



**CILEX Level 3 Certificate in Law and Practice/
CILEX Level 3 Professional Diploma in Law and Practice**

Unit 8 – Law of Wills & Succession

Question paper

November 2023

Time allowed: 1 hour and 45 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B.
- You must answer **all** questions from Section A.
- There are three scenarios in Section B — you must choose **one** scenario and answer **all** questions relating to that scenario.
- This question paper is out of 60 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- You are **not** allowed access to any statute books.
- A basic calculator is provided should you require the use of one.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer ALL questions.

1. Explain what is meant by a codicil. **(3 marks)**

2. Explain what problems might arise on the execution of a Will where the testator is illiterate, and how these can be overcome. **(4 marks)**

3. Describe the term general legacy. **(2 marks)**

4. Explain the term 'ademption' as it applies to legacies. **(4 marks)**

5. Explain the effect of a divorce on a gift made to a spouse in a valid Will which was made before that divorce. **(4 marks)**

6. Explain who would inherit if a single woman died intestate, leaving two children and both her parents. **(3 marks)**

7. Describe **three** differences between an executor and an administrator. **(3 marks)**

8. Identify the appropriate type of grant where there is a valid Will but no executor willing and able to act. **(1 mark)**

9. Identify why the Probate Registry will request an affidavit of plight and condition where a Will has been torn in half. **(1 mark)**

10. Identify **five** categories of claimants under the Inheritance (Provision for Family and Dependents) Act 1975. **(5 marks)**

(Total Marks for Section A: 30 marks)

SECTION B

There are three scenarios — you must choose one scenario and answer all questions relating to that scenario.

Scenario 1

Denise Grant died in September 2023, aged 87, leaving an estate worth around £500,000, including her house.

In January 2023, Denise decided to make a Will, as she had been unwell and felt she ought to get her affairs in order. She talked things through with a friend, Tom Wiseman, before writing out the Will herself, which was then validly executed. She appointed her friends, Tom Wiseman and Len Sweet, to be her executors and left all her estate to her son, Owen. Tom and Len have confirmed they are both willing to act as executors.

Although Denise had made a reasonable recovery from her illness, it had left her frail. She continued to have health issues up until her death, the worst symptoms being her constant tiredness and inability to walk very far.

Denise's son Owen lives in New Zealand and is not easily contactable. Therefore, when making her Will, Denise also wrote out a list of all her assets, along with a list of her family and friends, so that her executors would know who to contact on her death. Denise continued to accurately update this list, the last time being a month before her death. At the end of August, Denise was admitted to hospital, where she later died in September.

While Denise was in hospital, her grandson, Harry Grant, visited her regularly. During one of these visits, Denise told Harry she wanted him to have her house when she died. She told him that she felt very ill and that she was unlikely to survive long. She handed Harry her house keys and told him that the deeds for the house were in a fireproof filing cabinet in her spare bedroom. Denise agreed with Harry that, if she recovered and was able to return to her home, he would give back the house keys and deeds.

Turn over

Scenario 1 Questions

1. Apply the following two tests to the facts of the scenario to explain whether or not Denise had the mental capacity to make a Will:

(a) the test set out in *Banks v Goodfellow* (1870)

(7 marks)

(b) the test set out in the Mental Capacity Act 2005.

(7 marks)

(Total: 14 marks)

Assume for the purposes of the remaining questions that Denise did have mental capacity.

2. (a) Identify the conditions for making a valid *donatio mortis causa* (deathbed gift).

(3 marks)

(b) Explain whether or not Harry can keep the house applying these conditions. Use one case to illustrate your answer.

(8 marks)

(c) Explain the other ways Denise could have made a gift of her house to Harry, to take effect on her death.

(3 marks)

(Total: 14 marks)

3. Describe which grant of representation is appropriate in this estate and why.

2 marks)

(Total Marks for Scenario 1: 30 marks)

Scenario 2

Jacob and Marie Wells married in October 2022 when Jacob was 57 and Marie was 55, but their happiness was short-lived as Jacob was killed in a car accident in June 2023. Although Jacob had frequently thought about making a Will, especially after meeting Marie, he had never got round to making it and he died intestate.

