



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 8 – LAW OF WILLS AND SUCCESSION*

Time allowed: 1 hour and 30 minutes 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.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

BLANK PAGE

SECTION A

(Answer ALL questions in Section A)

1. Explain why a revocation clause should be included in a Will. **(3 marks)**
2. State the section number of the Wills Act 1837 where the rules relating to formalities are found. **(1 mark)**
3. Identify **four** reasons why a testator might decide to appoint a professional executor. **(4 marks)**
4. Outline when a gift left in a Will might lapse. **(2 marks)**
5. Explain why a Will might not be revoked by the subsequent marriage of the testator. **(4 marks)**
6. Explain who would first be entitled to inherit, if a single woman without children died intestate. **(2 marks)**
7. Define the term 'partial intestacy' and give **one** example of how it might arise. **(2 marks)**
8. Explain the provisions of s.32 of the Trustee Act 1925. **(4 marks)**
9. Explain when a grant of letters of administration with the Will annexed is appropriate. **(3 marks)**
10. Identify **three** categories of people who could be asked to make an affidavit of due execution in a case where a Will does not contain an attestation clause. **(3 marks)**
11. State the surviving spouse standard of financial provision under the Inheritance (Provision for Family and Dependants) Act (IPFDA) 1975. **(2 marks)**

(Total Marks for Section A: 30 marks)

Turn over

SECTION B

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

Scenario 1

Indira Patesh, an elderly widow, prepared a homemade Will as follows:

'Will of me Indira Patesh of The Lodge, 39 Kempston Road, Kempston.

I appoint my two sons Muhammad Patesh and Ravi Patesh to be my executors and trustees

I leave my estate to be divided equally between my sons Muhammad Patesh and Ravi Patesh

Dated October 2014'

After printing off the Will, Indira invited her two friends Rosalyn and Natalie over to her house for lunch. Once they were all seated around the dining room table, Indira signed her Will, then passed it to Rosalyn, who was sitting nearest to her. After Rosalyn signed, she went out to the local shop to buy a bottle of wine for them all to enjoy with lunch. Before Rosalyn returned, Natalie signed the Will, in Indira's presence, then handed the document back to her. When Rosalyn returned, Natalie pointed to her signature and said: 'Now we have all signed, let's open the wine'.

In October 2019, Indira was in a train accident with her son Ravi. Ravi was killed instantly, leaving two children aged 2 and 4 years. Indira survived for two weeks, during which time her neighbour Jeanette visited on a regular basis. Indira had told Jeanette many times over the years that, as she had always been a good neighbour, she wanted her to have her vintage sports car, which Jeanette had always admired. Since the car had been left parked on the road, Indira gave Jeanette the key, saying she could move it to the driveway to make room for other cars. When Jeanette was leaving the hospital, Indira whispered to her: 'If I don't make it, the car is yours; I know you will look after it'.

Indira died, leaving an estate of £210,000, which comprises her house, her savings and her car.

Scenario 1 Questions

1. (a) Identify the formal requirements to make a valid Will. **(5 marks)**

(b) Applying these formal requirements to the facts in the scenario, explain why Indira has made a valid Will. Use **one** relevant example from case law to illustrate your answer. **(7 marks)**
(Total: 12 marks)

2. (a) Identify the essential conditions for making a valid *donatio mortis causa* (deathbed gift). **(3 marks)**

(b) Applying these conditions to the facts of the scenario, explain whether Jeanette can keep the car. Use **one** relevant example from case law to illustrate your answer. **(10 marks)**
(Total: 13 marks)

3. Explain what will happen to Ravi's share of the estate. **(5 marks)**

(Total Marks for Scenario 1: 30 marks)

Turn over

Scenario 2

Agnes Bishop, a widow, was diagnosed with cancer and advised by the nurses looking after her to make a Will. After her daughter Julie found a firm online, a solicitor visited Agnes at her home to take instructions. Eventually, a new Will was drawn up, leaving Agnes' estate in equal shares to her daughters Julie and Kate. Two months after signing the Will, Agnes passed away peacefully.

