



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 14 – Law of Wills and Succession

Question paper

January 2024

Time allowed: 3 hours and 15 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. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 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.
- A basic calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book – ***Blackstone’s Statutes on Property Law 2022 -2023 31st edition, Meryl Thomas, Oxford University Press, 2023.***
- 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 at least one question from this section.

1. There is a rebuttable presumption that a person with testamentary capacity who validly executes a Will does so with knowledge and approval of its contents.

Critically analyse, with reference to case law, the circumstances in which the presumption may be rebutted and what must be proved to achieve this.

(25 marks)

2. Critically evaluate the ways in which gifts under a Will may fail owing to:

(a) ademption or lapse;

(18 marks)

(b) an unattested alteration or obliteration within the Will.

(7 marks)

(Total: 25 marks)

3. Critically analyse, with reference to statute and case law:

(a) the formal requirements that must be complied with to make a valid Will;

(19 marks)

(b) the rules, as set out both in the Mental Capacity Act 2005 and in case law, in relation to the mental capacity required to make a valid Will.

(6 marks)

(Total: 25 marks)

4. Critically evaluate, with reference to statute and case law, whether the intestacy rules provide sufficient financial provision for a surviving spouse or civil partner.

(25 marks)

SECTION B

Answer at least one question from this section.

Question 1

After a long period of illness, Liza recently died as a result of complications from having previously contracted COVID-19. Prior to her death, Liza made a Will. Liza died without leaving a spouse or children.

In her Will, Liza appointed her siblings, Doreen and Stephen, as her executors. Liza's Will was duly executed and is valid.

Liza's Will contains the following clauses:

1. To my cousin, Elaine Griffiths, I leave the sum of £5,000.
2. To my cousin, Irene Jackson, I leave the sum of £5,000.
3. To my brother, Stephen Wheeler, I leave my house - 'Barrowdale'.
4. To my sister, Doreen Wheeler, I leave my car.
5. I leave my residuary estate to the NHS England charity, in particular, those investing in research into vaccination programs.

In gratitude for the work carried out by NHS staff during the COVID-19 pandemic, Liza wished to leave her residuary estate to the NHS England charity. Liza consulted her brother and sister prior to making this bequest so that they were aware. They understood her wishes. When discussing her Will with her siblings, Doreen, who is independently wealthy, asked only if she could have Liza's car for her daughter, Alexis, to use, as Alexis had recently passed her driving test. This Liza agreed with. Doreen was aware that Liza was going to leave her house to Stephen, which she understood and did not disagree with.

Liza's estate consisted of her house, 'Barrowdale', valued at £700,000 but subject to a mortgage of £120,000. In addition to her household contents and personal effects (totalling £13,300), Liza owned a 10-year-old Mercedes Benz car, valued at £970. At the date of her death, she held credit bank balances of £4,200. The funeral costs were £4,000 and the administration costs of her estate, including legal fees, are estimated to be £9,000.

Advise Doreen and Stephen of the order in which the assets of Liza's estate should be used to pay the debts, liabilities of the estate and the gifts under the Will.

(25 marks)

Question 2

Kingsley passed away in May 2023, aged 55. Despite getting some legal advice regarding Wills, Kingsley decided to write a Will himself. Kingsley's homemade Will was written and executed in 2019. The Will appointed Kingsley's sister, Zeynab, to be his executor.

Kingsley was a widower. His first husband, Patrice, died in 2019. Kingsley and Patrice had been together for 20 years and married for five years. They were one of the first couples to get married when same-sex marriage was legalised in the United Kingdom.

Before his relationship with Patrice, Kingsley had two children, Rafe and Wes, with his previous partner, Jacqueline.

Kingsley had maintained a close relationship with Rafe, who has three children: one biological child, one stepchild and one adopted child. Kingsley had also developed a close relationship with Rafe's three children.

Kingsley had lost contact with Wes when Kingsley entered a relationship with Patrice and thereafter had no relationship with Wes. However, Rafe had remained in contact with Wes, who now lives in Italy with his wife and two young children.

After Patrice died, Kingsley told Rafe and Zeynab that he would never get married again. However, Kingsley met Adrian in 2021. They moved in together and Kingsley would refer to Adrian as his 'husband', although they never married.

