



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**

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SECTION A

(Answer ALL questions in Section A)

1. State why it is important for cohabittees to make Wills. **(1 mark)**
2. Describe the circumstances in which a legacy will abate. **(2 marks)**
3. Under s.46(2A) Administration of Estates Act (AEA) 1925, how long must a spouse survive the intestate to inherit? **(1 mark)**
4. Identify **four** categories of claimants under the Inheritance (Provision for Family and Dependents) Act (IPFDA) 1975. **(4 marks)**
5. Outline the clauses that should be included in a Will if the testator owns a business. **(4 marks)**
6. Explain the effects of divorce on a Will. **(4 marks)**
7. State the **four** circumstances in which a person would be deemed to be unable to make decisions for themselves under s.3(1) of the Mental Capacity Act (MCA) 2005. **(4 marks)**
8. Identify the circumstances when a Grant of Letters of Administration with the Will Annexed is appropriate. **(4 marks)**
9. Identify the circumstances when the chain of representation under s.7(1) Administration of Estates Act (AEA) 1925 may be broken. **(3 marks)**
10. Explain what would be required by a Registrar before they would issue a Grant of Probate of a Will that was accidentally burnt by the testator when under the influence of alcohol. **(3 marks)**

(Total Marks for Section A: 30 marks)

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SECTION B

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

Scenario 1

John and Mary Williams married in June 2016 when John was 57 and Mary was 55, but their happiness was short-lived as John was killed in a car accident in March 2017. Although John had frequently thought about making a Will, especially after meeting Mary, he had never got round to making a Will and he died intestate.

In August 2014, Mary moved into John's house known as 'The View', which John had bought in November 2013 after his acrimonious divorce from his first wife, Sandra. At the time of his death, the house was registered in John's name only, but Mary had always thought of 'The View' as their 'forever home', and they had spent a lot of money having it renovated and choosing new furnishings together.

John had been interested in paintings and had bought a few at low prices over the years, hoping that they would increase in value. He told Mary that they were his retirement fund and he stored them in his bank.

John had three children from his first marriage, called Claire Jones aged 28, Andrew Williams aged 26, and Helen Williams aged 23. None of them like Mary or want her to receive anything from the estate.

At the time of his death, John's assets consisted of the following:

	£
House known as 'The View'	500,000
Household contents	16,000
Bank accounts held in John's name only	100,000
Designer watch worth	24,000
Paintings stored in the bank worth	60,000
 Gross estate	 £700,000

Funeral expenses were £3,500 and, at the time of his death, John had an unpaid credit card bill of £1,330 (total £4,830).

Net estate was therefore $£700,000 - £4,830 = £695,170$

Scenario 1 Questions

1. (a) Mary has been told that she is entitled to receive John's 'personal chattels'.

Explain to Mary which of John's assets are 'personal chattels' and which are not.

(9 marks)

- (b) Identify what else Mary will be entitled to receive from John's estate.

(3 marks)

(Total: 12 marks)

2. (a) Explain how a surviving spouse can continue to live in a house owned by their spouse who has died intestate.

(6 marks)

- (b) Explain, by applying the above rules, whether Mary can continue to live in 'The View'.

(4 marks)

(Total: 10 marks)

3. Explain whether the estate could have been distributed differently if John had made a valid Will before his marriage to Mary.

(8 marks)

(Total Marks for Scenario 1: 30 marks)

Turn over

Scenario 2

David Bishop was diagnosed with terminal cancer 18 months ago. He was advised by his doctor to consider putting his affairs in order before the pain became too much for him to bear and the doctors had to increase the levels of his medication.

However, David didn't act immediately. Now he would like to make a Will while he is in hospital. He is unaware that he has only a few days left to live because, out of kindness, doctors have not told him that his death is very near.

David was divorced from his childhood sweetheart, Karen, 12 years ago. However, after living apart for a year and a half, they were reconciled and they started to live together again in the former matrimonial home, very much as before.

The only family that David has is an unmarried sister, Barbara, who is 68 years old and who lives nearby. Since her retirement, four years ago, David has been in the habit of paying Barbara's water, gas and electricity bills because she only has her state retirement pension to manage on.

David has not made a Will before and he wants to leave everything to Karen. He has about £60,000 left in the bank as he gave most of his money to Karen when they divorced so that she could buy a place of her own, which she never did. The former matrimonial home, known as 101 Rosemount Avenue, is registered in David's sole name, and he thinks that it is worth about £300,000.

Although David appears alert enough to sign the Will, his signature is very erratic and he cannot stop shaking when he signs.

Scenario 2 Questions

1. Explain what precautions should be taken by a solicitor when making a Will for David in case Barbara claimed that David did not have the mental capacity to make a Will.

(10 marks)

2. If a Grant of Probate of David's Will was issued:

- (a) explain on what grounds Barbara might be able to bring a claim against David's estate;

(5 marks)

- (b) list the matters the court would take into account in deciding whether provision for Barbara should be made.

(8 marks)

(Total: 13 marks)

Assume that David has died before signing the Will, and Karen wants to bring a claim for financial provision from David's estate.

3. Explain the factors the court would take into account when considering her claim.

(7 marks)

(Total Marks for Scenario 2: 30 marks)

Turn over

Scenario 3

Neelam Panchal died in early November 2016, aged 73, after a long and painful battle with cancer. Neelam left a son, Tanvir Panchal aged 50, and a daughter, Ramani Gupta aged 48. Tanvir has two daughters, Elina who is 17 and Iram who is 16.

Neelam died leaving a Will dated 15 September 2009, which read as follows:

'This is the last Will and Testament of me Neelam Panchal of 'The Laurels' 11 Beech Avenue, Worthing, West Sussex SE2 4NA.

1. I revoke all earlier Wills made by me.
2. I appoint my daughter Ramani Gupta and my son Tanvir Panchal as my executors and trustees.
3. I leave the following legacies

To my daughter Ramani Gupta my pearl necklace with the emerald green clasp, which she has always admired.

To my son Tanvir Panchal a lawnmower and garden spade.

To my friend Jane Green of 13 Beech Avenue Worthing West Sussex the sum of £10,000.
4. I leave the rest of my estate equally between my dear granddaughters Elina Panchal and Iram Panchal subject to each attaining 25 years of age.

Dated 15 September 2009

Signed by Neelam Panchal
in our presence and then by
us in hers

Neelam Panchal

Jane Green

George Green

13 Beech Avenue
Worthing
West Sussex'

Scenario 3 Questions

1. (a) Identify the type of gift to Ramani **and** explain whether or not it would take effect if the necklace had been stolen during a burglary the year before Neelam died.

(5 marks)

- (b) Identify the type of gift to Tanvir **and** explain whether or not it would take effect if Neelam had given away her lawnmower and garden spade before her death.

(5 marks)

- (c) Explain whether Jane Green would receive her legacy under the Will.

(3 marks)

(Total: 13 marks)

2. Identify the type of gift to Elina and Iram in the Will **and** explain how this will be administered until Elina and Iram attain the age of 25.

(6 marks)

3. Explain to Tanvir whether the executors can make any payments from the estate before Elina and Iram attain the age of 25:

- (a) out of income to pay for education or driving lessons during this period;

(6 marks)

- (b) out of capital to pay for education or driving lessons during this period.

(5 marks)

(Total: 11 marks)

(Total Marks for Scenario 3: 30 marks)

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