



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 8 – IMMIGRATION LAW*

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: Immigration Law Handbook, 8th edition, Phelan and Gillespie, Oxford University Press 2012.**
- 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. (a) Explain and analyse the different categories of EEA nationals qualified to reside and work in the UK under Directive 2004/38/EC and its implementing provisions.

(13 marks)

- (b) Outline the categories of persons who qualify as close and extended family members of EEA national workers and to what extent they can join EEA national workers in the UK.

(12 marks)

(Total: 25 marks)

2. Explain and analyse the main features, legal framework and structure of the immigration appeals system in the UK and the jurisdiction governing both the appellants and the courts within it.

(25 marks)

3. (a) Explain how a child can become a British citizen by descent following the British Nationality Act 1981, as amended by subsequent legislation.

(12 marks)

- (b) Explain the legal provisions enabling the Secretary of State to deprive a person of their British citizenship.

(6 marks)

- (c) Explain the process of, and qualifications for, naturalisation as a British citizen in the UK.

(7 marks)

(Total: 25 marks)

4. Critically analyse the impact of the new family immigration rules relating to entry of partners.

(25 marks)

Turn over

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

Question 1

Sarah and Claire are Kenyan nationals living in Kenya. They are good friends who wish to expand their horizons and come to the UK. Sarah is 20 and wishes to study marketing at the University of Bracknell in Berkshire. She has been accepted on the course as she has the necessary qualifications for entry. She has £2020 of her own savings and her parents are happy to fund her fees and living expenses throughout University.

Claire is 19 and wishes to take a year out of her studies before embarking on a degree either in Kenya or in the UK if she likes it here. Her aunt and uncle live in Reading, Berkshire. She is unsure whether to come to the UK for simply a long visit, staying with her aunt and uncle for several months, or whether to try and obtain a temporary position working for a year in the UK. She currently has £3500 in savings and hopes to save more money during her gap year towards her future studies. She wants advice on whether she can do this whilst in the UK.

Claire is a professional singer and has several contacts in the UK who have advised that they can get her regular work singing in productions and at social events with a renowned operatic society in Berkshire. She is exceptionally good at singing and the operatic society is having difficulty in getting singers of her calibre. They have recruited singers from other countries in the past and are registered as A rated sponsors on the UK Border Agency (UKBA) website. She is unsure whether she would be able to undertake this job if she was here as a visitor or whether she would need to enter as a temporary worker under the Points Based System.

Advise Sarah and Claire on the various immigration rules governing their entry to the UK and whether they meet the requirements of these rules. Include in your advice the relevant routes available to both of them and any restrictions and conditions on their stay in these categories.

(25 marks)

Question 2

Afsoon Karimi is a member of a political family in Iran but is not involved in politics herself. Her parents, members of an underground political group, have both been detained in the past on account of their political opinions. They have now fled the country after being tortured in detention and threatened with death. Afsoon does not know their whereabouts.

The family home has been searched and Afsoon and her two brothers have received death threats. The authorities questioned them about their parents' whereabouts and also about the aims and members of the political organisation.

A month before Afsoon came to UK she was in the house alone when three security officials raided the house. She was beaten severely and gang raped by the three security officials. Before the attack she was told that if she did not then admit her own involvement in the political organisation, and reveal her parents whereabouts, she would be killed.

Afsoon fled to the UK and claimed asylum. She fears that if returned she would be killed or at least imprisoned and tortured. The Amnesty International report on Iran states that suspected political opponents of the government, including family members of activists, are often imprisoned and tortured and many have been executed. It also reports that the conditions in Iranian prisons are very poor with overcrowding, poor sanitation and denial of adequate food and drink. Torture occurs in Iranian prisons.