Kingsley's Will includes the following clauses:

1. I give all the items of jewellery I own at the date of my death to my children.
2. I give all the money I have in my Barclays Bank accounts to my grandchildren.
3. I give my house to my husband.
4. I give the residue of my estate to my children.

Kingsley left a handwritten letter with his Will explaining his wishes as set out in his Will. Throughout the letter he refers to Adrian as his husband. Zeynab is unsure how to distribute the estate under the Will in order to fulfil Kingsley's wishes.

Explain, with reference to case law and statute, the rules of construction that the Court will use in ascertaining Kingsley's expressed intention in relation to the gifts in his Will.

(25 marks)

Question 3

Belinda passed away in October 2023 at the age of 65. Searches have taken place but none of Belinda's family members are able to find a Will nor, after conducting searches with solicitors, have they received any evidence of Belinda ever making a Will. There was an old piece of paper found with Belinda's financial documents that stated:

'I wish for my daughter to be looked after on my death.'

This note was signed by Belinda but not dated or witnessed.

Belinda was unmarried but had lived with her partner, Frances, for eight years.

When she was 16, Belinda had a daughter, Nadia, who she gave up for adoption. Belinda had reconnected with her daughter, Nadia, within the last two years and they had developed a relationship. They would visit each other fortnightly and had spent the last Christmas together.

Belinda died leaving two sisters: Hayley and Tina. Hayley is, in fact, Belinda's half-sister from their mother's previous marriage, although Belinda treated her no differently to Tina.

Belinda's brother, Curtis, passed away three years before Belinda. He died leaving two children: a son named Oliver (aged 23) and a daughter named Unity (aged 17).

Belinda's estate includes two properties, one of which she owned jointly with Frances, her partner, as beneficial tenants in common, valued at £525,000. The other property was an investment property in Norwich owned in her sole name, valued at £350,000. Only the property jointly owned with Frances is mortgaged, with the current amount owed being £220,000.

Belinda's personal effects are valued at £33,000 and her financial assets in savings, shares and other investments total £417,000.

(a) Explain, with reference to the rules of intestacy, who will inherit Belinda's estate.

(17 marks)

(b) Advise who will be the most appropriate person(s) to take out a grant of representation to Belinda's estate and what their duties, powers and obligations as personal representatives will be under section 33 of the Administration of Estates Act 1925.

(8 marks)

(Total: 25 marks)

Question 4

Mathieu died two weeks ago. He had a longstanding relationship with a law firm and used them to make a Will in 2022. Mathieu liked to make certain his affairs were always up to date. So much so, in fact, that although he did not have any health concerns or diagnosis, he decided to obtain a certificate from a doctor that he had testamentary capacity to make a Will and further to make decisions regarding his property and affairs. Mathieu had a discussion with his lawyer when drafting the Will, which inspired him to take this action as he wanted to try and ensure that his wishes following his death would be carried out in accordance with his Will.

Mathieu was particularly concerned because his lawyer had told him about the possibility of certain individuals, with whom he had relationships, possibly meeting the eligibility criteria for making a claim against his estate after his death.

Until two years ago, Mathieu had been in a relationship with Verity. They had lived together for eight years but had never married. When Mathieu and Verity split up it was acrimonious, as Mathieu did not want to get married and have children, whereas Verity did. Prior to the breakdown of their relationship, Mathieu and Verity had practically lived as a married couple, although they had never combined their financial assets. Mathieu had not seen or spoken to Verity in the two years since their relationship ended.

After obtaining the capacity assessment from his doctor, Mathieu left it with his lawyer to keep with his Will, along with a detailed attendance note.

In his Will, Mathieu left only residuary gifts, in an equal split between his business partner, Xavier, and his best friend, Yinka. Yinka is the sole executor of the estate. Mathieu had told Yinka that he was concerned about Verity trying to make a claim on his estate even though he had not spoken to her for such a long time and they had settled everything financially when they had broken up.

Mathieu was a successful buy-to-let landlord and owned 20 properties, which he rented out on assured shorthold tenancies. A number of these properties have mortgages on them. The Will contains no provision giving Yinka express powers in relation to these properties.

While looking through Mathieu's papers, Yinka has found details of two unsecured loans and credit card debts totalling £35,000.

Advise Yinka as to her duties, powers and obligations when acting as executor of Mathieu's estate, of the risks involved and of how she might protect herself from risk, including relief that can be granted by the Court.

(25 marks)

End of the examination

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