



## 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 2019-2020, 27th edition, Meryl Thomas, Oxford University Press, 2019.**
- 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. Analyse, with reference to case law, how the courts have applied the rules contained in s.24 and s.34 Wills Act 1837 in deciding how gifts in a will should be construed.

**(25 marks)**

2. 'The formalities prescribed for making a will provide some sort of a safeguard ... and serve as a check against imprudent action... . In general, formalities can be justified by the need to provide reliable evidence of a person's testamentary intention.'

(Parry and Kerridge, *The Law of Succession 2016*)

Critically analyse the extent to which the statutory rules contained in s.9 Wills Act 1837, as amended by statute and as applied through case law, ensure that a testator has the necessary testamentary intention.

**(25 marks)**

3. Explain and analyse, with reference to case law:

(a) the situations in which personal representatives may be held liable for breach of duty;

**(13 marks)**

(b) the steps that personal representatives can take to protect themselves from liability for breach of duty.

**(12 marks)**

**(Total: 25 marks)**

4. Critically analyse, with reference to case law and the Inheritance and Trustees' Powers Act 2014, the position of 'children', including adult children, when making an application for financial provision from the deceased's estate.

**(25 marks)**

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

**Question 1**

Melanie Trumpeter, a wealthy spinster, died last month, leaving a duly executed will, which appoints her brother Dan as executor.

Melanie's estate comprises:

- a country house called 'The White Place', which is valued at £600,000 and is subject to a mortgage of £100,000;
- a luxury sailing yacht, 'Rocket Man', valued at £300,000 and which is subject to a mortgage of £50,000;
- personal possessions totalling £200,000 in value.

Melanie has debts and liabilities, mostly to a number of credit card companies, amounting to £35,000.

Dan believes that the funeral and administration costs will amount to £15,000.

Melanie's will makes the following gifts:

1. I leave The White Place to my brother Dan - free of mortgage
2. I leave my sailing boat Rocket Man to my old friend Kim
3. I leave £56,000 to my niece Emily
4. I leave £7,000 each to my cousins Sol and Hilary
5. My residuary estate to my sister Iona'.

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

Advise Dan in what order the assets of his sister's estate should be used to pay the debts and liabilities of the estate and to satisfy the gifts under the will.

**(25 marks)**

**Turn over**

## Question 2

In 2010, Yasmin Le Griff duly executed a home-made will, in which she appointed her friend Oswald Jones to be executor.

Yasmin's will contains the following gifts:

'(i) I leave to my daughter Zeta my sports car.

*£20,000 YLG*

(ii) I leave ~~£10,000~~ to my son Xander.

*£3,000*

(iii) I leave [REDACTED] to my kind neighbour Theo.

(iv) I leave 'Mountain View' my holiday house in Pembrokeshire to my favourite nephew Jack.

(v) My residuary estate to my husband, Lloyd.'

Yasmin died two months ago. Lloyd had died in January 2018. Yasmin and Lloyd had only one child, their daughter Zeta, although Yasmin always referred to Xander as 'my son'.

All the alterations are in Yasmin's handwriting, and all are in ink other than the figure '£20,000' in clause (ii), which is written in pencil.

The two witnesses to Yasmin's will do not recall seeing the alterations, when they signed her will.

Her estate includes two sports cars: a classic 1990s MGF and a new McLaren 570S. Yasmin told Oswald before she died that she wanted Zeta to receive the MGF.

Two years ago, Yasmin granted her friend William an option to purchase 'Mountain View', exercisable within three months of her death.

Last week, William contacted Oswald, informing him that he (William) was exercising the option to purchase.

Advise Oswald as to the validity and effect of each of the gifts in Yasmin's will.

**(25 marks)**

### Question 3

In January 2015, Victoria, a retired singer turned fashion designer, decided to make a will. She visited her solicitor and gave instructions to prepare a will, in which she:

- gave seven legacies of £20,000 each to three of her friends and four of her favourite charities;
- appointed her eldest son, Bradley, as executor;
- bequeathed the residue of her estate equally between her sons, Bradley, Conor and Riley.

In March 2015, Victoria discovered that her best friend and former bandmate Gigi had been tragically killed in a freak accident, while appearing on a TV survival show. Victoria was completely devastated by the loss. She started to take prescription antidepressants and soon became addicted.

In December 2015, Victoria finally went back to her solicitor and duly executed her will. She told her solicitor that she could not remember any of the instructions that she had given in January, but trusted him to have done what she asked.

In 2018, Victoria entered a nursing care home, suffering from dementia as a result of the drug abuse. She became increasingly confused and soon was unable to recognise her sons. On one occasion, she became so upset when Bradley visited that he had to leave. He told his brother Conor that his mother had said he was a stranger. Conor said something similar had happened to him on several occasions.

However, Victoria became very fond of Umberto, her carer in the home.

Victoria died last week.

When Bradley collected her belongings from the care home, he found an envelope, which contained a home-made will duly executed by Victoria shortly before her death.

The will was expressed to revoke any earlier will and left all of Victoria's estate to Umberto. The new will also appointed him as her sole executor. The will had been witnessed by two staff at the care home. Both witnesses recall that at the time of execution, only Victoria was present in the room. They also remember that Victoria had told them, 'Umberto has helped me make my will, so I have left him a little something'.

- (a) Advise Bradley how Victoria's mental capacity and her knowledge and approval might affect the validity of her home-made will.

**(18 marks)**

- (b) Advise Bradley whether Victoria's bereavement could have affected her mental capacity at the time she executed her professional will in 2015 and, if so, whether any exception may apply to save this earlier will, in the event that the home-made will is invalid.

**(7 marks)**

**(Total: 25 marks)**

**Turn over**

#### Question 4

Aaron and Priya were married in September 2019 and shortly afterwards consulted their solicitor about making new wills. These were to be 'mirror wills', leaving everything to each other, but if one did not survive the other, then all was to go to their only daughter, Faria, who was three months old at the time they consulted their solicitor. Their solicitor prepared the wills some time ago but had not got round to sending them to Aaron and Priya for approval.

Aaron was killed in a freak helicopter accident a month ago. Priya has been sorting through his papers and has found an earlier will, prepared by their solicitor and dated seven years ago. It is signed by Aaron and witnessed by their solicitor and his trainee. It leaves all of Aaron's property to the charity Greenpeace UK.

Aaron's estate comprises the following assets:

- 3 Chestnut Close – the family home – a detached house worth £500,000 and which is in Aaron's sole name.
- The contents of 3 Chestnut Close, valued at £30,000, including a valuable computer and laptop used by Aaron in connection with his work.
- In the garden at 3 Chestnut Close there is a rock with a drawing in aerosol paint on it by the acclaimed street artist 'Besty'. This is valued at £200,000. Aaron was a friend of the artist.
- Four Jaguar motor cars of varying ages and in various states of repair. Aaron was a very keen collector of antique cars and loved renovating them. The two most valuable ones were kept locked away in the double garage at 3 Chestnut Close. Aaron would sometimes rent out these cars for weddings and to film companies needing authentic period motor cars.
- A three-month-old Jaguar car that Aaron used for travel to and from work and for driving to see clients.

Other than his wife and baby daughter, Aaron's only living relative is his brother Quentin.

Advise Priya:

- (a) who will be entitled to take out a grant in respect of Aaron's estate and what type of grant they will apply for;

**(7 marks)**

- (b) who will be beneficially entitled to Aaron's estate, ignoring the possibility of any claims under the family provision legislation.

**(18 marks)**

**(Total: 25 marks)**

**End of Examination Paper**

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