

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 the question paper fully.** However, you may make notes on the 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. The 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 2011-2012, Meryl Thomas, Oxford University Press, August 2011.**
- 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 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

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

1. 'A grant of probate or letters of administration is in a sense a precarious title because the grant is liable to be revoked at some later date. ...In the meantime, before the revocation of the...grant, the personal representative may have administered the estate.'

Parry and Kerridge: The Law of Succession, 2009.

Identify the circumstances in which a grant might be revoked and critically analyse the consequences of revocation in relation to any steps already carried out in the administration of the estate.

(25 marks)

2. (a) Section 24 Wills Act 1837 has an important effect on gifts of property by will but can be excluded if the will shows a contrary intention. Care is, therefore, needed in drafting such gifts to ensure that the beneficiary receives the property which the testator intended to give him.

Discuss this statement.

(19 marks)

- (b) Evaluate the potential advantages for a beneficiary of being left a demonstrative legacy as opposed to a general or specific legacy.

(6 marks)

(Total: 25 marks)

3. A will may fail to give effect to the testator's wishes if its provisions are unclear or it contains errors. Evaluate the extent to which the following powers, enacted by the Administration of Justice Act 1982, assist in such a situation:

- (a) the power to admit extrinsic evidence

(13 marks)

- (b) the power to order rectification of the will.

(12 marks)

(Total: 25 marks)

4. A consideration of the case law regarding the statutory rules on the incidence of secured and unsecured debts in a solvent estate (s35 and s34 Administration of Estates Act 1925) indicates that care must be taken in drafting the provisions of a will, to ensure that it reflects the testator's wishes as to who should bear the burden of debts.

Discuss this statement.

(25 marks)

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

Question 1

Alice Gregory, who has just died, validly executed her will in 2006, with her neighbours, Holly and Bill Norris, as witnesses. Her will included the following provisions:

- £5,000*
- (i) I give ~~£10,000~~ to my niece Coral
- £1,000*
- (ii) I give [REDACTED] to my cousin Dan
- (iii) I give my grandfather clock to my neighbour Bill Norris
- (iv) I give the residue of my estate to my daughter Ellie'

Alice was recently diagnosed with a serious illness. The day before going into hospital for a major operation, she took her will to her solicitor and gave him urgent instructions to draft a codicil, to the effect that Ellie's only child, Fabio, who had just celebrated his 18th birthday, would share the residue equally with Ellie. She gave instructions for the codicil to be sent to her at the hospital so that she could sign it as soon as possible.

That afternoon, the solicitor drafted the codicil in accordance with Alice's instructions and posted it to Alice at the hospital, with a covering letter explaining carefully how it should be executed. Just after Alice's operation, while she was still drowsy from the anaesthetic, a nurse read the letter to Alice, who insisted she wanted to sign the codicil immediately. The nurse then read the codicil aloud but Alice was drifting in and out of consciousness. She managed to sign *A Greg* but was too drowsy to write any more. The nurse and another patient watched her sign and then signed as witnesses, while Alice was slipping back into unconsciousness.

Alice never regained consciousness and died later that day.

Advise:

- (a) on the validity of the codicil; **(11 marks)**
- (b) on the distribution of Alice's estate if the codicil was found to be invalid; **(9 marks)**
- (c) on the distribution of Alice's estate if the codicil was upheld as valid.

(5 marks)
(Total: 25 marks)

Question 2

In December 2010, Quentin, a widower, validly executed a will in which he left his estate to his two adult children, Stella and Vince.

Stella was living in Canada and, in October 2011, while Quentin was on a business trip, he visited her. They had a serious quarrel and Quentin wrote a letter to his sister Rose, stating that he did not want Stella to inherit anything and asking Rose to destroy his will. He asked a business colleague to sign the letter in case there was any question about it. When Rose received the letter, she telephoned Quentin to ask if he really meant it and he confirmed his instructions. Rose then put Quentin's will through the shredder. Unfortunately, Quentin was killed in a car accident on his way home from the airport.

