

**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 2010-2011. M Thomas, Oxford University Press, 2010.**
- 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**

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

1. Explain and critically analyse the rules regarding alterations to wills and their application in case law.

**(25 marks)**

2. Discuss the effect of the doctrine of mutual wills and consider, with reference to case law, how it addresses the principle that a will always remains revocable.

**(25 marks)**

3. "Where there is a doubt, or dispute, about the meaning of a word, or passage, in a will, there are two possible approaches. One is to look for the ordinary meaning of the word or passage.... The other is to look for the meaning intended by the testator...."

Parry and Kerridge: The Law of Succession, 12th Edition, 2009.

Critically evaluate these different approaches to the construction of wills and analyse the role that may be played by extrinsic evidence.

**(25 marks)**

4. (a) Evaluate the appropriateness of the statutory powers given to personal representatives in relation to maintenance and advancement of beneficiaries and consider how and why these are commonly widened by express powers in a will.

**(14 marks)**

- (b) Analyse the extent of personal representatives' powers to carry on the deceased's business, and the consequences of doing so, in the absence of express powers in the will.

Consider what express provisions it might be appropriate to include in the will in relation to carrying on the deceased's business.

**(11 marks)**

**(Total: 25 marks)**

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

**Question 1**

In 2000, Andrew made a will leaving the whole of his estate to his nephews Bryn and Ffin. In 2006, Andrew entered into a registered civil partnership with Gareth but never got around to changing his will. Andrew died last month, survived by Gareth. He had no children.

Andrew's parents died in the 1990s, as did his brothers David and Evan. Andrew was survived by David's son Bryn (now aged 25), Evan's adopted daughter Hannah (now aged 20) and Evan's son Ffin (now aged 15).

When Andrew and Gareth formed their civil partnership, Gareth's elderly mother Charlotte moved in with them and they took care of her until a year ago, when she went into a nursing home. From then until his death, Andrew paid Charlotte's nursing home fees, as she had no savings and only a state pension to live on and Gareth did not have the resources to pay the fees himself.

Andrew solely owned a portfolio of stocks and shares, valued at £175,000; bank and building society accounts, with balances totalling £150,000; personal possessions valued in total at £25,000 and, in addition, a collection of antique furniture, valued at £50,000, which had belonged to his family for years. He also solely owned a luxury caravan, valued at £125,000, which was let out to holiday makers for much of the time, although he and Gareth spent several holidays there each year.

The house where Andrew and Gareth lived was jointly owned by Andrew and Gareth as beneficial tenants in common in equal shares and is valued at £400,000. There is no outstanding mortgage on the house.

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

How, if at all, would your answer differ if Ffin were to die in December 2011?

**The precise calculation of the entitlement to the estate to be taken by the various beneficiaries is not required.**

**(16 marks)**

- (b) Consider whether Charlotte would be likely to succeed in a claim against the estate under the Inheritance (Provision for Family and Dependants) Act 1975 and discuss the factors which the court would take into account in considering her claim.

**You are not required to discuss any other possible claims which might be made under the 1975 Act.**

**(9 marks)**

**(Total: 25 marks)**

## Question 2

Peter, a widower, has just died. He made a home-made will in 2000, witnessed by his closest friends Oscar and Rose. They state that he showed them the will which left £5,000 to charity and everything else equally to his two daughters, Tina and Ursula (his only living relatives).

By early 2006, Peter had become very forgetful and sometimes spoke as if he had only one daughter, namely Tina. (Ursula had been working abroad for two years.) In spring 2006, Peter could no longer look after himself and he went to live with Tina. When they were clearing Peter's flat, Tina found his will. Peter's cleaner, Sally, overheard Tina telling Peter that his will was not legally valid as it was not drawn up by a solicitor. Sally saw the will go up in flames when, with Peter's agreement, Tina threw it in the fire.

The following week, Tina told Peter that she would ask a solicitor to prepare a new will for him. She gave instructions to a solicitor that her father wanted to leave everything to her and appoint her as sole executrix. Tina took Peter to the solicitor's office to sign the new will. He appeared completely lucid and informed the solicitor that he was leaving everything to Tina as she was the person closest to him and had been very good to him. The solicitor did not realise that Peter had another daughter.

