

**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 the question paper fully.** However, you may make notes on the question paper or in your answer booklet during this time, if you wish.
- **The 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 in Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- Candidates must comply with the ILEX 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 ball point 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 ILEX qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** – **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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## SECTION A

**(Answer ALL questions in Section A)**

1. What is a codicil?  
**(3 marks)**
2. On the execution of a will, what problems arise where the testator is illiterate, and how might these be overcome?  
**(4 marks)**
3. Describe a demonstrative legacy and explain the rules relating to it.  
**(4 marks)**
4. Explain the term 'abatement'.  
**(4 marks)**
5. What effect would the marriage of a testator have on his will?  
**(3 marks)**
6. Under the rules of intestacy, briefly explain what a surviving spouse can expect to receive from an estate worth around £750,000 where the deceased had no children, but did leave a brother.  
**(4 marks)**
7. What is the effect of an executor having 'power reserved' to him?  
**(2 marks)**
8. When is a grant of letters of administration with the will annexed appropriate?  
**(2 marks)**
9. Where a will shows a burn mark, what type of affidavit might the Probate Registry require and why?  
**(2 marks)**
10. Identify **two** possible orders the court may make when making an award to a successful applicant under the Inheritance (Provision for Family and Dependents) Act 1975.  
**(2 marks)**

**(Total Marks for Section A: 30 marks)**

## SECTION B

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

### Scenario 1

In 2002 Samantha Fellows made the following will:

"I **Samantha Fellows** of 17 Larks Close, Bedford, MK43 7YY declare that this is my last will

1. I REVOKE all former wills and testamentary dispositions made by me
2. I APPOINT my friends **Alice Bertram** of 15 Larks Close, Bedford, MK43 7YY and **Beth Harkness** of 6 Main Road, Little Bramford, MK6 8GH to be my executors and trustees
3. I give to **Colin Farthing** the sum of £5000
4. After the payment of all debts funeral and testamentary expenses I give the residue of my estate to my husband **Harvey Fellows** provided that if the gift to Harvey fails then I divide the said residue of my estate equally between such of my sisters **Elise Starling, Fiona Finch** and **Giselle Ross** as survive me provided that if any sister shall fail to survive me leaving a child or children living at my death then such child or children shall take and if more than one equally between them the share of my estate which their deceased mother would have taken

Signed by Samantha Fellows on 4 May 2002

Signed by the said Samantha Fellows )  
in the joint presence of us both who )  
then both signed in the presence of ) S Fellows  
the said Samantha Fellows and also )  
each other )

*T Hamblin*

*J Kettering "*

In January 2005 Samantha discovered that Harvey had been having an affair with Alice. Samantha and Harvey separated and divorced later that year. Samantha had no children.

In December 2005 Samantha told Beth that she had cancelled her will as it was no longer relevant. She intended to make a new will in the new year. She never did and Samantha died in May 2011.

Her 2002 will was found amongst her papers. Samantha had written across it "cancelled, 23 December 2005" before putting it back in its envelope and into her desk drawer.

Alice has confirmed that she will renounce her appointment as executor. Beth is happy to act. Colin is currently 15. Samantha's sisters, Elise and Fiona, both predeceased her: Elise was not married and had no children but Fiona left a husband, Mark, and two children, Juliet (9) and Karin (7).

### Scenario 1 Questions

1. Explain why Samantha's attempt to revoke her will in 2005 failed.  
**(10 marks)**
2. What type of grant of representation is appropriate here and why?  
**(3 marks)**
3. What is the effect of the divorce on the residuary gift and how will it now be distributed?  
**(10 marks)**
4. Identify the type of legacy to Colin contained in clause 3 of the will and explain what will happen to this legacy if Colin dies before he is 18.  
**(7 marks)**

**(Total Marks for Scenario 1: 30 marks)**

## Scenario 2

Ivor Houseman, late of Oak View House, High Road, Bedford, MK45 7TO died 6 weeks ago. Despite a thorough search, his family have not been able to find a will amongst his papers and have concluded that he never did make one.

At the date of his death, Ivor was married to Jackie. They both lived at Oak View House. They had three children, namely:

Karl (aged 48) who is married to Tamsin and has twin boys called Charlie and Tom (aged 14),

Louise (aged 45) who is unmarried and has no children, and

Oliver. Oliver died in 2008. He left a wife, Sabrina, and two children Maria (who is now 22) and Niamh (who is now 19).

