



## 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 2016-2017, 24th edition, Meryl Thomas, Oxford University Press, 2016.**
- 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**

**BLANK PAGE**

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

1. Critically evaluate the special rules and entitlement that would apply to a surviving spouse in a total intestacy, including the changes made by the Inheritance and Trustees Powers Act 2014.

**(25 marks)**

2. Critically analyse how a testator of a solvent estate, when writing their will, may vary the statutory order for the payment of:

(a) unsecured debts;

**(18 marks)**

(b) secured debts.

**(7 marks)**

**(Total: 25 marks)**

3. '... all wills should be executed according to one form which could be easily and generally understood.'

Parry and Kerridge: The Law of Succession, 13th edition, 2016

Critically analyse the extent to which the statutory rules contained in s.9 Wills Act 1837 as amended and applied through case law give effect to the above statement.

**(25 marks)**

4. Critically analyse the position of a spouse or civil partner when making an application for financial provision out of the deceased's estate with reference to relevant case law and the changes made by the Inheritance and Trustees Powers Act 2014.

**(25 marks)**

**Turn over**

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

**Question 1**

In 2001, Alice Bennett duly executed a home-made will, in which she appointed her cousin Brian to be executor. Alice's will contained the following gifts:

- '(i) I leave to my son Colin my classic car  
£20,000 *AB*
- (ii) I leave ~~£10,000~~ to my daughter, Deborah
- (iii) I leave <sup>£3,000</sup> ██████████ to my dear friend, Elisha
- (iv) I leave 'Sea View' my holiday cottage in Cornwall to my favourite niece Florence
- (v) My residuary estate to my husband'.

Alice died two months ago. Her estate includes two classic cars, a 1960s Mini Cooper and a 1970s Porsche 911. Before Alice died, she had told Brian that she wanted Colin, her only son, to receive the 1970s Porsche 911. Although Alice had no daughters, she regarded Deborah as her daughter and often referred to her in that way. All the alterations are in Alice'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 Alice's will do not recall seeing the alterations when they signed her will.

Two years before Alice died, she granted her friend Gabriel an option to purchase 'Sea View', exercisable within three months of her death. Last week, Gabriel contacted Brian, informing him that he (Gabriel) was exercising the option to purchase. Alice's husband died in 2015.

Advise Brian as to the validity and effect of each of the gifts in Alice's will.

**(25 marks)**

## Question 2

In January 1997, Harold (aged 55) a retired lecturer and a widower, was diagnosed with cancer and decided to make a will. He visited his solicitor and gave instructions to prepare a will, in which he:

- bequeathed a total of ten legacies to his family, friends and favourite charities;
- appointed his eldest daughter, India, as executor;
- bequeathed the residue of his estate equally between his three daughters, India, Janani and Kamyra.

In November 1997, Harold discovered that his only sister, Lindsey, aged 25, had been tragically murdered. Harold was devastated and utterly bereft. Harold visited his doctor, who prescribed antidepressants and sleeping tablets for six months.

In December 1997, Harold visited his solicitor's office and duly executed his will, although he could not remember any of his previous instructions regarding the individual gifts or certain names and addresses of family members.

In 2014, Harold entered a nursing care home, suffering from dementia. From that date onwards, he became increasingly confused and forgetful, particularly with his daughters. He often forgot who they were and, on separate occasions, referred to them as strangers. At the same time, he developed a fondness for Mohammed, his personal carer at the nursing home.

Harold died last week. When India was at the nursing home collecting Harold's belongings, she found an envelope, which contained a duly executed home-made will by Harold. Apart from the signatures, the will was in printed format and contained a revocation clause. The will made one gift. It left Harold's entire estate to Mohammed as the sole beneficiary and appointed Mohammed as executor. The visiting physiotherapist and another person who was a friend of Harold had signed the will as witnesses in Harold's room two weeks before Harold's death. Both witnesses recall that at the time of execution, only Harold was present in his room. They also remember that Harold had told them, 'Mohammed has been really helpful with making my will, so I have left him something, not much, but something'.

(a) Advise India how Harold's mental capacity and his knowledge and approval of the will might affect his home-made will.

**(18 marks)**

(b) Advise India whether Harold's bereavement affected his mental capacity at the time he executed his professional will in 1997 and, if so, whether any exception may apply to save this will.

**For part (b) do not discuss the test for mental capacity.**

**(7 marks)**

**(Total: 25 marks)**

**Turn over**

### Question 3

In September 2009, Nigel, who was single and childless, instructed his solicitor to make a simple will, leaving all his estate to his favourite niece, Olivia. Two weeks later, Nigel attended his solicitor's office, where the will was duly executed. A few days later, Nigel discovered that Olivia was giving up her legal studies to go off on a round-the-world trip with her fiancé, Phillip. Nigel was angry and disappointed with Olivia, so he telephoned his solicitor and told him to destroy the will. The solicitor did as he was instructed.

In March 2010, Olivia duly executed a home-made will, in which she left her house to 'my fiancé Phillip', £1,000 to a charity called Help the Children and the residue of her estate to her sister, Quinta. One month later, Olivia and Phillip got married.

In October 2011, Olivia decided to make a new home-made will, as she had heard that Help the Children was under investigation for fraud. This time her will left her house to Phillip, £1,000 to a charity called Dogs for Life and her residuary estate to her sister, Quinta. The will contained an express revocation clause, which Olivia knew and approved, and was witnessed by Quinta and by one of Olivia's friends.

Nigel died last month. Olivia died one week later.

(a) Advise whether Nigel's will has been validly revoked.

**(7 marks)**

(b) Advise whether Olivia's first home-made will in 2010 has been revoked and, if not, explain the effect of the express revocation clause contained in Olivia's second home-made will in 2011 and of the conditional revocation rule.

**(18 marks)**

**(Total: 25 marks)**

#### **Question 4**

Reesha, a testatrix, died last month, leaving a significantly large estate. In her will, made in 2015, she appointed 'her daughter Sunita as executor of her estate'.

Reesha's will includes a legacy of £20,000 to her brother Xander, and gives the residue of her estate on trust for her husband William for life and 'after his death in equal shares for such of my children as shall survive me'. There are no administrative provisions in the will.

Reesha has three natural children: Sunita, Tia and Uma. Reesha's sister, Zelda, adopted Sunita, now aged 25, as Reesha was a teenager when she got pregnant, single and still attending school. Tia, aged 21, is currently unemployed, having recently left university with a first-class degree in nutrition. Tia has asked Sunita to advance her £10,000, so that she can open a health food café. Uma is 19 years of age.

Xander has not been heard of for a very long time.

Sunita wishes to formally accept the position as executor.

William, Reesha's husband, is alive.

Advise Sunita how and when her authority to act in respect of her mother's estate arises, and also advise her in relation to Tia's request, Xander, Sunita herself as a beneficiary, and William's life interest.

**(25 marks)**

**End of Examination Paper**

**BLANK PAGE**