On learning of the contents of his mother's Will, her son Frank was deeply hurt that he had not been included. He regularly visited his mother in the last years of her life and helped her to do her shopping and household chores. Besides feeling upset, Frank is worried about money. He is dependent on state benefits, after a back injury (which is getting worse) meant that he was no longer able to work as a lorry driver. His sisters, Julie and Kate, are financially independent, as Julie's husband is wealthy and Kate has a well-paid job in the City. They live in large houses, which they jointly own with their spouses, while Frank lives in a small rented flat. During her lifetime, his mother had always hinted that Frank and his sisters would share equally in the estate, when the time came.

Agnes' estate is worth £950,000, which mainly represents the value of the family home, including the antique furnishings collected by Agnes and her late husband Harold over the years at antiques fairs. Agnes' estate also included a cottage in the Lake District, called 'The View'.

Scenario 2 Questions

1. (a) Explain why Frank might be able to make a claim against the estate for financial provision. Include the time period in which the claim must be made in your answer.

(3 marks)

- (b) (i) Identify the factors that the court is likely to take into account in this case.

(5 marks)

- (ii) Explain how these factors are likely to apply in Frank's case. Use **one** relevant example from case law to illustrate your answer.

(10 marks)

(Total: 18 marks)

2. Identify **five** categories of people who can make a claim under the Inheritance (Provision for Family and Dependants) Act (IPFDA) 1975.

(5 marks)

3. If the Will is challenged by Frank on the grounds of lack of testamentary capacity and is set aside:

- (a) explain how Agnes' estate will be distributed;

(6 marks)

- (b) identify the type of grant required to deal with the estate.

(1 mark)

[Note: Ignore the effect of any claim under the Inheritance (Provision for Family and Dependants) Act 1975 in your answers to Question 3.]

(Total: 7 marks)

(Total Marks for Scenario 2: 30 marks)

Turn over

Scenario 3

Michele Rogers died intestate following a car accident on the motorway, in July 2019. She was a single woman, who had never married or had any children. At the time of her death, Michele's family included her two sisters, Denise and Barbara, who were also single and childless. Her brother, Eric Rogers, had died two years before Michele from pancreatic cancer. He had two children called Lucy (aged 10) and Graham (aged 8). Both of Michele's parents had died when she was young.

Michele's family were unaware that Michele was heavily in debt, having run up credit card bills several years ago, buying clothes and shoes after suffering a traumatic break-up from a long-term partner. After buying new articles of clothing or footwear, Michele would feel guilty and then hide the items and never wear them, so her family, who always saw her wearing the same things, were unaware of the extent of her overspending.

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

Assets:

Flat 1B Cliff Road, Kempston, Bedford	£80,000
Household contents and personal effects	£500
Ford Fiesta motor car	£800
Bank account balance at date of death	£200
Total assets	£81,500

Liabilities:

Funeral invoice	£4,000
Unpaid Marks & Spencer credit card bill	£2,500
Visa credit card bill	£12,000
Mortgage with Borrowdale Bank for the purchase of Flat 1B Cliff Road	£70,000
Total debts and liabilities	£88,500

This made a total of £88,500 in debts, including the mortgage, and a total of £18,500 in debts excluding the mortgage.

Scenario 3 Questions

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

2. Explain the order in which the payment of debts and liabilities in Michele's estate will be made.

[Note: You do not need to explain the amount that each creditor will receive.]
(10 marks)

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

4. It now transpires that Michele's mortgage included life cover, which paid off the mortgage on Flat 1B Cliff Road on her death.

(a) Explain how payment of Michele's debts and liabilities will now be different. **(4 marks)**

(b) Explain how the residue of Michele's estate will now be distributed.

(5 marks)
(Total: 9 marks)

(Total Marks for Scenario 3: 30 marks)

End of Examination Paper

BLANK PAGE

BLANK PAGE

BLANK PAGE