



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 this question paper fully.** However, you may make notes on this 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. This 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, 10th edition, Phelan and Gillespie, Oxford University Press, 2018.**
- 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 ballpoint 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** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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

1. (a) Identify and explain the requirements that must be met for an adult to gain entry to the UK as a student.

(15 marks)

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

(10 marks)

(Total: 25 marks)

2. Analyse the provisions in international law under which a person may be excluded from refugee or humanitarian protection in the UK, with reference to relevant case law.

(25 marks)

3. Analyse the legal basis for human rights (medical case) claims, with reference to relevant case law.

(25 marks)

4. Outline and explain the operation of immigration bail as granted by the Secretary of State, 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

Clarence Owasi is a 39-year-old Senegalese national. He entered the United Kingdom in 2010 and claimed asylum. Clarence's asylum claim was refused and he became appeal rights exhausted in 2013. Since that time, Clarence has continued to remain in the UK without leave to remain. Initially, Clarence moved wherever he was able to obtain work. As Clarence does not have permission to work, he undertook predominantly cash-in-hand work as a labourer or cleaner.

In 2016, Clarence moved to Coventry, where he has made various friends and built a life for himself. In 2018, he met Adele, who is a Cameroonian national with indefinite leave to remain in the UK. They began a relationship and had a son together, Serge, born in August 2020. The couple never lived together. They have since separated, but Clarence maintains regular contact with Serge and contributes financially to his upbringing when he can. Clarence and Adele are on good terms.

In May 2021, Clarence was working as a cleaner in a hotel, when a fight broke out in the bar area. Clarence tried to break up the fight and was hit in the face with a bottle. The resulting hospital treatment and police involvement caused Clarence's immigration status to come to light. As a result, immigration officers attended Clarence's home and detained him. He has been informed that the Home Office intends to remove him from the UK. Removal directions have been set, with removal to take place in ten days' time.

Explain the legal basis for Clarence's detention and proposed removal and outline the most appropriate arguments that Clarence could put forward to contest his removal from the UK. Make reference to any relevant statutory provisions, immigration rules and case law.

[NOTE TO CANDIDATES: You should not consider the prospect of making a bail application in your answer.]

(25 marks)

Question 2

Paulo is a 40-year-old Ukrainian national, who lives in New Zealand with his fiancée, Lin. Lin is 41 years old and a national of Hong Kong. Paulo and Lin have been cohabiting for 18 months and recently got engaged. The couple have no children together. However, Lin has a child, June (aged 15), from a previous relationship, who lives in London. As June's father is British and June was born in the UK, June also has British nationality.

Lin is not on good terms with June's father, Christopher. Christopher has previously stated that, while he is happy for Lin to have contact with June in the UK, he will not permit June to travel abroad to spend time with Lin.

Paulo has a full-time civil engineering job and has permanent residence in New Zealand. Lin moved to New Zealand four years ago and works as a university lecturer. She has current leave to remain in New Zealand as well as indefinite leave to remain in the UK.

Paulo has no contact with any of his family in Ukraine and Lin was orphaned at a young age. They both feel that a big, family-orientated wedding does not suit their situation. In addition, they are very keen that June should be able to attend their wedding. As a result, the couple have decided that they would like to travel to London to get married, with just a few close friends travelling with them as guests. This will mean that June is able to attend the wedding. Paulo and Lin plan to return to New Zealand to live there permanently after their wedding.

Advise Paulo and Lin of the most appropriate application they should make and the evidence that will be required in order for the couple to travel to the UK from New Zealand to get married.

(25 marks)

Question 3

Yasin is a 41-year-old Libyan national. He recently travelled to the UK using a false passport and arrived at Bristol International Airport, where he claimed asylum.

Yasin's asylum claim centres on the fears he has for his safety in Libya, due to the general security situation there and his position as an ordinary civilian with no links to any of the warring factions in Libya. Yasin states that he has not been personally attacked in the ongoing fighting. Yasin confirms that he fears for his life on the basis that he would be at risk of serious harm as a civilian in a situation of internal armed conflict on return to Libya.

- (a) Advise Yasin with regard to the most likely form of protection that he will receive from the UK government and the legal framework on which this is based, with reference to relevant case law.

(15 marks)

Yasin is granted this form of protection by the UK government. He now informs you that he wishes to apply for family reunion in order for his wife and 16-year-old son, both of whom stayed behind in Libya, to join him in the UK.

- (b) Advise Yasin whether he is able to make such an application and the criteria that will be applied by the Entry Clearance Officer.

(10 marks)

(Total: 25 marks)

Question 4

Molly Chapman and her sister Isabelle were born in the UK to South African parents, Crystal and Logan. Molly was born in 2011 and is ten years old and Isabelle was born in 2014 and is seven years old. At the time both children were born, their mother was in the UK with leave to remain as a student, and the children and their father were dependent on that leave.

In 2016, Crystal and Logan's relationship broke down due to domestic abuse. Logan left the family home and his whereabouts since then are unknown.

In 2017, concerns were raised by teachers at Molly's school about treatment that Molly was receiving at home. Molly was regularly attending school in unwashed clothes and had unexplained bruises on her body. Shortly after this, Social Services became involved with the family and, in 2019, they decided to apply for a local authority care order for both Molly and Isabelle. This was granted, and the children now live with foster parents. The children have no other family members in the UK.

Both children have been without leave to remain in the UK since their mother's leave to remain as a student expired in 2017.

Social Services now wish to regularise the children's presence in the UK.

Explain and analyse the requirements of the most appropriate applications that could be made, and the evidence that would be required, in respect of:

(a) Molly;

(15 marks)

(b) Isabelle.

(10 marks)

(Total: 25 marks)

End of Examination Paper