



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 2018-2019, 26th edition, Meryl Thomas, Oxford University Press, 2018.**
- 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**

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

1. Analyse how the court will decide whether a testator had mental capacity at the time he made his will.

(25 marks)

2. Critically analyse how the courts have dealt with issues regarding:

(a) revocation of wills;

(14 marks)

(b) a testator's intention with regard to their will.

(11 marks)

(Total: 25 marks)

3. Legacies in wills are usually classified as falling into one of the following categories: specific, general, or demonstrative.

Critically assess the effects of each classification in relation to ademption, abatement, and payment of income and interest.

(25 marks)

4. "People who own property should not die intestate, they should make wills. Their wills should be drawn up by suitably qualified practitioners, who are independent of any of the beneficiaries, and care should be taken over execution... [but] most people still do die intestate, and if they do, the rules which then apply should be carefully thought through and as close to being fair as is possible."

(Roger Kerridge, 'Reform of the law of succession: the need for change, not piecemeal tinkering', *Conveyancer and Property Lawyer*, 2007.)

Critically evaluate, in light of the above comment, the rules that apply to determine the entitlement of a surviving spouse or civil partner on intestacy. Your answer should include discussion of the changes made by the Inheritance and Trustees' Powers Act 2014.

(25 marks)

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

Question 1

Alice Crompton died on 15 April 2018 and her will reads as follows:

'MY WILL BY ALICE CROMPTON

1. I wish my friends Bertram Marx and Carlos Groucho to be my executors.
2. I give £1,000 to each of Carlos Groucho, Sinita Patel, and Juliette Barnes.
3. I give all my jewellery to Isabel Marx.
4. I give the rest of my estate equally to the Redwings Horse Sanctuary and the other charities I shall name in any letter I leave with my will.'

DATED 25th October 2009 SIGNED *A Crom*

Bertram Marx

Carlos Groucho

Bertram and Carlos seek your advice. They explain that they found Alice's will inside an envelope with 'MY WILL' written on it. The envelope also contained a letter addressed to them both. The letter said 'to be included in my will' followed by the names of two local charities which Alice supported. The letter was not signed by Alice and nor was it dated.

Bertram and Carlos tell you that they had not been present when Alice had signed her will. When she had asked them to witness her signature, she had said that due to her Parkinson's disease, she had been very shaky when she signed it, and so had not been able to write out her name in full.

Bertram tells you that he was in a rush the day he signed the will, so had signed his name first. He had left before Carlos signed. Carlos tells you that after he had signed the will, he added the date, because Alice was chatting to Carlos' wife, Juliette.

Bertram tells you that Alice gave away her jewellery some years ago.

Carlos tells you that his wife Juliette is a beneficiary in the will, but that Alice had made her will before they got married.

Bertram and Carlos express concerns about whether Alice's will has been validly executed and, if so, whether the gifts in clauses 2, 3 and 4 are valid.

Advise Bertram and Carlos.

(25 marks)

Question 2

James died unexpectedly last week of a massive heart attack. He was aged 60. He is survived by his wife, Hannah (aged 50), and their daughter, Sophie (aged 13).

James had two children from his first marriage, Wendy and Karl. Wendy died ten years ago and is survived by her sons, Robin (aged 20) and Michael (aged 15).

Karl is aged 41 and has no children.

Hannah has also been married previously and has a daughter, Lucy (aged 24).

Although they had intended to make wills, James did not do so and Hannah has not made one yet. They owned their home, mortgage-free, as tenants in common, James having a two-thirds share and Hannah having a one-third share to represent the shares they put into the property when they purchased it. It was recently valued at £900,000.

James had some investments in his sole name. These are valued at £25,000. His personal chattels are worth £12,000.

James was the sole owner of an antiques business. This is worth £65,000.

James was a keen amateur racing driver and he owned a racing go-cart, which he had built himself. He raced regularly and he also hired out the cart to a local racing school, which provided him with an additional income. The go-cart is worth £30,000.

Hannah has a small amount of savings in her own name. She wants the administration of the estate to be done as quickly as possible, and wishes to do it all herself. She does not get on with Karl, so she wants to keep him out of it.

Hannah would like to continue living in the family home, so that she can provide a stable environment for Sophie.

Hannah asks for the following advice:

(a) whether she can administer James's estate on her own;

(8 marks)

(b) how the will should be distributed;

(9 marks)

(c) whether she and Sophie can remain in the family home.

(8 marks)

(Total: 25 marks)

Turn over

Question 3

Robert Marchmain died recently, having made a will appointing his son Nathan as his executor. The will includes the following gifts:

3. I give £40,000 to my nephew David
4. I give £10,000 each to my nieces Zakkia and Layla
5. I give my house Bluebell Corner, Woodley Lane, Kimpton to my son Nathan
6. I give my holiday home Sea View, Veryan Green, Cornwall free of mortgage to my sister Jennifer
7. I give the residue of my estate to my daughter Angelina.

Nathan informs you that he has collected together details of his father's estate.

The house in Kimpton has been valued at £290,000, and is subject to a mortgage of £50,000. The holiday home has been valued at £150,000, and is subject to a mortgage of £30,000.

The value of Robert's other assets, comprising his personal effects, savings and car, is £70,000.

He has credit card debts and other liabilities amounting to £50,000.

Nathan tells you that he and his sister Angelina intend to pay for their father's funeral from their own money.

Robert's will does not include any other provisions relevant to the payment of his debts and liabilities.

Advise Nathan in what order the assets of his father's estate should be used to pay the debts and liabilities of the estate.

(25 marks)

Question 4

Eliza Hernandez died in November last year after a long illness. She had made her validly executed will in 2002.

Her daughter Joy and her son Hugo are her executors. Eliza's will includes the following clauses:

£30,000

'3. I give ~~£10,000~~ to my sister Susan *Eliza Hernandez*

4. ~~I give £2,000 to my friend Bilal Jones~~

£20,000

Eliza Hernandez

5. I give ██████████ to my brother-in-law Pedro

6. I give my premium bonds to my cousin Raul

7. I give the remainder of my estate after payment of all my funeral and testamentary expenses to such of my children Joy, Hugo, Madelaine and Andy as shall survive me and if more than one in equal shares absolutely.'

Joy and Hugo seek your advice on their mother's will. They confirm that the amendments to clauses 3 and 5 are in their mother's handwriting. All the amendments to the will are in ink, including the deletion of clause 4.

They tell you that Raul's last known address was in Mexico, but that he has not been heard of by the family for more than 15 years, when he stopped sending birthday and Christmas cards. Any letters Eliza sent to him were returned marked 'Addressee unknown at this address'. They have tried to find him by placing advertisements in the newspaper of the town where he used to live in Mexico, and have tried Google searches on his name, but his whereabouts are still unknown. Joy and Hugo say that he would now be in his eighties and may no longer be alive. The premium bonds left to him in the will are worth £30,000.

They also tell you that Madelaine died in 2005, leaving a son, Xander. Andy is their younger brother. They know his address, but following a family argument, they have not seen or spoken to him in more than 10 years and nor had Eliza.

Advise Joy and Hugo on:

(a) the effect of the alterations made to clauses 3, 4 and 5 of Eliza's will;
(10 marks)

(b) the steps they could take to protect themselves before distributing the premium bond money, if Raul cannot be found;
(9 marks)

(c) how the residuary estate should be distributed.
(6 marks)
(Total: 25 marks)

End of Examination Paper

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