Rose's only child, Tom, had validly executed a home-made will in 2004, leaving everything to his wife Wanda. In December 2005, Tom's only child, Pam, was born. Tom joined the Royal Navy last year. In November 2011, while he was in a foreign port where his ship had docked, Tom telephoned his friend Oliver, who told him that Wanda was having an affair. Tom said, 'If anything happens to me, make sure Wanda doesn't get my stuff. I want you to hold everything I own in trust for Pam'. The next day, when returning to his ship, Tom slipped on the deck, fell overboard and drowned.

Rose, who is divorced, had made a will leaving a small legacy to charity and everything else to Tom. Thinking that her will was useless now that Tom was dead, and that she should make a new will in favour of Pam, Rose crossed through her will several times in marker pen, completely obliterating her signature. She then immediately suffered a heart attack and died.

Advise on the distribution of the estates of Quentin, Tom and Rose.

You are not required to consider any possible claims that might be made under the Inheritance (Provision for Family and Dependants) Act 1975.

(25 marks)

Turn over

Question 3

Harriet died last month, after a short illness, without ever having made a will. She is survived by her second husband, Ivor, and by Jamal and Kaia, children from her first marriage. Jamal is aged 19 and Kaia is aged 14. Harriet was also survived by her nephew Leo, who is aged 21.

Harriet solely owned:

- a portfolio of stocks and shares valued at £350,000;
- bank and building society accounts with balances totalling £100,000;
- personal possessions valued in total at £10,000;
- a race horse valued at £40,000, which has won several races;
- a collection of antique fine bone china valued at £20,000, which Harriet kept on display in a cabinet and rarely used;
- her father's watch and chain valued at £1,000.

The house where Harriet and Ivor lived was jointly owned by them as beneficial joint tenants and is valued at £400,000. There is an outstanding mortgage on the house on which the sum of £100,000 remains owing.

The day before she died, Harriet gave Leo the key to her safe, saying, 'If I die, I should like you to have your grandfather's watch and chain, which are in my safe'.

- (a) Explain how Harriet's estate will be distributed. You should state the nature and extent of each person's entitlement and assume that she had no other relatives than those mentioned.

How, if at all, would your answer differ if Kaia were to die in December 2012?

A precise calculation of the entitlement to the estate to be taken by the various beneficiaries is not required. You are not required to discuss any possible claims which might be made under the Inheritance (Provision for Family and Dependents) Act 1975.

(16 marks)

- (b) Explain the basis on which, and extent to which, any money from the estate might be used to help pay Kaia's school fees and to buy her a pony, as she is a promising horse rider.

(9 marks)

(Total: 25 marks)

Question 4

Lorna died last month, leaving everything by will to her daughter Olivia, now aged 10. Lorna divorced Olivia's father, Matt, in 2006 and Olivia continued to live with Lorna since then. Lorna owned a small flat and had about £10,000 worth of savings.

The possibility of making a claim under the Inheritance (Provision for Family and Dependents) Act 1975 is being considered by or on behalf of the following people:

- Matt, who never remarried; he owns his own home, having paid off his mortgage; Matt was involved in a serious accident at work last year and has only been able to work part time since then.
- Lorna and Matt's son Nick, who has lived with Matt since the divorce; Nick is aged 17 and is hoping to go to university next year.
- Paul, whom Lorna took in as a lodger five years ago, as she needed some extra income. They became friends and three years ago, Paul stopped paying for board and lodging; instead, he helped Lorna with household tasks and made contributions to the household bills, as well as looking after Olivia when Lorna worked in the evenings. 18 months ago, Lorna and Paul became lovers and he started sharing her bedroom and did so until her death.

Advise Lorna's executors as to the possibility of each of the above making a successful claim under the Act and the factors which the court would take into account when considering any such claims.

(25 marks)

End of Examination Paper

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