



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 14 – LAW OF WILLS AND SUCCESSION\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Property Law 2020 -2021, 28th edition, Meryl Thomas, Oxford University Press, 2020.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

#### Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. Mental capacity is the ability to decide about a particular matter at the time the decision needs to be made.

Critically evaluate this statement in relation to a person's mental capacity to make a valid Will.

**(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 evaluate:

(a) the circumstances in which executors are obliged to act;

**(11 marks)**

(b) the effects of any renunciation;

**(9 marks)**

(c) whether executors are entitled to be paid for their services if they do act.

**(5 marks)**

**(Total: 25 marks)**

4. Critically evaluate the rules of construction of Wills as far as adopted children and illegitimate children are concerned, and whether such individuals may inherit under the intestacy rules.

**(25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Sophia Henderson made a Will in February 2017 as follows:

My last Will by Sophia Henderson

1. I wish to be cremated.
2. I appoint my husband Oliver Henderson to act as the executor of this my Will. If he is unable to act, then I appoint my son Victor Henderson to act in his place.
3. I leave the sum of £20,000 to be divided between my grandchildren subject to each attaining the age of 21.
4. If my husband survives me by a period of 28 days, then I leave the residue of my estate to him.
5. If my husband dies before me, I wish my son Victor to inherit the residue of my estate.

Dated 16<sup>th</sup> day of February 2017

Signed by the above-named Sophia Henderson  
As and for her last Will in our presence and then  
By us in hers.

Witnessed by:

*Brian Smith*                      *Jacqueline Smith*

In May 2021, Oliver and Sophia were killed simultaneously in a train accident while on holiday in the French Alps. Victor discovered his parents' signed Wills in the back of the wardrobe in their bedroom. His father's Will mirrors his mother's Will, except that the residue of his estate is left to the Royal Society for Soldiers, Sailors and Airmen. Victor is upset to learn the contents of his father's Will, although the two of them had had a stormy relationship since Victor was a teenager.

Oliver and Sophia had five grandchildren at the date of their deaths. Four of the grandchildren are in their mid-twenties to late thirties. Their youngest grandson, Peter, is only 12, but has childhood leukaemia and is not expected to survive for longer than a year.

Advise Victor of the effect of the survivorship clause and the effects of the gift to grandchildren.

**(25 marks)**

## Question 2

Rafael died unexpectedly in May 2021, leaving a Will dated January 2012. He had appointed Nicholas, his lifelong friend, as the sole executor of his estate. After the gift to Nicholas of one of his investment properties called 'The View', worth £90,000, Rafael's estate is to be divided between various animal charities.

Since Rafael was not in ill health when the Will was drawn up and had no family or dependants, there is no possibility of the Will being set aside due to lack of capacity or of a claim under the Inheritance (Provision for Family and Dependants) Act 1975 (as amended) being made against the estate.

The estate comprises money in bank accounts amounting to £20,000. There are also ten investment properties, including 'The View', valued together at £2,300,000. There are no mortgages on these properties, which are let on short-term leases. Rafael managed these properties himself. The Will contains no provision giving Nicholas express powers in respect of these properties.

Nicholas has never acted as executor of a Will before but is determined to undertake the role as Rafael had wished. However, he is concerned with the volume of paperwork that he has uncovered, including several credit card bills totalling £6,750. He has also found insurance renewal notices on the investment properties, which are due for renewal shortly.

Advise Nicholas:

- (a) of his duties and obligations when acting as executor of the estate;  
**(9 marks)**
- (b) of the risks involved;  
**(10 marks)**
- (c) of how he might protect himself from risk.  
**(6 marks)**

**(Total: 25 marks)**

**Question 3**

Gary Rogers died in April 2021, shortly after being diagnosed with terminal cancer. Gary had made a Will in December 2020, leaving his flat, free of mortgage, to his niece Louise, aged 23. Louise is the daughter of Gary’s elder brother Mark, who died seven years ago. After payment of a legacy of £5,000 to Edward, a lifelong friend, the residue of Gary’s estate is left to his younger brother, Harry, who cared for him during his illness. The Will appoints Harry as sole executor.

Unknown to his family, Gary had had a secret gambling addiction. While looking through his brother’s papers, Harry has come across several credit card bills, which have come as a surprise to him, as Gary lived very frugally and his flat is in a poor state of repair.

At the time of his death, Gary’s estate consisted of the following assets and liabilities:

**Assets:**

	£
Flat 2B, 12 Cliff Road, Kempston, Bedford	80,000
Household contents and personal effects	500
Renault Clio motor car	1,200
Bank account balance at date of death	2,300
<b>Total assets</b>	<b>84,000</b>

**Liabilities:**

	£
Funeral invoice	4,000
Mortgage for the purchase of Flat 2B	23,700
Unpaid Visa MasterCard bill	21,000
Unpaid SmartWise Bank credit card	13,500
<b>Total debts and liabilities</b>	<b>62,200</b>

(a) Advise Harry of the effect of the gift to Louise under the Will. **(11 marks)**

Harry says that he has subsequently discovered a further credit card bill of £26,340.

(b) Advise Harry how the estate will now be distributed. **(14 marks)**

**(Total: 25 marks)**

#### **Question 4**

Freya, aged 83, died on 28 May 2021 after a long battle with cancer, leaving a net estate of £450,000. Her estate comprises her bungalow, valued at £430,000, and monies in bank accounts and shares totalling £20,000. When she was first diagnosed with cancer in December 2019, Freya made a Will, appointing her god-daughter Aretha as executor. The Will includes a legacy of £60,000 to Freya's daughter Tegan. The remainder of the estate is gifted to the local cat protection society.

When she learnt the contents of her late mother's Will, Tegan was most unhappy. During the last four decades of her mother's life, Tegan had had no contact with her mother, who had disapproved of Tegan's long-term boyfriend, Winton. Winton works as a musician, and Tegan says that her mother was critical because he was not academic, and she was always accusing him of 'not getting a proper job'. Tegan only works a few hours a week as a cleaner, and she and Winton claim state benefits to supplement their income. Tegan and Winton live in a small, rented flat.

Claims are being contemplated against Freya's estate by, or on behalf of, the following:

- Tegan, who says that her mother only gifted a couple of pounds each month to the cats' home and it is unfair that the charity should receive most of the estate.
- Freya's godson Xavier, who is at university studying pharmacy. Freya paid the monthly rent of £454 on his student accommodation. As a result of her death, he does not think that he will be able to afford to continue with his studies.
- Kendell, who was Freya's boyfriend over the last 20 years. Kendell owns a small flat and has a good pension. His flat is on the third floor of the block, but the lift suffers regular mechanical issues and is rarely working. As he suffers from arthritis in his knees, Kendell often stayed over at Freya's spacious home.

Advise Aretha of the potential entitlement of the above claimants against the estate under the Inheritance (Provision for Family and Dependants Act) 1975 (as amended), whether their claims are likely to be successful, and of any other considerations regarding such claims.

**(25 marks)**

**End of Examination Paper**