In November 2020, Marie moved into Jacob's house, known as 'Hilltops', which Jacob had bought in September 2019 after his acrimonious divorce from his first wife, Sadie. At the time of his death, the house was registered in Jacob's name only, but Marie had always thought of 'Hilltops' as their 'forever home'. They had spent a lot of money having it renovated and choosing new furnishings together.

Jacob had been interested in Chinese vases and had bought a few at low prices over the years, hoping that they would increase in value. He told Marie that they were his retirement fund and he stored them in his bank.

Jacob had three children from his first marriage, Cathy James aged 28, Anthony Wells aged 26, and Hazel Wells aged 23. None of them like Marie or want her to receive anything from the estate.

At the time of his death, Jacob's assets consisted of the following:

	£
House known as 'Hilltops'	500,000
Household contents	16,000
Bank accounts held in Jacob's name only	100,000
Designer watch worth	24,000
Chinese vases stored in the bank worth	<u>60,000</u>
Gross estate	<u>£700,000</u>

Funeral expenses were £3,500 and, at the time of his death, Jacob had an unpaid credit card bill of £1,330 (total £4,830).

Net estate was therefore £700,000 - £4,830 = £695,170

Turn over

Scenario 2 Questions

1. Marie is entitled to receive Jacob's 'personal chattels'.
 - (a) Explain which of Jacob's assets are 'personal chattels' and which are not. **(9 marks)**
 - (b) Identify what else Marie will be entitled to receive from Jacob's estate. **(3 marks)**

(Total: 12 marks)

 2.
 - (a) Explain the rules on how a wife can continue to live in a house owned by her husband who has died intestate. **(6 marks)**
 - (b) Explain, by applying these rules, whether Marie can continue to live in 'Hilltops'. **(4 marks)**

(Total: 10 marks)

 3. Explain whether the estate would have been distributed differently if Jacob had made a valid Will in September 2022 before his marriage to Marie. **(8 marks)**
- (Total Marks for Scenario 2: 30 marks)**

Scenario 3

Tayo Kalu died in a car accident in February 2023, aged 37. He died intestate.

Tayo was a bachelor, who never married or entered into a civil partnership. His parents died five years ago in a car accident. He had two brothers who he was very close to, called Dayo Kalu and Ikemba Kalu. His sister, called Machie, died in the same car accident as his parents, leaving twins, called Lebechi and Kwento, now aged 10.

Unknown to his family, Tayo had a child as a result of a one-night stand when he was in his early 20s. He had no direct contact with the child, called Forrest Stewart, or his mother, Capri Stewart, although he did send several hundred pounds to them each month, by bank transfer.

At the time of his death, Tayo's estate consisted of the following assets:

	£
6a Cater Street, Kempston, Bedford	70,000
Household contents and personal effects	500
Motor car	600
Bank account balances as at the date of death	<u>300</u>
Total assets:	<u>71,400</u>

And the following liabilities:

Funeral expenses to Kempston Funeral Directors	3,500
Unpaid garage bill to Kempston Motors	1,300
Credit card debts	13,000
Balance outstanding on mortgage with the Easy Money Bank for the purchase of 6a Cater Street, Kempston	<u>65,000</u>
Total debts and liabilities:	<u>82,800</u>

This made a total of £82,800 in debts including the mortgage, and a total of £17,800 in debts excluding the mortgage.

Turn over

Scenario 3 Questions

1. Describe the duties and responsibilities of an administrator in the administration of an estate. **(6 marks)**

2. Explain the order in which the payment of the debts and liabilities in Tayo's estate would be made.

Please note: You do not need to explain the amount each creditor will receive.

(10 marks)

3. (a) Identify the type of grant that will be needed to deal with Tayo's estate.

(1 mark)

(b) Explain who will be entitled to apply for the grant.

(4 marks)

(Total: 5 marks)

4. Explain how the estate would have been dealt with if Tayo had married Capri and had taken out life insurance to pay off the mortgage of £65,000 on his death.

(9 marks)

(Total Marks for Scenario 3: 30 marks)

End of the examination

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