The Home Office have refused Afsoon's claim. The refusal letter says that the claim is incredible as she did not know the answers to questions about the political group when asked in her interview. It is not accepted that she would be a government target as a family member of a political activist. The refusal letter also says that Afsoon has not provided any documentary evidence in support of her claim, such as a membership card of the political party or a summons for her arrest, and that this detracts from her credibility further. It is said that even if she was raped as claimed it was not for a convention reason but for the sexual gratification of the security officials involved.

- (a) Advise Afsoon as to whether she can be recognised as a refugee in the UK and how she can refute the Home Office's assertions in her case.

(18 marks)

- (b) In the alternative, what further human rights arguments will you put forward in this scenario and what leave would Afsoon be granted if only successful under these grounds?

(7 marks)

(Total: 25 marks)

Turn over

Question 3

- (a) Charlie and Hugo are Australian nationals living in Australia who are in business and wish to move to the UK and work here. Charlie is 31 and Hugo is 34.

Charlie wishes to set up a photography business in the UK. He has £210,000 held in a Lloyds TSB bank account which he wishes to use for this purpose and to maintain himself in the UK. Charlie has obtained an Australian MA in business management.

Hugo is a management consultant and has just won the Australian lottery. He has the equivalent of £1.5 million which he wishes to invest in UK industry. He has two friends working here who are partners in a management consultancy firm in London and he wishes to invest money in the business.

Charlie and Hugo want to know:

- whether they meet the requirements of the Points Based System for entry to the UK;
- what leave they would each be granted if successful in their applications; and
- at what point each of them would be entitled to settle in the UK.

Advise Charlie and Hugo.

(11 marks)

- (b) Amelia is a Canadian national. She works in Canada for an international marketing company, IMC Ltd, having graduated with a Canadian MBA 10 years ago. She is now 35 years old. She is a marketing director of the company and it has recently set up a branch in the UK.

The work is very specialised and the UK company is having trouble recruiting someone to manage the branch. Amelia has been offered the position of senior marketing director of the UK company, IMC (UK) Ltd if she will relocate to the UK, for a salary of £190,000 per annum. The initial contract is for 2 years but will be extended if the company is successful.

Hannah, the managing director of IMC (UK) Ltd, requires advice on the formalities involved in sponsoring Amelia to come to the UK and manage the branch here. She wishes to know:

- the relevant category of the Points Based System that Amelia should enter under;
- whether she will fulfil all the requirements;
- the duties she will need to comply with as a sponsor;
- what leave would be granted to Amelia if the application is successful; and
- when she would be entitled to indefinite leave to remain.

Advise Hannah.

(14 marks)

(Total: 25 marks)

Question 4

Ali, a Pakistani national entered the UK as a visitor from Pakistan. He met Helen, a British Citizen, and obtained limited leave to remain for two years as a husband, with the usual condition not to have recourse to public funds. One year into Ali's limited leave, Helen began to think that Ali did not want to be with her, but that he had just married her to stay in the UK. She asked him to "leave my home", which he did. He claimed benefits for six months until he managed to get a job as a case worker and interpreter for the local refugee welfare association. Helen was pregnant before Ali left her. Once the child, Emily, was born Ali had regular contact with her. Emily and Ali formed a close relationship and spent Wednesday evenings and Saturdays together every week, as they still do now. Ali had no more contact with the Home Office after leaving the family home.

When Emily was seven years old the Home Office engaged in 'Operation Sortout', a massive drive to uncover immigrants staying in the UK illegally and remove them from the UK. Ali was served with a notice telling him that he would be removed. He contacted the Home Office immediately and said that he had a home, a job and a child in the UK and had no intention of leaving. The Home Office replied that if he did not go quietly questions would be raised about the international connections of the local refugee welfare association and that this would make it impossible for him to stay in the UK. The Home Office told him that the local refugee welfare association posed a threat to the security of Britain, and that this would be raised this as a further reason for him to leave the country should he oppose the decision.

What are the grounds upon which Ali can be required to leave the UK and what arguments can be made to oppose his removal?

(25 marks)

End of Examination Paper

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