



CHIEF EXAMINER REPORT

JUNE 2025

LEVEL 6 UNIT 14 – LAW OF WILLS AND SUCCESSION

The purpose of the report is to provide candidates and training providers with guidance as to the key points candidates should have included in their answers to the June 2025 examinations.

The 'suggested points for responses' set out points that a good (merit/distinction) candidate would have made.

Candidates will have received credit, where applicable, for other points not addressed.

Chief Examiner Overview

Candidates who achieved higher marks thought fully about the topic they were being asked to comment on and explored this in line with the unit specification.

Candidate Performance and Suggested Points for Responses

It is noted that the low numbers of candidates taking the Level 6 exams limits the scope for constructive feedback to be given and for firm conclusions to be reached. Therefore, feedback on candidate performance has not been included.

Section A

Question 1a	20 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none">• Provisions in s20 WA 1837;• definition of “burning tearing or otherwise destroying”;• destruction by another;• relevant case law, eg: Cheese v Lovejoy (1877), Adams (1990), Hobbs v Knight (1838), Re Everest (1975) In the Goods of Dadds (1857);• incomplete intended destruction as in Perkes v Perkes (1820); consideration of intention, capacity, accidental destruction, rebuttable presumption of revocation where will in T’s possession cannot be found/is found mutilated;• conditional revocation;• relevant case law, eg: Re Southerden (1925), Re Jones (1976), Re Finnemore (Deceased) (1991). S18 WA 1837, as amended by AJA 1982 and Marriage (Same Sex Couples) Act 2013, exceptions on expectation of marriage and rules relating to this;• effect of divorce or dissolution, s18A WA 1837, as amended by the Law Reform (Succession) Act 1995; relevant case law, eg: Re Sinclair (1985)• The need for express revocation in writing, eg: Re Durance (1872);• revocation to the extent that the later document is inconsistent with the first, eg: Pepper v Pepper (1870), Curati v Perdoni (2012)• Reasoned conclusion	

Question 1b	5 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none">• The equitable doctrine of mutual wills• crystallisation of the floating trust• evidence of mutual intention not to revoke• relevant cases, eg: Dufour v Pereira (1769), Re Cleaver(1981), Re Goodchild (1996)• Charles v Fraser (2010), Fry v Densham – Smith (2010)• Reasoned conclusion	

Question 2	25 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Clear and accurate understanding of s9 Wills Act (WA)1837, as amended by s17 Administration of Justice Act (AJA)1982. To be considered 'in writing', use of language/code, on any material, relevance of use of pencil and ink; • "signed" by Testator (T) and intention to be signature; • relevant case law, eg: Hodson v Barnes (1926), In the Goods of Adams (1872), Re Cook (1960), Re Chalcraft (1948), In the Goods of Savory (1851), signature by another person, Law Com 'Making a will' 231 proposes other person unable to benefit • "intended to give effect" to the will, position of T's signature; • relevant case law, eg: Wood v Smith (1993), Weatherhill v Pearce (1995); • signature "made or acknowledged" before two witnesses, physical and mental presence of T, eg: Casson v Dade (1781), Barrett v Bem (2012); • meaning of acknowledgement, meaning of presence of witnesses, capacity of witnesses, witness/beneficiary and effect of s15 WA 1837, Law Com 'Making a will' 231 proposal: extend rule to cohabitants & other family members, position of witnesses' signatures; • relevant case law, eg: Gunstan (1882), Weatherhill v Pearce (1995), Couser v Couser (1996), Brown v Skirrow (1902); • attestation clause not necessary, affidavit evidence and presumption if no evidence available, evidence of date of will; • relevant case law, eg: Corbett v Newey (1996), Ahluwalia v Singh (2011). Law Com 'Making a will' 231 proposes courts given "dispensing power" • Reasoned conclusion 	

Question 3	25 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Specific legacies, approach of courts in construing; • relevant case law, eg: Re Rose (1949); • explanation of general legacies; • demonstrative legacies, definition as in Ashburner v Macguire (1786), nature both specific and general; • pecuniary legacies; • residuary legacies and rule in Allhusen v Whittell (1867); • devises; • type of legacy and effect of order for payment of debts, abatement; • rules on the payment of income and interest on different types of legacies, including Apportionment Act 1870, and Trusts (Capital and Income) Act 2013. Ademption, changes in substance, contrast cases such as Re Clifford (1912) and Re Slater (1907), effect of republication, the doctrine of conversion, options to purchase, the rule in Lawes v Bennett (1785), lapse, effect where gift is to joint tenants/tenants in common/members of a class, substitutional gifts, survivorship clauses, statutory presumption of order of deaths, exceptions to doctrine of lapse, s33 WA 1837 and expression of contrary intention, relevant case law, eg Rainbird v Smith (2012) cf. Hives v Machin (2017); • divorce or dissolution, s18A WA 1837; • Explain the incidence of pecuniary legacies • and awareness of effect of Forfeiture Act 1982; • changes made by Estates of Deceased Persons (Forfeiture Rule and Law of Succession) Act 2011. The rules relating to estates where there is no undisposed of property, the rules in Greville v Brown (1859) and Roberts v Walker (1830); • rules where there is undisposed of property, effect of the amended s33(2) Administration of Estates Act (AEA)1925 • Reasoned conclusion 	

