



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**

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

1. Critically examine the rules the Court applies in determining the following:
 - (a) a testator's mental capacity to make a will;

(17 marks)
 - (b) whether the testator's will has been made under undue influence.

(8 marks)

(Total: 25 marks)

2. (a) Explain the circumstances in which a person who is not named as executor in a will may take out a grant of representation.

(12 marks)

(b) Critically discuss the powers of the Court to appoint replacement personal representatives over an executor named in a will.

(13 marks)

(Total: 25 marks)

3. Critically analyse the necessary requirements for a testator to validly revoke their will.

(25 marks)

4. Discuss the approach the Court takes when deciding whether reasonable financial provision has been made for a spouse or civil partner under the terms of a deceased's will or their intestacy.

(25 marks)

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

Question 1

Bernice married Hugh in 1991. They divorced in 2004.

Immediately following her divorce, Bernice made a will, leaving half of her estate to Douglas, her son with Hugh, and the other half to be divided between her siblings, Oliver, Janice and Geraldine. If any of her siblings predeceased Bernice, their children would inherit instead.

In April 2010, Bernice married Rob, who had one son, Zak, from his previous marriage. Bernice and Rob had no children together.

Although she had been intending to do so, Bernice had not got around to changing her will.

Bernice died in April 2019 after a short illness.

In March 2019, Rob and several other family members had been killed in a traffic accident, when they were sharing a minibus to attend a family get-together.

Bernice and Hugh's son, Douglas, died in the same crash as Rob. Douglas was unmarried and had no children.

Bernice's parents are both dead.

Bernice's older brother, Oliver, who died in 2009, was married to Nadia. They had a son, Patrick, who died in the same crash as Rob and Douglas. Patrick was married to Yasmin and they had a son, Timothy, aged two.

Yasmin is pregnant with their second child.

Oliver and Nadia also had an adopted daughter, Karen, aged 16.

Bernice's sister Janice died in 2012 and was survived by her husband, Frank. Janice had two sons, Lawrence, aged 22, and Alex, aged 17.

Alex was also involved in the crash with Rob. He survived but died last week of his injuries. Alex was unmarried, but was cohabiting with Melania, also aged 17. Alex and Melania had a baby, Ian, aged two months.

Geraldine was Bernice's half-sister from her late father's previous marriage.

(a) Explain the entitlement, if any, of each of Bernice's relatives to share in her estate.

(19 marks)

(b) Explain who would be entitled to take out the grant of representation to Bernice's estate.

(6 marks)

(Total: 25 marks)

Turn over

Question 2

Ezra McFarlane died four weeks ago. He was 84 years old and a bachelor.

He had made a validly executed homemade will in 2017, appointing Christopher Thorpe and Quinn Hand as his executors. The will includes the following clauses:

- '3. *I give my car to Bertie McFarlane because I know he admires it.*
4. *I give my stocks, shares and similar investments to Ortense and Julie Brooke in equal shares.*
5. *I give my cottage in the New Forest to Christopher Thorpe, Quinn Hand, the living children of Christopher Thorpe, and Matthew Brooke to sell and divide the proceeds into equal shares.*
6. *I give the residue of my estate to my surviving relatives.'*

Christopher and Quinn explain that they, together with Matthew Brooke, had been friends with Ezra since they were 12 years old.

Ezra had no children, but he did have a sister, Vera, and two brothers, Peter and Godfrey.

Vera died in 2017 and was survived by her adult children, Lily and William.

Peter, died in 2000 leaving an adult son Stephen, who visited Ezra occasionally.

Quinn says that Ezra and Godfrey fell out many years ago and had no contact.

Christopher tells you that he has three adult children, Bertie, Naomi and Amy. Quinn has no children. Matthew has two daughters, Ortense and Julie, both adults. All the children were close to Ezra and called him 'Uncle Ez'. Matthew has lived in a care home for the last 12 years.

