



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

Unit 8 – Immigration Law

Question Paper

Jan 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.
- You can use your own unmarked copy of the following designated statute book – **Immigration Law Handbook, 11th edition, Frances Allen, Julia Gasparro, Jo Swaney, Margaret Phelan and James Gillespie Oxford University Press 2022**.
- 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. Explain how a child born in the United Kingdom to non-British parents can be entitled to apply to become a British citizen, how such an application can be made and the evidence to provide in support of the application. Include in your answer the good character requirements that may apply.

(25 marks)

2. Critically assess the provisions under which a person may be excluded from refugee or humanitarian protection in the UK.

DO NOT discuss the Immigration Rules in your answer.

(25 marks)

3. a) Explain the requirements of the **Appendix Graduate** route to remain in the UK, including the points that an applicant requires under this category and how they can be achieved.

(13 marks)

- b) Explain the development of the Global Business Mobility route, including each of the five rebranded options within this route.

(12 marks)

(Total: 25 marks)

4. Critically analyse the operation of immigration bail granted by the Secretary of State for the Home Department, including the process for making a bail application and the grounds that may be relied upon.

(25 marks)

SECTION B

Answer at least one question from this section.

Question 1

Yasir is a 20-year-old British citizen. He wishes to sponsor his wife, Zainab, to settle in the United Kingdom. Zainab is a citizen of Pakistan and is 19 years old.

Yasir and Zainab had an arranged marriage in October last year and met only once before the marriage. They were introduced to one another by their parents and spent a couple of hours talking to each other at this time. They both consented to the marriage.

Following the marriage, Yasir and Zainab spent three weeks together in Pakistan before Yasir had to return to the UK for work. The couple have been corresponding by email and text messages since then.

Yasir works at a UK publishing company. His basic gross annual wage is £16,600 but he also earns commission from sales under a contractual guaranteed bonus scheme. He has worked at the same company for two years and has been on his current basic wage for eight months. In the past six months he has earned £9,000 in commission, in addition to his basic wage.

After applying to enter the UK as Yasir's spouse, Zainab was interviewed at the British Embassy in Islamabad, Pakistan. She was unable to answer some questions relating to Yasir's interests and hobbies, and could not provide any details about his job and hours of work. Zainab did not know very much about the UK property that the couple would be living in, other than that it had two bedrooms. Yasir owns this two-bedroomed terraced property in the UK but it is currently tenanted. He has given the tenants notice to quit the property and it will be vacant from 1 March 2024. Yasir's parents also have a room in their four-bedroomed house in the UK, where the couple can live temporarily if necessary.

The Entry Clearance Officer (ECO) has refused the entry clearance application, stating that the marriage is not genuine and subsisting as the couple met only once before the marriage and have not seen one another since last November. The ECO is also concerned that Yasir's property may not be vacant on Zainab's arrival and that there may not be sufficient room in Yasir's parents' house. Further, the ECO does not accept that the maintenance requirements will be met owing to the reliance on commission to meet the minimum income requirement.

Advise Yasir and Zainab on:

- the process to appeal in respect of the ECO's decision;
- the grounds upon which to appeal;
- whether they can meet the requirements of the Immigration Rules relating to partners.

(25 marks)

Turn over

Question 2

Anh is a 19-year-old Vietnamese national. He recently finished formal schooling in China and decided to spend a few years getting work experience before progressing to higher education. Anh lives in Vietnam with his parents. Anh's grandfather died approximately six months ago and left a substantial sum of money to Anh by way of an inheritance. Anh would like to use this money to study for a degree abroad as he believes this will improve his job prospects on return to Vietnam at the end of his studies.

Anh has undertaken some research on available degree programmes in Australia, France and the United Kingdom and is particularly interested in studying for an undergraduate degree in nursing at Mid Wales University (fictitious), which is a licensed sponsor. The fees for each year of study in the three-year degree programme are £14,000 for international students.

Anh has an equivalent current balance in his savings account of £40,000. He may also be able to obtain a further £20,000 from his parents, from the sale of his grandfather's house.

Anh spent a year of his formal schooling in Australia as part of a student exchange programme and is able to speak and understand English well.