Question 4a	17 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • To establish the authority of the personal representatives (PRs); • to establish the validity of any will or to establish that there is no valid will. Probate: valid will with appointment of executors able and willing to act; • letters of administration with the will annexed: where there is a valid will which does not appoint executors or those appointed executors are unable or unwilling to act; • simple letters of administration: on intestacy where there is no valid will; • special grants: restricted to knowledge of a grant of letters of administration de bonis non, administration is incomplete, there is no remaining PR, there has been a previous grant, there is no chain of representation; • order of priority for taking the grant (rules 20 and 22 Non-Contentious Probate Rules (NCPR) 1987) May be contentious or non-contentious; include that it ought not to have been made (fraudulent application, better entitled person found, grant made despite caveat or pending proceedings), a subsequent will is discovered or the proved will is found to be revoked or invalid, the person thought to be deceased has not died; • relevant case law, eg Re Wilson (Deceased) (2013). Consequences: eg: protection of original PR acting in good faith, s27 AEA 1925, protection of person making payment to PR in good faith, s39 AEA and contracts for sale, s37 AEA 1925 and conveyances of land; • Reasons conclusion 	

Question 4b	8 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Appointment by will; • appointment according to tenor; • relevant case law, eg: In the Goods of Bayliss (1865), In the Estate of McKenzie (1909); • person appointed by will to nominate an executor; • chain of representation; executor de son tort, intermeddling, acts of kindness and charity; relevant case law, eg: Pollard v Jackson (1995), effect; • limit of four executors (s114 Senior Courts Act (SCA) 1981), court's power to appoint additional PR to act with sole executor. 9.2 Rule 22 NCPR 1987 (simple administration) list of entitlement follows beneficial entitlement on intestacy; • rule 20 NCPR 1987 (administration with will annexed) list of entitlement follows order of entitlement under the will; living beneficiaries are preferred to PRs of deceased beneficiary; application by a creditor; limit of four administrators, minimum of two where life interest or minority arises unless court's discretion exercised (s114(2) SCA 1981) 	

Section B

Question 1a	15 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<p>Duties:</p> <ul style="list-style-type: none">• To collect and safeguard assets; to pay debts; to distribute to beneficiaries entitled• Powers given under AEA 1925, Trustee Act (TA) 1925 and TA 2000; power to postpone distribution; power to sell mortgage and lease; power of investment; power to purchase land; power to insure; power to run a business; power to maintain minors; power to advance capital; power to delegate; the rules relating to appropriation.• An understanding that these can be extended and varied by will; property which does not devolve on the PRs; powers of PRs before grant, position of administrators as opposed to executors.• Duty to collect assets and administer with due diligence; time at which property devolves upon PRs; property which will not devolve on PRs; duty of care introduced by TA 2000.• Discuss distribution to beneficiaries <p>Liabilities:</p> <ul style="list-style-type: none">• Loss arising from breach of duty; examples include misappropriation, maladministration, negligence; usually several liabilities amongst a number of PRs; liability for the acts of agents. <p>10.5 Relieving provisions in the will;</p> <ul style="list-style-type: none">• relevant case law, eg: Armitage v Nurse (1998);• relief under s61 TA 1925 granted by the court;• consent or release from beneficiaries; limitation.• Appropriate use of s27 TA 1925 advertisements; use of searches; setting aside a fund; insurance; application to the court for directions;• the use of Benjamin orders (ie: Re Benjamin (1902)); application for a decree of presumption of death under Presumption of Death Act 2013: Greathead v Greathead (2017)	

Question 1b	10 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Solvent: assets are sufficient to pay all funeral, testamentary and administration expenses, debts and liabilities; irrelevant that it cannot pay all legacies; insolvent: assets are insufficient to pay all liabilities as above; beneficiaries will receive nothing, creditors will not be paid in full. • Part II of Sch I AEA 1925 order in which assets are used to pay debts; debts charged on property and s35 AEA 1925, debts charged on more than one property; relevant case law, eg: Re Birmingham (1959), Re Neeld (1962), statutory order for unsecured debts, property falling outside the order; the doctrine of marshalling. • Analyse the effect of varying these rules • Explain the rules relating to the payment of debts in an insolvent estate • Variation of the order for unsecured debts; • relevant case law, eg: Re James (1947), Re Gordon (1940), Re Kempthorne (1930); • methods of showing contrary intention (s35) for debts charged on property. • PRs must follow order of priority which cannot be varied by T, risk of personal liability for superior unpaid debts, limited protection; availability of joint property to cover debts; order for payment of debts: secured creditors option to rely on security or prove debt in whole or part, funeral testamentary and administration expenses, bankruptcy order contained in Insolvency Act 1986 and Administration of Insolvent Estates of Deceased Persons Order 1986 (preferred, ordinary and deferred debts). 	

