



**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

June 2024

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 – ***Blackstone’s Statutes on Property Law 2022 -2023 31st edition, Meryl Thomas, Oxford University Press, 2023.***
- 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 assess each of the following:

(a) the possible impact of divorce on a specific legacy within a Will; **(8 marks)**

(b) what steps would need to be taken to avoid any negative impact of marriage or civil partnership on an existing Will; **(5 marks)**

(c) what is meant by mutual Wills, together with the benefits and burdens of a married couple/civil partners putting mutual Wills in place. **(12 marks)**

(Total: 25 marks)

2. Explain the rules relating to payment of debts in both solvent and insolvent estates and how these rules may be varied. **(25 marks)**

3. Critically analyse, in relation to the Inheritance (Provision for Family and Dependants) Act 1975:

(a) the standards of reasonable provision under the Act with reference to case law; **(5 marks)**

(b) the guidelines the court follows, together with types of orders available to the court in a claim under the 1975 Act; **(10 marks)**

(c) the steps that will be taken by the court when assessing a claim under the 1975 Act. **(10 marks)**

(Total: 25 marks)

4. Critically analyse, with reference to case law, the bases upon which the validity of a Will can be challenged. **(25 marks)**

SECTION B

Answer at least one question from this section.

Question 1

Ali comes to see you to discuss the estate of his aunt, Hyacinth, who died last month. Hyacinth has appointed Ali as sole executor in her Will.

Hyacinth has left various gifts in her Will to her family and the residue of her estate to Ali. Hyacinth was a widow with no children or financial dependants.

Details of the gifts are as follows.

1. Hyacinth had £20,000 of Premium Bonds at the date of her death, which she has left in her Will to her nephew Julian. Ali has found a note among Hyacinth's papers dated two years ago which states that Hyacinth loaned £10,000 to Julian interest free. The note has been signed and dated by Hyacinth and Julian. Just before she died Hyacinth had confirmed to Ali that the loan had not been repaid.
2. There is also a gift of £16,000 to Hyacinth's brother Gregory. Gregory was declared bankrupt three months ago. Gregory has mentioned to Ali that he will use the legacy to buy himself a brand-new car.
3. Ali explained that Hyacinth owned a beneficial interest of a freehold commercial property jointly with her sister Stephanie. Hyacinth and Stephanie inherited the property from their parents and the title deeds confirm the property was held by Hyacinth and Stephanie as beneficial joint tenants. Hyacinth has left her beneficial interest in the property to Gregory in her Will.
4. Hyacinth also left £100,000 to be divided equally between such of Ali's children as were alive at the date of Hyacinth's death and attained the age of 21 years. Ali had four children at the date Hyacinth died. Two of his children are over 21 and two are under that age. His wife is pregnant with their fifth child, due in a couple of months' time.

Advise Ali on how he should deal with each of the gifts made in Hyacinth's Will.

(25 marks)

Turn over

Question 2

Dominic passed away in May 2022 at the age of 55. Searches have taken place but none of Dominic's family members are able to find a Will. After conducting searches with solicitors, they have still not been able to find any evidence of Dominic ever making a Will. There was an old piece of paper found with Dominic's financial documents that stated:

'I wish for my daughter to be looked after on my death.'

This note was signed by Dominic but not witnessed.

Dominic was unmarried but had lived with his partner, Leonard, for eight years.

When he was only 17, Dominic had a daughter, Megan, who was given up for adoption. Dominic had reconnected with his daughter within the last two years and they had developed a relationship. They would visit each other fortnightly and had spent last Christmas together.

Dominic died leaving two sisters: Renee and Ursula. Renee is Dominic's half-sister from their mother's previous marriage, although Dominic treated her no differently to Ursula.

Dominic's brother, Neil, passed away three years before Dominic. He died leaving two children, a son named Christopher and a daughter named Felicity. Christopher is 23 and Felicity is 17.

Dominic's estate comprised two properties, one which he owned with Leonard as beneficial tenants in common, valued at £525,000. The other was an investment property in Norwich, owned in his sole name, valued at £350,000. The properties are valued at £875,000 combined. Only the property jointly owned with Leonard is mortgaged, with the current amount being £220,000.

Dominic's personal effects are valued at £33,000 and his financial assets in savings, shares and other investments total £417,000.

(a) Explain who will inherit Dominic's estate, with reference to the relevant statutory rules.

(17 marks)

(b) Advise as to:

- who is the most appropriate person to take out the Grant of Representation to Dominic's estate;
- their powers and obligations as personal representatives under Section 33 of the Administration of Estates Act 1925.

(8 marks)

(Total: 25 marks)

Question 3

In 2019, Zmorda instructed her solicitor to draw up a Will for her, appointing her son Kyro as her executor and trustee. Zmorda died last month.

Zmorda's Will included the following provisions.

1. 'I give the sum of £10,000 to each of my grandchildren alive at the date of my death.
2. I give my stamp collection to my grandson Victor.
3. I give my apartment at 54 Queensway London to my son.
4. I give the residue of my estate to my husband.
5. I have not made any provision in my Will for my son Omar because I have had no contact with him since his father died.'

Omar is one of Zmorda's sons from her marriage to Trevor. Zmorda had not been married before her marriage to Trevor. Trevor died in 2009 and shortly after this, Omar moved to Hong Kong with his family and Zmorda lost contact with Omar.

Zmorda and Trevor's other son is Kyro. Zmorda and Kyro saw each other regularly.

Kyro has two children, Phelix and Quincy, and a stepson Romeo. Zmorda was not fond of Phelix because he was always getting into trouble. Kyro and his wife adopted Quincy when he was four years old and he goes by his middle name of Victor. All his family and friends know this.

Zmorda did not remarry after Trevor died but Zmorda met Xion four years after Trevor had died and they lived together as husband and wife. Zmorda always referred to Xion as 'her husband' even though they were not married. Xion survived Zmorda and he does not have any children.

The Will was prepared by a solicitor who had attended on Zmorda in person to take the instructions for her Will. The solicitor's file contains a letter from Zmorda stating that she wished to leave 54 Queensway to Kyro. There is also a letter written by Zmorda explaining the reasons for not leaving anything to Omar.

Explain, with reference to case law and statute, the rules of construction that the court will use in ascertaining Zmorda's expressed intention in relation to the gifts in her Will.

(25 marks)

Turn over

Question 4

Isaac died two weeks ago. He left a professionally prepared Will dated December 2014. Although Isaac did not have any health concerns, he had read in the newspaper about long-lost relatives unexpectedly appearing to make claims on estates. This was particularly disconcerting to Isaac, as he had a brother, Brendan, who lived in Australia. Isaac had fallen out with Brendan many years before and had not spoken to him since. Therefore, to be robust in putting his Will in place, Isaac obtained a capacity assessment from his GP, which he provided to his solicitor to hold on file with the solicitor's attendance note.

In his Will, Isaac left only residual gifts in an equal split between the RSPCA and his best friend Edward. Edward is the sole executor of the estate. Isaac had told Edward that he believed his brother had died in 2016, although he did not explain to Edward how he knew this.

Isaac was a landlord and owned 20 properties, which he rented out on assured shorthold tenancies. A number of these properties have mortgages on them. The Will contains no provision giving Edward express powers in respect of these properties.

In addition, Edward has found two unsecured loans owed by Isaac and credit-card debts totalling £35,000.

Advise Edward:

- (a) of his duties and obligations when acting as executor of Isaac's estate;

(15 marks)

- (b) on the risks involved in being an executor and how he might protect himself from risk, including any relief that can be granted by the court.

(10 marks)

(Total: 25 marks)

End of the examination

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