

**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  
January 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.
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

## SECTION A

### (Answer ALL questions in Section A)

1. Name **three** requirements necessary to make a valid Will.  
*(3 marks)*
2. Where a person has made a Will, give **three** examples of when property may pass on their death, other than under that Will.  
*(3 marks)*
3. Outline the clauses that should be included in a Will if the testator owns a business.  
*(4 marks)*
4. Eric made his last Will in 2021 leaving £5,000 to his son Simon. Eric died last week. However, Simon had died in December 2022, leaving an adult child. Explain what will happen to the legacy.  
*(4 marks)*
5. Explain the requirements for a Will to be validly revoked by destruction.  
*(3 marks)*
6. Describe the term 'partial intestacy' and give **one** example of how it might arise.  
*(2 marks)*
7. Identify the circumstances in which an administrator is appointed, as opposed to an executor.  
*(4 marks)*
8. Describe when a grant of probate is the appropriate grant of representation.  
*(2 marks)*
9. Identify who could be expected to make an affidavit of due execution in a case where a Will does not contain an attestation clause.  
*(2 marks)*
10. Identify **three** types of order that the court may make following an application under the Inheritance (Provision for Family and Dependents) Act 1975.  
*(3 marks)*

*(Total Marks for Section A: 30 marks)*

## **SECTION B**

**(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)**

### **Scenario 1**

Vic Brown died of pancreatic cancer in January 2023, aged 57. He had never married or had any children, but was very close to his brothers, Wayne and Yosh, as they always went to music festivals together.

Vic's eldest brother, Zak, had died in 2019, leaving two young children, Kai Brown aged 9 and Abigail Brown aged 13, both of whom live with their mother Paula Brown. Abigail is a very talented pianist, and she plays in the local jazz band. Her music teacher says that she could become a professional musician if she practises hard enough. Paula is upset, as she does not have enough money to pay for additional lessons, or for the overseas trips with the jazz band. Paula feels that her shortage of money means that Abigail cannot fulfil her dreams.

Vic made a valid Will in 2013 that included the following clauses:

'1. I leave the following legacies

To my brother Wayne Brown my motor car and accessories

To my brother Yosh Brown my collection of books and records and football memorabilia.

2. I leave the rest of my estate to my brothers Wayne Brown, Yosh Brown and Zak Brown in equal shares and if any of them should die before me leaving issue who survive me and reach the age of 21 years then such issue shall take by substitution in equal shares per stirpes.'

At the time of his death, Vic's estate consisted of a house valued at £150,000 and bank account balances of £8,000. His funeral expenses were £3,500. In the year before his death, he enjoyed going to record fairs and collecting old vinyl reggae records from the 1950s.

***Turn over***

## Scenario 1 Questions

1. Identify the type of gift to Yosh and explain whether he is only entitled to the records owned as at the date of Vic's Will, or whether the gift applies to the entire record collection.  

**(5 marks)**
2. Explain the legal effects of including a receipts clause in a Will.  

**(3 marks)**
3. Explain the effect of the gift of the record collection if this had been given to Zak instead of to Yosh.  

**(4 marks)**
4. Explain how Vic could have changed his Will before he died, if he had decided to leave the record collection to his niece Abigail instead of to his brother Yosh.  

**(6 marks)**
5. Explain whether the executors can make payments from the estate to Paula before Abigail attains the age of 21:
  - (a) out of the income of the estate to pay for music lessons;  

**(6 marks)**
  - (b) out of the capital to pay for overseas trips with the jazz band.  

**(6 marks)**

**(Total: 12 marks)**

**(Total Marks for Scenario 1: 30 marks)**

## Scenario 2

Daniel Lewin was diagnosed with terminal cancer 18 months ago. He was advised by his doctor to consider putting his affairs in order before the pain became too much for him to bear and the doctors had to increase the levels of his medication.

However, Daniel didn't act immediately. Now he would like to make a Will while he is in hospital. He is unaware that he has only a few days left to live because, out of kindness, doctors have not told him that his death is very near.

Daniel was divorced from his teenage true love, Maya, 12 years ago. However, after living apart for a year and a half, they were reconciled and they started to live together again in the former matrimonial home, very much as before.

The only family that Daniel has is an unmarried sister, Sarah, who is 68 years old and who lives nearby. Since her retirement, four years ago, Daniel has been in the habit of paying Sarah's water, gas and electricity bills because she only has her state retirement pension to live on.

Daniel has not made a Will before and he wants to leave everything to Maya. He has about £60,000 left in the bank as he gave most of his money to Maya when they divorced so that she could buy a place of her own, which she never did. Daniel continued to live in the former matrimonial home, known as 6 Oak Tree Drive, which is registered in Daniel's sole name, and he thinks that it is worth about £300,000.

Although Daniel appears alert enough to sign the Will, his signature is very unsteady, and he cannot stop shaking when he signs it.

***Turn over***

## Scenario 2 Questions

1. Explain what precautions should be taken by a lawyer when making a Will for Daniel in case Sarah claimed that Daniel did not have the mental capacity to make a Will.  
**(10 marks)**

2. If a Grant of Probate of Daniel's Will was issued:

- (a) explain on what grounds Sarah might be able to bring a claim against Daniel's estate;

**(5 marks)**

- (b) list the matters the court would take into account in deciding whether provision for Sarah should be made.

**(8 marks)**

**(Total 13 marks)**

Assume that Daniel has died before signing the Will, and Maya wants to bring a claim for financial provision from Daniel's estate.

3. Explain the factors the court would take into account when considering Maya's claim.

**(7 marks)**

**(Total Marks for Scenario 2: 30 marks)**

### Scenario 3

In 1996, James and his brother Mark, while out with friends, discussed making wills. James, who at the time was single, decided that he could write out his own will straight away rather than go to the expense of instructing a lawyer.

James wrote out the following Will and asked the two friends who were with them to act as witnesses.

'I James Jones declare that this is my last Will and I have no other Wills.

1. If I am married at the date of my death then I give my wife all my estate.
2. I do not intend that this Will is revoked by any such marriage.
3. If I am not married then I give all my estate to my brother Mark.

Signed *James Jones*

Dated *15 July 1996*

Witnessed by                *J Brown*                *M Wilson*

James met Ellen in 1997 and they married later that year.

They had three children, namely:

Callum Jones, who is now 24. Callum lives in London, where he works as a journalist. He is not married and has no children.

Ben Jones, who died last year. Ben was married to Rosie and had one child, Tom, who is now four years old.

Grace Jones, who is 20 and lives in Berlin. She is unmarried and has no children.

James died in December last year. He left an estate worth around £450,000 including the house in which he and Ellen lived and a boat 'Seas the Day'. All assets, including the house, are in James' sole name.

**Turn over**

### Scenario 3 Questions

1. In relation to James' Will:

(a) explain why the Will is revoked;

**(3 marks)**

(b) explain what James meant to achieve by clause 2 and why it was not effective, using one case to illustrate your answer.

**(7 marks)**

**(Total: 10 marks)**

2. (a) Explain what Ellen can now expect to receive from the estate and why.

**(7 marks)**

(b) Explain how the remainder of the estate will be distributed.

**(6 marks)**

**(Total: 13 marks)**

3. Explain who is entitled to apply for the grant of letters of administration and who should apply in these circumstances.

**(5 marks)**

The administration of the estate is proceeding well but the grant of letters of administration has not yet been issued. The proposed administrators tell you that they have found a buyer for James' boat and wish to complete the sale as quickly as possible.

4. Explain why they cannot do this yet.

**(2 marks)**

**(Total Marks for Scenario 3: 30 marks)**

**End of Examination Paper**