



## 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 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 2013-14, 21<sup>st</sup> edition, Meryl Thomas, Oxford University Press, August 2013.**
- 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 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 CILEX 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. The formality rules which apply to the execution of wills are said to help protect a testator not only from forgery and undue influence, but also from making hasty or ill-considered dispositions.

Critically evaluate the extent to which the formality rules are weakened by the exceptions provided by:

- (a) privileged wills;

**(15 marks)**

- (b) *donationes mortis causa*.

**(10 marks)**

**(Total: 25 marks)**

2. Explain and analyse how the court decides whether to change the effect of a deceased's will or the effect of the intestacy rules when determining whether reasonable financial provision has been made for a child.

**(25 marks)**

3. Critically evaluate the powers of the court to:

- (a) pass over an executor or a person entitled to administration;

**(13 marks)**

- (b) revoke a grant of representation.

**(12 marks)**

**(Total: 25 marks)**

4. Analyse the approach taken by the court when determining the validity of a will where there is doubt whether the testator made it of his own free choice or with knowledge and approval of its contents.

**(25 marks)**

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

**Question 1**

Trevor Bates, a bachelor who died 15 months ago, validly executed his homemade will in 1996. His closest friend, Alexander Dunn, is the executor named in the will. Trevor's will includes the following clauses:

- '3. I give my house known as "Silver Birches" to my sister Helen.*
- 4. I give the following bequests:*
  - 4.1 To my friend Alexander Dunn my gold watch and bracelet.*
  - 4.2 To my friend Robin Percival all my shares in North Sea Oil.*
  - 4.3. To my brother Kevin the proceeds of my life assurance policy with Bedford Assurance Society.*
  - 4.4 To my brother George my 2 acres of grazing land known as "Green Glade".*
- 5. I give my house "Silver Birches" to my sister Helen for her life and after her death to her children and if more than one in equal shares.*
- 6. I give the remainder of my estate to my brothers Kevin and George. '*

Alexander explains to you that Trevor's will was found many months after his death and he has struggled to ascertain details of Trevor's estate. In particular, Trevor's watch and bracelet have not been found. The shares in North Sea Oil no longer exist but he tells you that North Sea Oil amalgamated with Amex Oil in 2005 to become European Oil Products. The life policy with Bedford Assurance Society no longer exists, although Alexander says that he believes Trevor cashed in the policy and reinvested the proceeds in policies with two other life companies.

Alexander has also discovered that in 2011 Trevor gave his neighbour Frank Swindells an option to purchase 'Green Glade', exercisable within four years and tells you that Frank has now exercised the option. Alexander tells you that Trevor's sister Helen and her only child Lucy died following a car accident nine months ago. Lucy died in the accident, while her mother survived the accident, dying a month later. Helen is survived by her husband Simon.

- (a) Advise how the gifts in clause 4 should be dealt with.

**(17 marks)**

- (b) Advise how the house 'Silver Birches' will be dealt with.

**(8 marks)**

**(Total: 25 marks)**

## Question 2

John Henry Dale died three weeks ago. His will was found by his executor Partridge in the following condition:

'THIS IS THE LAST WILL AND TESTAMENT of me John Henry Dale of 12 Thames Court Westminster London.

1. I appoint my friend Eric Partridge as my executor
2. I give the following legacies:
  - (a) £20,000 to my brothers Lionel Dale [REDACTED]  
£10,000
  - (b) ~~£20,000~~ to my sister-in-law Carole Dale A.P. J.S.  
£10,000
  - (c) [REDACTED] to my niece Trisha Dale
  - (d) £2,000 to my friend Eric Partridge
3. ~~I give my interest in 12 Thames Court Westminster to my wife Margaret Dale~~
4. I give my property at the Wharf Bankside London to my son George Dale
5. I give my stamp collection to my grandson Ben Dale
6. I give the residue of my estate to my said ~~wife~~ my said son and my grandchildren as shall be living at my death and if more than one in equal shares

As Witness my hand this 12<sup>th</sup> day of March 2011.

