



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

June 2023

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 Gillespie and James Phelan 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. Critically analyse the legal basis for human rights claims relating to medical treatment, with reference to relevant case law.

(25 marks)

2. Explain the routes through which a person may obtain leave to remain in the UK in order to set up or run a business, with particular reference to any evidential requirements.

(25 marks)

3. (a) Explain the requirements that must be met for an adult to gain entry to the UK as a student.

(15 marks)

(b) Critically analyse the remedies that may be available following a refusal of an application to enter the UK as a student.

(10 marks)

(Total:25 marks)

4. Explain the operation of immigration bail, including the process for making a bail application and the grounds that may be relied upon where the bail is considered by:
 - the Secretary of State for the Home Department; and
 - the Immigration Tribunal.

(25 marks)

SECTION B

Answer at least one question from this section

Question 1

Alexander Oliyev is a 35-year-old Russian national. He was born in Chechnya and is of Muslim faith from birth. He is married and has two children aged seven and 10. In 2015, Alexander was accused of involvement with a group that supports Chechen separatism. As a result, Alexander felt unsafe in Russia and moved to Ukraine where he began working as an engineer. Alexander's youngest child was born in Ukraine and is a Ukrainian national.

In February 2022, Russian armed forces invaded Ukraine. Many Western nations, including the UK, set up humanitarian visa schemes to allow displaced Ukrainians and their family members to seek safety. Alexander and his family members applied to the UK Government's Homes for Ukraine scheme and were granted leave to remain in the UK for three years. Alexander and his family travelled to the UK and arrived in June 2022.

Recently, Alexander received a phone call from a family member informing him that his name is included on a list of potential terrorist suspects on a popular Russian website. Alexander is very concerned about this and now feels it will be unsafe for him to return to Russia. Alexander is worried that, when his three years' leave to remain in the UK expires, he may have no choice but to return to Russia where he believes his life may be at risk. He is therefore considering making a claim for asylum.

- (a) Advise Alexander with regard to making an asylum claim, with reference to the factual, legal and evidential requirements that apply.
- (b) Advise Alexander of the likely form of status he would receive if his asylum application was successful. Include in your answer any conditions that will be attached to the leave, in light of the provisions in the Nationality and Borders Act 2022.

(15 marks)

(10 marks)

(Total:25 marks)

Turn over

Question 2

Jamal Coleman is a Jamaican national. He came to the UK in 2005 on a visit visa. He then overstayed and has remained in the UK ever since. Throughout Jamal's time in the UK, he has obtained unlawful employment, at various times, but has recently found it difficult to work due to not having evidence that he has permission to work.

In 2013, Jamal met and began a relationship with Carla – a British national. In 2015, the couple had a daughter – Rose. Jamal and Carla lived together with Rose as a family unit. Carla rented a two-bedroom flat in her own name from a private landlord and worked full-time in a nursery to support the family. Jamal has been responsible for the primary care of Rose since she was very young, and they share a particularly close relationship.

Unfortunately, six months ago, Carla was diagnosed with a particularly aggressive form of breast cancer and had to give up work. This put an incredible amount of strain on Carla's relationship with Jamal and, one month ago, the relationship broke down. Carla left the family home and moved in with her sister, who she felt would be more able to support her through her illness. Rose remained in the flat with Jamal, as Carla felt unable to cope with caring for her whilst being ill.

Since Carla moved out of the flat, Jamal has been threatened with eviction by the private landlord because he cannot show that he has the right to rent property in the UK. Rose is settled in her local primary school. Jamal also takes Rose to visit Carla every weekend.

Jamal is concerned that he and Rose will become homeless if he does not resolve his immigration issues.

- (a) Advise Jamal of the requirements of any application he may be able to make to remain in the UK with Rose under the Immigration Rules.

(10 marks)

- (b) Advise Jamal of the most likely form of challenge that will be available to him if his application is refused, and the relevant arguments he may be able to make with reference to case law and statutory provisions.

(15 marks)

(Total:25 marks)

Question 3

Sarah Goodwin is a 25-year-old Canadian national. She came to the UK in November 2020 as a visitor. Sarah did not return to Canada when her leave to remain expired, and she became an overstayer. In August 2021, Sarah met her partner, Tom, a US national with indefinite leave to remain in the UK. Shortly after the relationship began, Sarah moved into Tom's flat, and the couple have cohabited since that time.

In February 2022, Tom made an application for Sarah to remain in the UK as his partner. This application was successful, and Sarah was granted leave to remain on the 10-year route to settlement as the partner of a person present and settled in the UK.

In November 2022, Sarah discovered that she was pregnant. Sarah's expected date of delivery is in August 2023. Although Tom was initially excited at the prospect of becoming a father, this news, combined with learning that his employment had been put at risk of redundancy, contributed to him suffering a mental breakdown. In February 2023, Tom was sectioned under mental health legislation whilst suffering from paranoid delusions. It was determined by the mental health professionals involved in Tom's care that his condition could be managed in a community setting, for the present time, and he was released from hospital in May 2023.

Since Tom's mental breakdown, he has become convinced that the baby Sarah is carrying is not his child. As a result, Tom has made numerous telephone calls to the police, claiming that his partner has been attacked. He has also made threats to Sarah that he will harm the baby once it is born. Sarah now feels unsafe in Tom's presence.

As a result of Tom's behaviour, in January 2023, social services became involved with the family. They have informed Sarah that, if she continues to live with Tom once the baby is born, there is a high likelihood that the child will be taken into care.

Advise Sarah of the most appropriate application she can make in order to legally remain in the UK while no longer living with Tom, the requirements that must be met and the evidence that will be needed to support the application.

(25 marks)

Turn over

Question 4

Gupta Singh is a 39-year-old Indian national. He entered the UK in March 2000 and claimed asylum. Gupta's asylum claim was refused, and he became appeal rights exhausted in 2003. Since that time, Gupta has continued to live in the UK without leave to remain. Initially, Gupta moved wherever he was able to obtain work. As Gupta does not have permission to work, he undertook predominantly cash in hand work as a labourer or cleaner. In 2008, Gupta moved to Lincoln where he has made lots of friends and built a life for himself. Gupta helps out at the local Gurdwara and volunteers as a cricket coach for a local team. Gupta informally sublets a room in a house from another member of his Gurdwara.

In May 2023, Gupta was working as a cash-in hand cleaner at a hotel when a fight broke out in the bar area. Gupta tried to break up the fight and was hit in the face with a bottle. The resulting hospital treatment and police involvement caused Gupta's immigration status to come to light. As a result, immigration officers attended Gupta's home and detained him. He has been informed that the Home Office intends to remove him from the U K. Removal directions have been set with removal to take place in 10 days' time.

Advise Gupta as to:

- the legal basis for his detention and proposed removal;
- the most appropriate arguments that he could put forward to contest his removal from the UK.

In your answer, you should make reference to any relevant statutory provisions, Immigration Rules and case law.

[Please note: You should **not** consider the prospect of making a bail application in your answer.]

(25 marks)

End of the examination