Jackie also has another child from her previous marriage, William, who is 51 and lives nearby. Although Ivor was not William's father, he always treated him as part of the family.

Jackie has a good relationship with her children, but this is not the case with her granddaughters, Maria and Niamh, who have had little to do with their grandmother since Oliver died.

Ivor left an estate worth £455,000 in total. It consists of the following assets with their estimated values at the date of death:

Oak View House	£200,000
Bedford Building Society Savings account including interest	£200,000
National Savings Investment Bonds	£50,000
Personal effects at Oak View House	£5,000

Everything Ivor owned was in his sole name. In fact Ivor dealt with all his and Jackie's financial matters and saw no reason for anything to be in joint names with his wife. Jackie has little money of her own having given up paid work when their eldest child, Karl, was born. Jackie has a car worth around £3,000 and a building society savings account worth just over £10,000.

At a family meeting shortly after Ivor died, Jackie expressed to her family how worried she was about being able to continue to live at Oak View House. She is keen to ensure that she owns the whole of the house and has control of her home. William, Karl and Louise are in agreement that their mother ought to own the house but Maria and Niamh refused to even consider the possibility.

## Scenario 2 Questions

1. (a) Explain what Jackie can expect to receive from Ivor's estate.  
**(7 marks)**  
(b) Explain how the remainder of the estate will be distributed.  
**(7 marks)**  
**(Total: 14 marks)**
  
2. Jackie has chosen to renounce her entitlement to the grant of letters of administration. Who should now apply?  
**(4 marks)**
  
3. Explain how Jackie can ensure she inherits Oak View House so that she remains in full control of her home.  
**(6 marks)**
  
4. Jackie has told you that she does not feel that the distribution of the estate will provide her with enough money, and that she will be making a claim for further provision.
  - (a) Explain whether Jackie is able to make a claim and, if so, why.  
**(3 marks)**
  
  - (b) Set out the relevant standard of financial provision the court would apply when considering Jackie's claim.  
**(3 marks)****(Total: 6 marks)**

**(Total Marks for Scenario 2: 30 marks)**

### Scenario 3

Patrick Palmer died four weeks ago leaving an estate worth around £400,000.

In 2002 Patrick had made the following will which he had typed himself:

"WILL

1. I Patrick Palmer of 7 Crossroads Bedford MK56 9US state that this is my will
2. I appoint my friend Susan Talbot of 5 Round Drive Bedford MK56 8GH to be my executor
3. I give to Susan Talbot my red sports car registration number AV51 VHL
4. I give to my neighbour Valerie Squires the sum of £500
5. I give to my niece Alice Atherson the sum of ~~£1000~~ *£600*
6. The rest of my estate I give to my son Tobias

Signed by me on 7 July 2002 in front of two witnesses who then signed in front of me

*Patrick Palmer*

*Quentin Turpin*

*Rose Malone "*

Having typed out his will Patrick had asked two friends, Quentin and Rose, to call round to his house to act as witnesses. Patrick had then signed and dated his will in front of Quentin while Rose was in the kitchen making coffee for everyone. When she returned Patrick said "there you go – we've both signed - now you need to too", and Quentin added "yes, that's right, here's the pen". Rose then signed in front of Patrick and Quentin.

Patrick was a widower, his wife Ursula having died in 1999. His only child, Tobias, died last year leaving a wife, Margaret, and one son, David who is now 11 years old.

Patrick sold his red sports car in 2007 as his failing health was making it difficult for him to drive safely. Valerie died in 2006.

The alteration at clause 5 has been made by hand in pen. The will also has signs of a staple mark in the top left hand corner although there is no staple or anything attached to it.



### Scenario 3 Questions

1. Explain why Patrick has complied with the formal requirements under the Wills Act 1837 and executed his will validly.  
**(9 marks)**
2. Explain what affidavit evidence is likely to be required by the Probate Registry and why.  
**(9 marks)**
3. Identify the types of legacies contained in clauses 3 **and** 4 and explain **in each case** whether or not they will take effect.  
**(8 marks)**
4. Explain what will happen to Tobias's share of the estate.  
**(4 marks)**

**(Total Marks for Scenario 3: 30 marks)**

**End of Examination Paper**

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