



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

Unit 8 – Law of Wills and Succession

Question paper

June 2022

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.

Turn over

SECTION A

Answer all questions

1. Explain what is meant by a codicil, giving one example of its use. **(3 marks)**

2. Explain how you would overcome the problem of a testator being illiterate or unable to read the Will. **(3 marks)**

3. Identify what happens to a gift left in a Will to a spouse or civil partner on divorce. **(2 marks)**

4. Explain the meaning of the term 'abatement' as it applies to legacies. **(4 marks)**

5. Explain why a Will might not be revoked by the subsequent marriage of the testator. **(4 marks)**

6. State the amount of the statutory legacy a spouse would receive where there are surviving issue but no Will. **(2 marks)**

7. Describe the rules found in s41 Administration of Estates Act 1925. **(3 marks)**

8. Identify the circumstances in which a Grant of Letters of Administration is required. **(2 marks)**

9. State who would provide affidavit evidence if there was any doubt that a Will had been validly executed. **(2 marks)**

10. State the surviving spouse standard of financial provision under the Inheritance (Provision for Family and Dependents) Act 1975. **(2 marks)**

11. Explain the difference between a contingent and a vested gift. **(3 marks)**

(Total 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

Imran died in May 2022, aged 72 years. For the last four decades of his life, he was married to Fatimah who survives him. Imran and Fatimah did not have any children.

Imran's estate was worth about £950,000. It included his share in the marital home, bank balances and a share portfolio.

'Rooftops', the marital home, was owned as joint tenants by Imran and Fatimah. It was a traditional Victorian house. The date of death value is £1,200,000, of which Imran's share is worth £600,000.

Imran made a Will in February 2015 which appointed his good friend George Rogers to act as his executor. He left a gift to his friend's son Ali of £5,000 and a gift to his gardener of £1,000. At the time the Will was drawn up, Ali was 3 years old, and the gardener was a man called Charlie. Since then, Charlie had argued with Imran over whether to plant some extra bushes in the shrubbery. After a row in 2020, Charlie walked out and said he was never coming back. A new gardener called Victoria has been employed since 2020. Both Imran and Victoria attended horticultural shows and subscribed to specialist magazines.

Much to the surprise of Fatimah, after the above legacies, the estate is left in equal shares to Fatimah and The Royal Horticultural Society. Fatimah is concerned that she may not have enough money to survive on because it is expensive to run such a large house. Fatimah lost her long-term job as an accounts manager during the coronavirus pandemic and has only been able to find a part-time job as a shop assistant.

Turn over

Scenario 1 Questions

1. Explain what Fatimah will receive from the estate and why. **(5 marks)**

2. (a) State who will receive the gift of £1,000 and why. **(6 marks)**

(b) Explain when and how the legacy to Ali will be paid. **(9 marks)**

(Total: 15 marks)

3. Explain the basis of a claim by Fatimah under the Inheritance (Provision for Family and Dependents) Act 1975 and the factors the court would consider in such a claim. **(10 marks)**

(Total for Scenario 1: 30 marks)

Scenario 2

Renato died last month, aged 89 years. During the last three years of his life, his physical health had declined. Carers came in every day to assist him with tasks such as washing and dressing. Despite this, he was grateful that he was able to spend his final years in his own home, a flat overlooking the promenade with wonderful sea views.

He would often grab his binoculars if an interesting looking boat appeared on the horizon. When he was not looking out for boats, Renato would do crossword puzzles, or research on his computer how his share portfolio was performing. Renato was pleased that most of his investments were increasing in value. He appreciated that his flat was his most valuable asset.

Renato had drawn up a Will in 1995 when he lived and worked in the city. He had no family, and the Will was made in favour of The National Trust.

After seeing a lifeboat rescue some stranded swimmers one day, Renato decided to make a new Will, leaving his estate in equal shares to The National Trust and The Royal National Lifeboat Institution. He found a new local solicitor's firm online, called Kempstons, and signed his new Will in their offices in December 2020, taking away a photocopy of the signed Will.

One day, while suffering from an infection, Renato looked at his photocopy of his 2020 Will and mistakenly thought that it meant The National Trust would not receive anything when he died. He called Kempstons and asked their new legal apprentice to destroy his 2020 Will. Eager to please such a long-established client of the firm, the apprentice promptly put the original 2020 Will in the shredder.

Renato left an estate worth around £980,000. It included an online account with Moneysmart Bank with a balance of £1,200, his flat called 'Sea View' valued at £700,000 and his share portfolio of £278,800.

Turn over

Scenario 2 Questions

1. Explain the test for capacity to make a valid Will under the rule in Banks v Goodfellow (1870).

(4 marks)

2. Explain why Renato appeared to have testamentary capacity at the time he made his 2020 Will, using the facts in the scenario.

(8 marks)

3. (a) Explain the rules relating to revocation by destruction.

(6 marks)

(b) Explain whether Renato's 2020 Will has been revoked using the facts in the scenario.

(8 marks)

(Total: 14 marks)

4. Explain why Renato should have included a revocation clause in his 2020 Will.

(4 marks)

(Total for Scenario 2: 30 marks)

Scenario 3

Enid Griffiths died intestate in January 2022, aged 78 years, after a long battle with cancer. She had never married or had any children. Both of her parents died before her and she had three surviving siblings: George, Samantha and Claire. George, Samantha and Claire all have children. Enid's younger brother, Roger, died five years before her, in 2017, from lung cancer. He had two children, Mary and Arthur, by his second marriage.

Throughout her life, Enid had low paid casual jobs. When she retired, her only income was her state pension plus state welfare benefits. During her illness she had fallen into debt to pay for her heating bills and food.

Samantha was terribly upset when she learnt of the extent of Enid's debts. Samantha said that she would have happily helped her sister out had she known she was struggling financially. Both Samantha and her husband have well paid jobs and Samantha says she feels guilty for not taking more notice of her late sister's financial difficulties.

When Enid's parents died, Enid received some National Savings Certificates and Samantha says that her sister had forgotten about them. She is upset that the certificates were not cashed in to provide some extra material comforts for Enid in her final days.

At the time of her death, Enid's estate consisted of:

Assets

Bank account balance	£100
National Savings Certificates	£6,900
Proceeds from sale of contents of Enid's flat	£500
Total assets	£7,500

Liabilities

Funeral invoice	£3,800
Visa credit card with debit balance	£1,700
Gas and electricity bills	£1,388
Home telephone bills	£1,426
Total debts and liabilities	£8,314

Turn over

Scenario 3 Questions

1. Explain whether Enid's estate is a solvent or insolvent estate. **(3 marks)**

2. (a) Describe the responsibilities of an administrator of an estate. **(5 marks)**

(b) Explain the order in which the payment of debts and liabilities in Enid's estate will be made. **(10 marks)**

(Total: 15 marks)

[Note to candidates: You **do not** need to explain the amount that each creditor will receive.]

3. (a) Explain who will be entitled to apply for a grant of representation to deal with Enid's estate. **(6 marks)**

Assume for the purposes of the following question that Enid died solvent.

(b) Explain who would have been entitled to Enid's estate. **(6 marks)**

(Total: 12 marks)

(Total for Scenario 3: 30 marks)

End of the Examination

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