



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. Analyse the requirements that must be met for entry to the UK as a marriage visitor.

(25 marks)

2. (a) Explain and analyse the grounds upon which a non-EEA national can be deported from the UK.

(10 marks)

- (b) Explain and analyse any relevant immigration rules, statutory provisions and human rights arguments that could be used to challenge deportation where family life is established in the UK for a non-EEA national.

(15 marks)

(Total: 25 marks)

3. Analyse the criteria against which Article 8 private life applications are assessed by the Secretary of State for the Home Department and the courts.

(25 marks)

4. Explain the requirements that must be met by a person who wishes to naturalise as a British citizen and how these have been interpreted by the courts.

(25 marks)

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

Question 1

Eileen Chapman is a Jamaican national. She came to the UK in March 2017 as a visitor. Eileen did not return to Jamaica when her leave to remain expired, and she became an overstayer. In January 2018, Eileen met her partner, Jamal, a Somali national with Indefinite Leave to Remain in the UK. Shortly after the relationship began, Eileen moved into Jamal's flat and the couple have cohabited since that time.

In February 2020, Jamal made an application for Eileen to remain in the UK as his partner. This application was successful and Eileen 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 July 2020, Eileen discovered that she was pregnant. Eileen's expected date of delivery is in April 2021. Although Jamal 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 complete mental breakdown. In September 2020, Jamal was diagnosed with schizophrenia. The mental health professionals involved in Jamal's care determined that his condition could be managed in a community setting, for the present time.

Since Jamal's mental breakdown, he has become convinced that the baby Eileen is carrying is not his child. As a result, Jamal has made numerous telephone calls to the police, claiming that his partner must have been assaulted. He has also made threats to Eileen that he will kill the baby, once it is born. Eileen feels extremely unsafe in Jamal's presence.

As a result of Jamal's behaviour, in December 2020 social services became involved with the family and they have informed Eileen that, if she continues to live with Jamal once the baby is born, it is highly likely that that the child will be taken into care.

Advise Eileen of the requirements of the most appropriate application she can make in order to legally remain in the UK while no longer living with Jamal. Include discussion of any remedies that may be available to Eileen in the event of her application being refused.

(25 marks)

Question 2

Mina Kaur was born in Uganda on 8 November 1967 to parents of Sikh Indian descent. Mina's parents had lived in Uganda for many years. However, since Uganda had gained independence from the British Empire and joined the Commonwealth in 1962, treatment of the Indian subcontinent minority in Uganda had worsened and so, in January 1968, Mina's family decided to move to the United Kingdom.

Mina travelled with her parents to the UK. Her parents were using passports issued by the UK government that described them as 'Citizens of the UK and Colonies'. Mina travelled to the UK on her father's passport. The family settled in Nottingham, where her father found employment and the family were able to rebuild their lives.

Mina attended primary and secondary school in Nottingham and then attended a local college, where she trained as a medical secretary. From 1991 to 1995, Mina worked as a typist at a local hospital in Nottingham. From 1995 to 2006, she worked as a medical secretary in a local GP practice. In 2006, Mina was promoted to Administrative Manager of the GP practice.

Since her arrival in the UK, Mina has not sought to leave the UK or to apply for a passport of any nationality.

In 2007, Mina's father died of cancer. Mina's mother continued to live in Nottingham.

In January 2020, Mina's employer undertook a review of all staff records and requested that Mina provide evidence of her right to work in the UK. Mina contacted her mother, who informed her that, on arrival in the UK, they were not provided with any specific paperwork relating to Mina, as she was a baby. Mina's mother is retired and has recently moved into sheltered retirement accommodation. Mina's mother confirmed that during the recent move, she threw out a lot of old paperwork and thinks that she is no longer in possession of any of the documents that were used to enter the UK.

Mina has been suspended from work on the basis that her employer cannot establish that she has the right to work in the UK.

(a) Advise Mina of her immigration status in the UK.

(10 marks)

(b) Advise Mina with regard to how she may be able to evidence her status, with reference to any appropriate application that may be made.

(15 marks)

(Total: 25 marks)

Question 3

Katazyna Savich is a 20-year-old Russian national. She is the daughter of a very wealthy Russian businessman and she currently lives in London, where she is studying for a degree in Performance Arts Management at Silvermans University. Katazyna currently holds a Tier 4 (general) student visa. She would like to remain in London after the completion of her degree in summer 2021 and to live in the UK long term, ultimately hoping to obtain Indefinite Leave to Remain.

Katazyna's father has extensive involvement in the oil and gas industry in Russia and owns a number of multi-million-pound companies. He has informed her that he will provide sufficient funds to her as a gift, in order to allow her to continue to enjoy the life that she has built for herself in the United Kingdom. Katazyna understands that this amount is likely to extend to a gift of £2 million.

Katazyna is interested in investing some money in an organisation that is involved with the Arts, as she feels that this would benefit an area that she is passionate about. She does not want to have day-to-day involvement in the running of any particular organisation.

Advise Katazyna of the most appropriate application she could make to extend her stay with a view to settlement in the United Kingdom and on the requirements that must be met in order to be successful in that application, with particular reference to any evidential requirements.

(25 marks)

Question 4

Ismael Al-Hamed is a 20-year-old man born in Kuwait to a Bidoon community. The Country Reports on Kuwait state that Bidoons are nomadic people, who do not have formal citizenship of Kuwait and are therefore generally unable to access education, healthcare and other services. They typically do not possess identity documents, although some Bidoon have been able to regularise their stay in Kuwait and become 'documented'.

Ismael states that he is an 'undocumented' Bidoon. On 20 November 2020, Ismael and a friend, Yusuf, attended a demonstration in Kuwait in favour of greater rights for Bidoons, as they were angry and frustrated at their inability to find regular work and at their lack of education. Ismael and Yusuf made a banner that contained anti-government sentiments, which they took to the demonstration. The authorities took steps to suppress the demonstration, and Ismael and Yusuf ran away to Ismael's uncle's house, fearing that they would be arrested. They were concerned that other demonstrators, who knew that they had attended the demonstration, would inform the authorities of their presence there, and so they decided to leave Kuwait.

Ismael's uncle organised two fake Kuwaiti passports for Ismael and Yusuf, and bribed officials at a small, local airport to allow them to board a plane to Turkey. Once in Turkey, Ismael and Yusuf found an agent, who agreed to take them to a Western European country for \$US12,000. Ismael's uncle arranged for the sale of jewellery and livestock, and forwarded the money to Ismael. Ismael and Yusuf left Turkey on 12 December 2020, and travelled by boat, car and lorry under the control and direction of the agent. Ismael and Yusuf arrived in the UK on 2 January 2021.

The Home Office has refused Ismael's asylum claim. The Home Office does not accept that Ismael is at risk of persecution in the future, as he has not been persecuted in the past. The Home Office does not accept that Ismael is credible, as he has not produced any documentary evidence in support of his claim, such as an arrest summons. Ismael has produced a witness statement from Yusuf, but the Home Office does not accept it as genuine, as Yusuf's claim has also been refused. The Home Office has also stated that if Ismael were a genuine asylum seeker, he would have claimed asylum in one of the other countries that he travelled through en route to the UK. Alternatively, the Home Office states that he could have moved to a different area in Kuwait.

Advise Ismael how he can appeal the decision of the Home Office to refuse his asylum claim and how he can refute the arguments made by the Secretary of State in his case.

(25 marks)

End of Examination Paper