Signed by the Testator in our presence and attested  
by us in the presence of the Testator and each other.

*J. H. Dale*

*Ann Partridge*

*Janet Simm*

Eric explains that when the will was made John's marriage was in difficulty, and that John was only finally divorced two months ago. He also tells you that John had two brothers, Lionel and Philip. Philip, and John's son George died together in a car accident six months ago. George is survived by his son Ben and daughter Rose. Lionel has a daughter, Trisha.

So far as the amendments to the will are concerned, Eric tells you that his wife Ann remembers John saying, when he signed the will, that he had decided to increase the legacy to Trisha, but she only remembers initialling the amendment to Carole Dale's legacy and does not remember any of the other amendments. Eric mentions that labels have been stuck over the amendments to clauses 2(a) and 2(c), and that the amendments to clauses 3 and 6 are only ruled through in pencil.

Advise Eric upon the effect of the amendments and how he should distribute John's estate.

**(25 marks)**

### Question 3

Amanda died last week in a boating accident. She is survived by her husband Brendan, their son Jack aged 15, and adopted daughter Freya aged 12.

Amanda had two children from her first marriage, Tessa and Samuel. Tessa died last year after a short illness and she is survived by her son Daniel aged 5, and daughter Charlotte aged 3. Samuel is aged 22.

Prior to her first marriage Amanda had a daughter Eva, aged 27, from a previous relationship. Brendan has also been married previously and has a son, Karl, aged 30 from that marriage.

Neither Amanda nor Brendan have made wills. They owned their home jointly as tenants in common in equal shares. It has a value of £575,000 and is subject to a mortgage of £55,000.

Amanda and Brendan have no other jointly owned assets as they decided to keep their finances separate. Amanda had personal possessions valued at £6,000 and investments valued at £80,000. In addition, Amanda solely owned a wedding business, which she operated from home, selling accessories and hiring out wedding dresses and other items. Brendan does not know the value of the business although he doubts it has any significant value without Amanda.

Amanda also owned a Rolls Royce car valued at £45,000, which she used for weddings. This was given to her by her late father and she was very proud of the car. She and Brendan used it themselves on special occasions.

Brendan wishes to remain living in the home with Jack and Freya, but has little capital of his own and is unable to increase the mortgage on the home.

Advise Brendan how Amanda's estate will be distributed and explain how Brendan can ensure that he can continue to live in the home.

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

**(25 marks)**

#### Question 4

Ravindar died six months ago. In the will which he made in 1998 he appointed his brothers Viraj and Hardit as his executors and trustees.

Viraj and Hardit have been administering Ravindar's estate and have continued to operate the restaurant business. The estate has a value of nearly £1,000,000.

Ravindar's will includes legacies of £2,000 to each of his surviving children, and gives the residue of his estate on trust for his wife Praneeta for life and after her death to his surviving children in equal shares. There are no administrative provisions in his will.

Since making his will, Ravindar's circumstances have changed significantly as a result of him having very successfully started and built up his own chain of restaurants.

Praneeta continues to live in the matrimonial home with their two children, Samvir aged 20, and Eveleen aged 18. Samvir is unemployed, having recently given up his university studies. He wants Viraj and Hardit to advance him £25,000 to buy a car and £75,000 so that he can start his own business.

Eveleen is attending college and wants Viraj and Hardit to advance her £10,000 so that she can buy a computer and a car.

Viraj and Hardit are aware that Ravindar had a son, Narinder, who was born before 1990 when Ravindar left India to come to live in England and met and married Praneeta. Nothing has been heard of Narinder since that time.

Advise Viraj and Hardit on their powers, duties and personal liabilities in relation to the following:

(a) the restaurant business;

**(7 marks)**

(b) the requests of Samvir and Eveleen;

**(5 marks)**

(c) the missing Narinder.

**(13 marks)**

**(Total: 25 marks)**

**End of Examination Paper**

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