Christopher and Quinn tell you that Ezra's estate comprises: two cars (a classic BMW and a new Golf); a share portfolio valued at £50,000; savings in a building society of £40,000; £25,000 in Premium Bonds; and £30,000 in investment bonds. The cottage in the New Forest is valued at £525,000, and Ezra's home in Kempston is worth £300,000.

Advise the executors how Ezra's estate should be distributed, explaining the principles likely to be applied by the Court when interpreting Ezra's will.

(25 marks)

Question 3

Roger died six months ago, after suffering a heart attack while out jogging. He was 40 years of age and a property developer. Roger lived with his partner, Theo, at 'Homemade House'. This property is in Roger's sole name and it is valued at £250,000. The property is subject to a mortgage of £50,000.

Roger generally had several property transactions on the go. At the time he died, he was in the process of buying 'The Piggery' for £75,000. Contracts had already been exchanged, but completion had not yet taken place. Roger had paid a deposit of £15,000.

Roger also owned a property that he had just finished developing into two other properties: 'River Cottage' and 'Stream View'. His intention had been to keep these and rent them out to provide additional income. River Cottage is valued at £200,000 and Stream View is valued at £100,000. There is a single mortgage of £150,000 secured on both of these properties.

Roger's other assets are valued at £80,000.

In addition to the mortgage on his properties, Roger had liabilities of approximately £10,000. His funeral costs and the costs of administering his estate will amount to around £10,000.

A short while before his death, Roger had made a will appointing Theo as his executor.

His will includes legacies of £60,000 to Theo, and £20,000 to his friend Ben.

Roger's will gifts Homemade House to Theo 'free of mortgage'.

His will gifts The Piggery to his friend Lucinda, and River Cottage to his nephew Gabir. The will makes no mention of the liabilities on those properties. There is no mention of Stream View in the will.

Roger's will leaves the residue of the estate to his sister Valerie. Although the will directs that debts and liabilities shall be paid, it does not say from where and does not contain any other provisions relevant to the payment of debts, liabilities and expenses.

Explain what each beneficiary is entitled to receive.

[NOTE TO CANDIDATES: You are not required to discuss the payment of any Inheritance Tax liability, or any possible claim under the Inheritance (Provision for Family and Dependents) Act 1975.]

(25 marks)

Turn over

Question 4

Reyansh Singh died three months ago, having validly executed his will in 2006 in which he appointed his brothers Ishaan and Kabir as his executors.

Reyansh's will includes the following clauses:

'4. I GIVE the following specific legacies absolutely:

4.1 To my niece Jiya my shares in Vodafone

4.2 To my niece Varsha £10,000 to be paid out of my Nationwide Building Society account

4.3 To my nephew Sahil 2,000 shares in BP

4.4 To my cousin Nitya £1,500 Treasury Stock 3% 2017 and to my cousin Mitul £1,000 Treasury Stock 5% 2023 now standing in my name

5. I GIVE the following pecuniary legacies absolutely:

5.1 To my friend Xander Jones ~~£2,000~~ £3,000 R. Singh

5.2 To my friend Annabel Robertson [REDACTED] £2,000

6. I GIVE £5,000 to each of the charities I shall name in a handwritten note to be placed with this will'

Ishaan and Kabir tell you that Reyansh was a widower and he lived alone. They found his will in an unsealed envelope, which also contained an undated note written in Reyansh's handwriting in blue ink with details of five charities.

They say that all the alterations and the signature in clause 5 are in Reyansh's handwriting and are made in the same blue ink as the note.

Kabir says he has discovered that although Reyansh owned all the shares and stock referred to in the will in 2006, the shares in BP and the Treasury Stock 3% 2017 were sold in 2010, and the shares in Vodafone were sold in 2013.

At the time of his death, Reyansh had only £3,000 in his Nationwide Building Society account.

The remainder of Reyansh's estate passes to Ishaan and Kabir.

Advise Ishaan and Kabir on:

(a) the settlement of the legacies in clause 4; **(12 marks)**

(b) the effect of the alterations in clause 5; **(8 marks)**

(c) the payment of the legacies in clause 6. **(5 marks)**

(Total: 25 marks)

End of Examination Paper

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