



**CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma**

**Unit 14 – Law of Wills and Succession**

**Question paper**

**January 2025**

**Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)**

**Instructions and information**

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- A basic calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

***Turn over***

## SECTION A

Answer at least one question from this section.

1. Critically analyse:

(a) how an intention to revive a Will can be demonstrated and the effect of revival of a Will;

**(13 marks)**

(b) how s.21 of the Administration of Justice Act 1982 changed the rules on the construction of Wills.

**(12 marks)**

**(Total: 25 marks)**

2. "The surviving spouse or civil partner will automatically inherit the estate in the absence of a Will."

Critically evaluate the above statement, using statute and case law to illustrate your answer.

**(25 marks)**

3. Critically analyse privileged Wills, with reference to case law and statute. You should discuss in your answer how the courts deal with testamentary intention and revocation in relation to privileged Wills.

**(25 marks)**

4. Critically analyse, with reference to case law:

(a) the relationship between the tests of mental capacity to make a Will under *Banks v Goodfellow* [1870] and under the Mental Capacity Act 2005;

**(20 marks)**

(b) the conflict with the test for testamentary capacity caused by *Parker v Felgate* [1883].

**(5 marks)**

**(Total: 25 marks)**

## SECTION B

Answer at least one question from this section.

### Question 1

Jay died in July 2019, aged 61; he left a Will that appointed his brother Kyle to act as his executor.

Jay's estate comprises a house valued at £800,000, various stocks and shares worth £25,000, bank accounts totalling £12,000, and a classic car.

Under the Will there is a specific legacy of the classic car to George, a family friend. The remainder of the estate is to be divided equally between Kyle and his sister Lori.

Lori has concerns about Kyle's administration of the estate. Lori is not doing well financially and has a lot of debts. Lori has asked Kyle for a copy of the Will but he has not yet provided it; Lori is concerned that Kyle is too influenced by his own wife and children. Lori's relationship with Kyle became fractured when their own mother died.

Lori lives in the next street to where Jay's house is situated. On passing the house while walking her dog, she noticed that Kyle had moved into the house with his wife. Lori asked Kyle why he had moved in and he said it was to keep an eye on the house, as he was concerned about his responsibilities as the executor of the Will. Lori did not argue with this or suggest he pay any rent to her at the time. Lori did ask what was happening with Kyle's own house and he said that it was being rented out.

The Grant of Probate has been obtained but Jay's house is still not on the market. Lori is concerned that her brother is deliberately prolonging matters so that he can continue to live in the house rent free. George saw Kyle recently and asked when he will receive the classic car, as he has noticed that it is not on the driveway.

Kyle has taken control of the administration of the estate via a firm of solicitors he instructed to act and he has not involved Lori in any way, despite Lori regularly requesting involvement. Kyle has told Lori that the solicitors had been quite slow in producing the probate papers. Kyle did explain that the s27 notices are in place and he wants to wait for those to expire before distributing any assets.

In relation to the administration of the estate to date, advise Lori of:

- (a) her rights, as a residuary beneficiary, in relation to Kyle as executor and his administration of the estate to date;  

**(8 marks)**
- (b) the legal implications of Kyle living in the property owned by the deceased and not passing the classic car to George;  

**(5 marks)**
- (c) any defences that Kyle may raise in response to any challenges concerning his conduct.

**(12 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

Yashmeen died in 2024, having validly executed her Will in 2019.

Yashmeen appointed her husband Solomon as her sole executor. Solomon died in 2021. Yashmeen's Will does not appoint any replacement executors.

Yashmeen's Will includes the following clauses:

1. I give my property at 27 Red Lion Lane London to my daughter Christine.
2. I give my property at 5 Plas Pantwyn in Wales to my daughter Beth.
3. I give my gold bracelet that was given to me by my mother to my dear friend Mary.
4. I give the sum of £20,000 to my brother William.
5. I give the remainder of my estate after payment of all my debts, liabilities, funeral and testamentary expenses to my husband Solomon but if he dies before me then to my children Christine and Beth absolutely.
6. I declare that s33 of the Wills Act 1837 will apply to the provisions of my Will.

Christine has come to you for some advice as she is worried that there is no living executor. Christine confirmed that both William and Mary survived Yashmeen. Christine's sister, Beth, pre-deceased their mother but was survived by a daughter, Nina. Christine cannot recall how old Nina is but knows she is over the age of 18.