- (a) Advise Anh with regard to the requirements that he must meet for an application to study for his degree in the UK and the likely leave he would be granted on a successful application.

(17 marks)

- (b) Explain the duties and regulations that the university and Anh will have to comply with during Anh's stay in the UK as an international student and the implications of any non-compliance.

(8 marks)

(Total: 25 marks)

Question 3

Nadia is an 18-year-old female from the Gambia. Her mother and father are members of the Mandinka tribe. Shortly after Nadia turned 18 years old, her parents were told by Mandinka tribe members, including members of her extended family, that she had to undergo Female Genital Mutilation (FGM) as part of her initiation into womanhood.

Nadia's mother did not want her to undergo FGM, having undergone the practice herself at the age of 14 and suffering severe pain and health complications. Despite cultural pressure earlier in her life, Nadia's parents had protected her from FGM. However, her father has now succumbed to the extended family pressure and insists that Nadia consents to FGM.

In order to protect her daughter from FGM, Nadia's mother, with help from members of the local church, managed to purchase a plane ticket for Nadia to fly to the UK.

Nadia travelled by car to Banjul, the capital of the Gambia, with a member of the church, and was introduced to a man there who arranged a false passport for her. She stayed in hiding in a small house in Banjul for around a week while the false passport was arranged and was not allowed out of the house. The man brought her food and water.

Nadia then flew from Banjul to London and claimed asylum on arrival. She fears that if she is returned to the Gambia she will be forced to undergo FGM. The country reports state that there is a law against FGM in the Gambia and some charges have been brought against perpetrators of FGM. However, FGM remains widespread, despite efforts being made to combat the practice. Around 75% of Gambian females undergo FGM and, within the Mandinka tribe the figure is 97% of females. Gender inequality and gender-based violence are generally accepted within Gambian society. Consequently, it is expected that the practice will continue discreetly unless the government takes further action to enforce the law.

The country reports show that ethnic groups/tribes are interspersed throughout the Gambia so it is difficult to escape the risk of FGM. Further, employment opportunities for women are limited and usually linked to family support networks. The Home Office has refused Nadia's claim on the grounds that she can get state protection against FGM or alternatively relocate to Banjul to avoid persecution. Since being in the UK, Mandinka tribe members have been to Banjul in search of Nadia.

- (a) Explain the issues that are likely to arise in an appeal against the refusal of Nadia's claim for asylum in the UK and whether she can meet the definition of a refugee.

(20 marks)

- (b) Explain the further human rights arguments that could be put forward on Nadia's behalf.

(5 marks)

(Total: 25 marks)

Turn over

Question 4

Bela is a 75-year-old widow and an Indian citizen, currently living in India. She has applied for permission to visit her family in the UK for six months to see her son, Caleb, and his family, including her granddaughter, Ameer, aged 15 and her grandson, Raaj, aged 13. Bela used to live with Caleb, Ameer and Raaj before they relocated to the UK. Unfortunately, Caleb's wife, Priya, died when their children were seven and five. Bela had always been close to the children but was like a mother to them after the death of Priya. She lived with them for six years following Priya's death, but two years ago they moved to the UK and Bela has lived alone since that time.

Bela does not meet the requirements to settle in the UK as although she suffers from minor health problems due to her age, she does not have a serious condition for which she requires ongoing care. Bela is generally happy in India and has friends there. She has another son in India, Raushan, but he is a very busy businessman, and she does not see much of him. He is married with three grown up children. His wife, Paven, also works full time. The family visit Bela occasionally but not on a regular basis.

Bela wishes to visit the UK for six months to spend some time with Caleb, Ameer and Raaj. They have busy lives as Caleb works full time as an accountant and Ameer and Raaj are busy in school and also in the evenings with sporting and musical activities. Consequently, it would be much easier for Bela to visit them in the UK rather than the family visit Bela in India. Bela has £5,150 in savings and will be living with Caleb and his family for free during her visit. She visited Caleb and his family in the UK for six months soon after they relocated and returned to India just before her visa expired.

Advise Bela on whether she would meet the requirements of the Immigration Rules, any issues the Home Office may raise in relation to her application and any arguments that could be put forward on her behalf.

(25 marks)

End of the examination

© 2024 The Chartered Institute of Legal Executives