Question 2a	15 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • Clause 1. This is a pecuniary legacy the alteration was made after the Will was executed and therefore s21 WA applied (2) whereby no alteration to a Will is valid after the Will has been executed unless it was done at the same time the Will was executed such alterations should be initialled by the testator and the two witnesses (3) In the Goods of Blewitt [1880] the original figure was not obliterated and so can still be ascertained Diana's amendment to the gift is not valid the gift to remains as the original written amount • Clause 2. The gifts of the wine is a specific legacy the gift fails for ademption because it did not form part of Diana's estate at the date of her death if it is lost • Clause 3. This is a specific gift which on the face of it lapsed because the grandchild predeceased Diana. s33 WA overrides this and the gift will pass to the residuary estate instead (2) provided there is no contrary intention in the Will reference to Rainbird v Smith [2012] • Clause 4 – gift lapse as no grandchildren • Clause 5. The residue passes to Emilia and Isaac. • A reasoned conclusion 	

Question 2b	10 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> As detailed in the Will both Isaac and Emilia are appointed as executors The appropriate grant of representation to apply for is a Grant of Probate given that there is a valid Will If Isaac does not wish to be an executor, he does not have to be party to the application for the grant of probate. Emilia can be executor on her own Explanation of renunciation, effect of intermeddling, possibility of retraction; power reserved to appointed executors; • s50 AJA 1985; passing-over, s116 SCA 1981, discretionary power, exercised on request, relevant case law eg: Re Potter (1899), Re Crippen (1911), Re Steele (2010), Khan v Crossland (2012), Goodman and Another v Goodman and Another (2013), National Westminster Bank v Lucas and Others (2014). Reasoned conclusion 	

Question 3	25 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> The Court will look at what Tamara meant to do when she made the will in light of the actual words used Perrin v Morgan [1943] The function of the Court is to interpret the words used by Tamara and not make a Will itself. The Court will look at the Will as a whole and not just at the issue in hand The general principle is that the intention of the testator is deduced only from the Will itself to assist the Court adopts the rules of construction Words are firstly given their grammatical meaning In Tamara's will the use of children will include all biological grandchildren s19 Family Law Reform Act 1987 (FLRA 1987) but not the step child Secondly the words are given a secondary meaning the Court will apply the 'armchair rule' when using this way of interpreting the words of Tamara's Will as set out in Boyes v Cook [1880] which asks you to place yourself so to speak in the testator's armchair and consider the circumstances by which he was surrounded when he made his will in applying this the word 'husband' in Tamara's Will will include Justin Re Smalley [1929] As a general rule the Court do not readily use extrinsic evidence, that is evidence from outside of the Will such as letter of wishes or Tamara's personal circumstances as a means of discovering the testator's intention as this would effectively make s9 Wills Act 1837 redundant However, there are circumstances where the Court will allow extrinsic evidence as per the armchair rule and if there is ambiguity for example the house such evidence will be taken into account Re Jackson [1933] The court may consider whether the letter should be allowed as extrinsic evidence for Justin to remain living in the house in line with the wishes in the letter. However, s21 AJA 1982 allows the Court to now use such evidence to resolve a patent ambiguity s21(b) AJA 1982 with reference to these cases when the section was applied Re Williams [1985] Tyrell v Tyrell [2002] Spurling v Broadhurst [2012] in Tamara's case the Court will consider her wishes regarding the house and look at the reasons set out in the letter Reasoned conclusion 	

Question 4	25 marks
Attempts too few for appropriate analysis	
Suggested Points for Response:	
<ul style="list-style-type: none"> • The Inheritance (Provision for Family and Dependants) Act 1975 (1975 Act) allows the court to change the effect of a Will if certain criteria are met • Urmi can bring a claim under the 1975 Act because • Zane has not made reasonable financial for Urmi • Zane was domiciled in England at the date of her death • As a child Urmi is entitled to bring a claim under s1 (c) 1975 Act Urmi was not adopted so remains a biological child • Although Urmi is an adult, Zane had a moral duty to provide for her Re Coventry [1979] Re Jennings [1994] • There is nothing to suggest Urmi would waste her award however the lack of financial hardship may be taken in to account • The size of Zane's estate will need to be considered to justify the claim • The court will consider whether Zane has made reasonable financial provision for Urmi and in doing so will apply the two stage process . Has the Will made reasonable financial provision for Urmi, the answer is no and 2. What would amount to reasonable financial provision for Urmi Ilott v Mitson [2015] • The court will also look at Urmi's financial resources and needs now and in the foreseeable future s3 1975 Act eg Urmi's earning capacity, income, social security benefits and can make an order Graham v Murphy [1996] • The court will also consider the size of Zane's estate s3(e) 1975 Act Re Fullard [1981] • Urmi can make an application under the 1975 Act before a grant of probate has been issued s4 1975 Act as amended by Inheritance and Trustees Powers Act [2014] the application must be issued within 6 months of the date the grant of probate is issued • The court has the power to make a variety of orders eg periodical payments lump sums or transfers of property • Reasoned conclusion 	