27 Red Lion Lane was in Yashmeen's sole name; it is valued at £350,000. Yashmeen had arranged to sell the property before she died. Contracts had been exchanged but the sale had not been completed. Christine thinks there was a mortgage on the property but is not sure how much. Christine has looked through Yashmeen's papers but it has been really difficult to find all of the relevant information. Christine says her mother was a bit of a hoarder of paperwork.

5 Plas Pantwyn was also in Yashmeen's sole name. It is valued at £90,000 with no mortgage. It is currently rented out and there is six months left on the tenancy.

Christine explained that her mother reviewed her Will when she became ill and decided to increase the legacy to William from £10,000 to £20,000. In Christine's presence, Yashmeen crossed out the amount of £10,000 and wrote £20,000 above it, using a black pen. She did not initial the amendment. Yashmeen asked Christine to make sure William received £20,000.

Despite Christine's best endeavours, she has been unable to find the gold bracelet that is referred to in the Will.

Christine also advises you that in addition to funeral expenses of £4500, Yashmeen left unpaid care fees of £12,000 and her estate is required to repay an overpayment of her widow's pension of £1,800. Yashmeen's estate is not subject to Inheritance Tax.

Advise Christine on:

- (a) who is entitled to apply for a grant of representation to Yashmeen's estate and the type of grant available to them;

**(5 marks)**

- (b) the validity of each of the above gifts referred to in Yashmeen's Will;

**(13 marks)**

- (c) the rules relating to the payment of Yashmeen's debts and liabilities.

**(7 marks)**

**(Total: 25 marks)**

**Turn over**

### Question 3

Erica's mother has passed away; her name was Rita. At the date of her death, Rita was divorced. Rita left a validly executed Will appointing her son, Thomas, and his wife, Louise, as executors and leaving the whole of her estate worth £3 million to them in equal shares. Rita accumulated her wealth from a business that she set up when she moved to the UK from America when she was 25.

Erica knows Thomas and Louise have started the probate process.

Erica explained that she and Rita fell out when Erica was 19 years old but she does still have a relationship with her brother, Thomas.

Erica and Rita fell out because Erica married a person that Rita did not like. Ten years later, Erica divorced. Erica has three children from that marriage, two of whom have special educational needs. Rita never met the children.

Since the breakdown of her marriage, Erica has been the sole carer for her children, while also working part time in the local corner shop. Erica rents a flat for her and her children, and has said that if she had been left any money by Rita she would have used this to buy a home for her and the children, to give them more stability and security.

Erica tried to make contact with Rita several years before Rita died to try and reconcile. However, Rita never responded.

With reference to case law and statute, advise Erica whether she can bring a claim against Rita's estate pursuant to the Inheritance (Provision for Family and Dependants) Act 1975 and, if so, the factors the court will consider.

**(25 marks)**

#### Question 4

Alan and Quentin are about to get married. They have been together for several years since they met at university. Quentin has a diagnosis of bipolar disorder and receives treatment and medication for this. Alan is very supportive of Quentin and is mindful of his mental health. Both wish to get their affairs in order.

Alan and Quentin both own their own properties. Alan's is valued at £190,000 and is mortgage free. Quentin's is valued at £160,000 and has a mortgage remaining of £45,000. They are about to buy a further property jointly as beneficial joint tenants, where they will live. They plan to rent out Alan's property in his sole name on an assured shorthold tenancy. They plan to Airbnb Quentin's property. The property they are about to purchase is valued at £400,000 and they have been approved for a mortgage of £350,000. They have also started to collect artwork and wine, which they view as investments.

Alan and Quentin wish to leave all of their assets to each other in the first instance. They plan to either have a child by surrogate or adopt one day, and if they are successful would want their child to ultimately benefit.

If they don't have a child, they wish to ensure that their assets pass to their respective siblings when the second of them passes away.

Alan has two sisters, Dana and Florence. Quentin has a sister and a brother, Tara and Henry. They also wish to include specific gifts to Quentin's niece and nephew, Irena and Oscar, who are both at university. Alan believes they should simply gift a specific sum of money whereas Quentin has suggested that they could gift their artwork and wine collections as this could be more valuable to them in the future, provided Irena and Oscar were to maintain the collections properly.

They have been talking to their close friend, Petra, who works in finance. Petra told them some information about "mirror Wills" and about "mutual Wills" but said she isn't too sure about the difference, so told them to seek legal advice on this and on the formation of Wills generally.

Advise Alan and Quentin on:

- The fundamental commonalities and differences between "mirror Wills" and "mutual Wills",
- the legacies they will need to include within their Wills in order to give effect to their wishes.

**(25 marks)**

**(Total: 25 marks)**

**End of the examination**