assets and estimate of gross value of estate (value of assets before liabilities and any gifts made in last 7 years)

Arrange payment of debts and liabilities

Calculation and payment of inheritance tax (IHT) - 40% on amount over £325,000

Keep accounts including distribution to beneficiaries

Approve or disprove claims of creditors



LEGAL LANGUAGE IN SUCCESSION LAW

PROBATE

DUTIES OF PROBATE REGISTRAR (The Non-Contentious Probate Rules 1987)

OATH OF EXECUTORS

AFFIDAVIT OF FOREIGN LAW

CHECKS THAT REQUIREMENTS UNDER WILLS ACT 1837 ARE COMPLIED WITH EG:

- Capacity of testator (Over 18)
- Formal validity of will – was it made in writing and signed in front of two witnesses?



LEGAL LANGUAGE IN SUCCESSION LAW

Last Will and Testament

**CAPACITY
REVOCATION
CHOICE OF LAW
INTENDED MARRIAGE
EXECUTORS AND
TRUSTEES**

**FUNERAL DIRECTORS
LEGACIES
GIFT OF RESIDUE
WITNESSES
SIGNATURE
DATE**



LEGAL LANGUAGE IN SUCCESSION LAW

TESTAMENTARY TRUSTS OR STATUTORY TRUST

COMMON LAW – ESTATE OF THE DECEASED PASSES TO PERSONAL REPRESENTATIVE APPOINTED BY THE COURT

CIVIL LAW SYSTEMS – ESTATE OF THE DECEASED PASSES DIRECTLY TO THE HEIRS



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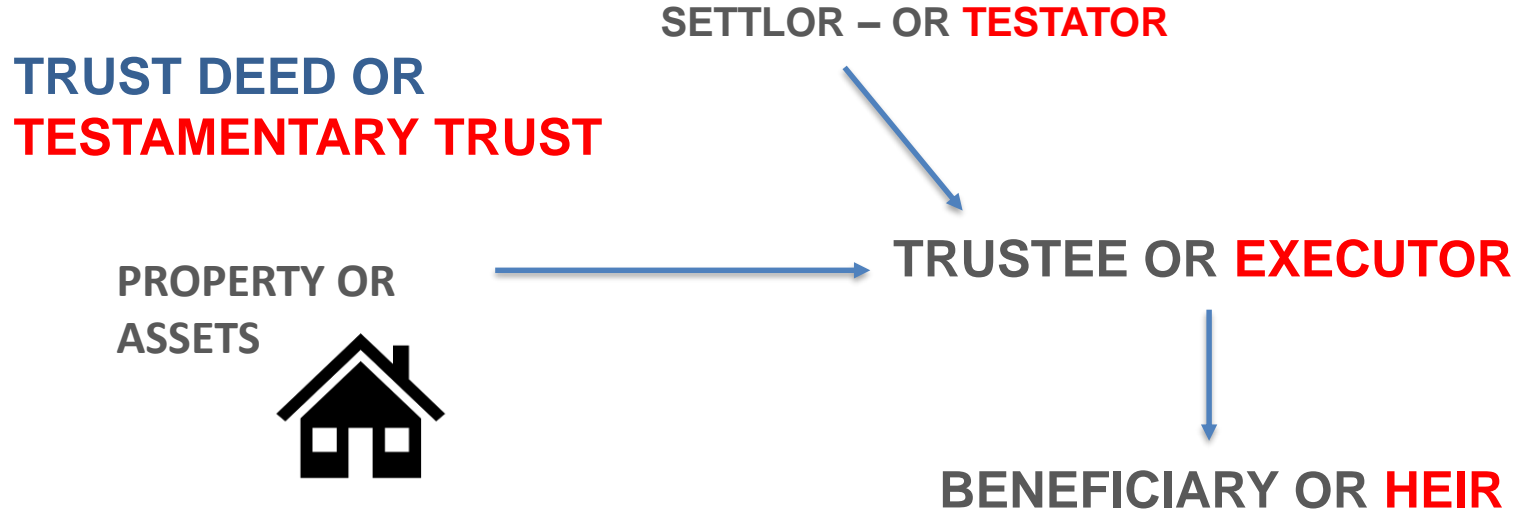
LEGAL LANGUAGE IN SUCCESSION LAW

EXAMPLE OF TESTAMENTARY TRUST

I GIVE DEVISE AND BEQUEATH all of my real and personal property whatsoever and wheresoever situated not hereby or by any codicil hereto otherwise specifically disposed of (including any property over which I may have a general power of appointment or disposition by Will) to my trustees UPON TRUST to sell call in and convert the same into money but with full power to postpone the sale calling in and conversion thereof for so long as they in their absolute discretion shall think fit AND to discharge therefrom my just debts and my funeral expenses and to stand possessed of the remainder (hereinafter called “my residuary estate”) upon and subject to the following provisions of this my Will.



LEGAL LANGUAGE IN SUCCESSION LAW



LEGAL LANGUAGE IN SUCCESSION LAW

TESTAMENTARY FREEDOM

John Stuart Mill in Principles of Political Economy (1848)

“...the ownership of a thing cannot be looked on as complete without the power of bestowing it, in life or on death, at the owner’s pleasure”



LEGAL LANGUAGE IN SUCCESSION LAW

TESTAMENTARY FREEDOM

The principle of testamentary freedom in common law was limited for the first time by legislation in 1938 and 1975.

Now is always subject to a claim by a family member or dependant relative under the Inheritance (Provision for Family and Dependants Act 1975) when reasonable financial provision is NOT made for them in the will

CONTENTIOUS PROBATE LITIGATION

Only applies where deceased had last DOMICILE in UK

Claim must be brought within 6 months of Grant of Probate



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LEGAL LANGUAGE IN SUCCESSION LAW

DOMICILE IN COMMON LAW

RELEVANT TO PRINCIPLE OF SCISSION - DETERMINES THE APPLICABLE LAW TO SUCCESSION OF MOVABLE AND IMMOVEABLE PROPERTY

ALSO RELEVANT FOR JURISDICTION OF UK COURTS IN CHALLENGE TO WILL BY DEPENDENTS

DOMICILE OF ORIGIN – Domicile of person's father at time of own birth if parents married

DOMICILE OF CHOICE – On attaining age 18, domicile of choice will be place of centre of interests, indicated by an intention to remain permanently