Ursula returned to England just before Christmas and Peter told her that he had provided for her and her sister in his will. Ursula only found out about the 2006 will after Peter's death.

Advise Ursula as to how Peter's estate will be distributed.

**You are not required to discuss any possible claims which might be made under the Inheritance (Provision for Family and Dependants) Act 1975. You need not consider any possible claim in negligence against the solicitor.**

***(25 marks)***

### Question 3

Zara died last year. After her death, a will was found, made in 2001, which appointed Zara's brother William as sole executor and left a legacy of £1,000 to her friend Frederick and the residue of her estate to her nieces and nephews equally.

William obtained a grant of probate to the 2001 will and proceeded in a correct manner to administer the estate. He used some of his own money to settle the funeral account. He collected a debt of £5,000 which was owed to Zara by her friend Victor. William used some of this money to settle an outstanding gas bill which had been sent to Zara just before she died. He then paid the legacy of £1,000 to Frederick. William had taken no further steps in administering the estate when it was discovered, last week, that Zara had made a later will in 2008.

The 2008 will expressly revoked the 2001 will and appointed Zara's sister Ann as sole executrix. It left legacies of £10,000 each to Zara's nieces Holly (now aged 22) and Beth (now aged 20) and left the residue of the estate to Ann as trustee for Zara's nephews Dan (now aged 19) and Edward (now aged 18) and her niece Charlene (now aged 15). Dan has just been convicted of fraud and sentenced to two years in prison.

At the date of her death, Zara was acting as sole executrix to the estate of her uncle George, who left everything to his wife Sophie. Zara had obtained a grant of probate but had not completed the administration of George's estate at the time of her death.

- (a) Advise on the position regarding the grant of probate made to William under the revoked 2001 will, and the actions he took under that grant, and explain the rules as to who should complete the administration of the estates of Zara and George respectively.

**(15 marks)**

- (b) How, if at all, would your answer to (a) differ if Ann had died before Zara?

**(10 marks)**

**(Total: 25 marks)**

#### Question 4

Iris died last year. She made a home-made will on a printed will form dated 1 December 2008. The will appointed Iris's close friends Jock and Kelly as executors and included the following provisions:

- (i) £500 each to my friends Jock and Kelly
- (ii) £3,000 each to my cousins Roy and Wendy
- (iii) £9,000 each to my brothers Toby and Vince
- (iv) £10,000 from my Southern Stone Building Society Account to my sister Mary
- (v) My cottage to my boyfriend Neil
- (vi) My grandfather clock to my nephew Zia
- (vii) My car to my cousin Paul, who loves old cars'

The will was witnessed by Jock, Kelly and Iris's neighbour Lana. None of them can recall having witnessed Iris's will, although they confirm that it bears their signatures. Jock and Kelly remember that, several years ago, they were asked by Iris to witness her signature on a form and that a neighbour was also asked to sign. They think it must have been the will, although, at the time, they did not realise this, as everything but Iris's signature was covered by a magazine. They recall that Iris had already signed the form before they arrived.

Roy has just been convicted of Iris's murder. In 2009, Iris decided to take advantage of the car scrappage scheme and withdrew most of the money from her Southern Stone Building Society Account to buy a new Hondai car, which was valued at £9,000 at her death. Under the scheme, her old car, which she had owned for 30 years, was scrapped. At her death, the balance on the Southern Stone Building Society Account was only £1,000 but she had other savings worth £15,000. Her cottage has been valued at £150,000 and there is an outstanding mortgage on it of £50,000. Her grandfather clock, valued at £4,000, is the only other item of any value that she owned. She left other debts totalling £4,000. She had paid a sum in advance to cover her funeral costs and left no other assets or debts.

Advise on the validity of the will and the nature of the gifts it contains. On the basis that the will is valid, how will the estate be distributed and from which assets will the mortgage and other debts be paid?

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

**(25 marks)**

**End of Examination Paper**

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