

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 2022

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, 10th edition, Phelan and Gillespie, Oxford University Press, 2018.***
- 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 and analyse the development and current operation of the law relating to entry to the UK, extension of stay in the UK and settlement in the UK under "The Ankara Agreement".

(25 marks)

2. Explain the operation of immigration bail, including the process for making a bail application and the grounds that may be relied upon where bail is:
 - (a) granted by the Secretary of State for the Home Department;

(15 marks)
 - (b) granted by the Immigration Tribunal.

(10 marks)

(Total: 25 marks)

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

[Note to candidates: Do not include discussion of the Immigration Rules in your answer.]

(25 marks)

4. Critically analyse the requirements that must be met for entry to the UK as a marriage visitor.

(25 marks)

SECTION B

Answer at least one question from this section.

Question 1

Nikolai is a Russian national who entered the UK illegally in August 2015. Nikolai claimed asylum on arrival at a port in the UK. Although Nikolai's asylum claim was political in nature, during the course of his asylum proceedings he stated that he had been physically and sexually abused in a Russian prison by a group of prison guards. During the course of Nikolai's asylum case, medical evidence of post-traumatic stress disorder, resulting from his mistreatment, was provided to the Home Office and was accepted by the Tribunal on appeal. Nikolai was granted Refugee Status for five years in April 2016.

Nikolai applied for settlement and was granted Indefinite Leave to Remain in May 2021. Unfortunately, the stress caused by the uncertainty of having to complete the application for settlement caused Nikolai's mental health to deteriorate, and he was briefly admitted to a psychiatric unit. This resulted in Nikolai's application for Indefinite Leave to Remain being sent off five days after the expiry of his initial period of leave as a refugee.

Although Nikolai's mental health has improved since he received Indefinite Leave to Remain, he still suffers from severe memory problems and struggles to cope with stressful situations. He receives support from his local Community Mental Health Team as well as his GP. Despite holding a Convention Travel Document, Nikolai has not felt well enough to leave the UK since his arrival until this year, when he went on a trip to Denmark with a support organisation for two weeks in February 2022.

Nikolai would like advice on whether he is eligible to apply to naturalise as a British citizen. He informs you that he has heard from a friend that he must pass the Life in the UK Test in order to become British, and he is concerned that his mental health problems will prevent him from being able to do so.

Advise Nikolai of the requirements that must be met in order to naturalise as a British citizen in his situation, with particular reference to any exceptions that may apply.

(25 marks)

Turn over

Question 2

Tamara Singh is an Indian national. She came to the UK in 2020 with a student visa in order to study Chemistry at university. In late 2021, Tamara began to find her course very stressful, particularly as a result of the Covid-19 pandemic restrictions. She developed severe anxiety. During 2022, Tamara's condition worsened, and she developed symptoms of psychosis. In April 2022, unable to cope with the stress of her forthcoming exams at university, Tamara took an overdose of her medication in an attempt to end her life.

As a result, Tamara has been unable to continue to attend her course at university. Tamara is currently detained under s. 3 of the Mental Health Act 1983 in a local mental health unit.

Tamara's friend, Cora, comes to see you as she is concerned that Tamara is in the UK in breach of the conditions of her leave to remain. Cora states that she has spoken to Tamara's family in India who have informed her that, if Tamara were to return, they would have no choice but to lock Tamara in a room at home for her own safety. Her family have stated that there is no local mental health provision available and that stigma against people with mental health problems is rife.

Objective evidence indicates that, in India, there are only 43 government-funded mental health hospitals for an estimated population of 70 million people with mental disorders and that for every one million people there are only three psychiatrists, and fewer psychologists.

In light of Tamara's ill health, advise Cora of the most appropriate application that Tamara can make in order to extend her stay in the UK, the legal basis for this and the application procedure that should be followed.

[Note to candidates: There is **no need** to consider whether Tamara has the capacity to instruct you as you are providing general advice to Cora.]

(25 marks)

Question 3

Clive Batiste is a Jamaican national. He came to the UK in 2001 on a visit visa. He then overstayed and has remained in the UK ever since. Throughout Clive's time in the UK, he has obtained unlawful employment at various times but recently has found it difficult to work, due to not having evidence that he has permission to work.

In 2010, Clive met Ruth – a British national. In 2012, the couple had a daughter – Delilah. Clive and Ruth lived together with Delilah as a family unit. Ruth rented a two-bedroom flat in her own name from a private landlord and worked full-time in a nursery to support the family. Clive has been responsible for the primary care of Delilah since she was very young, and they share a particularly close relationship.

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

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

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

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

(10 marks)

- (b) If Clive's application is refused, advise him of the most likely form of challenge that will be available to him and the relevant arguments he may be able to make in relation to case law and statutory provisions.

(15 marks)

(Total: 25 marks)

Turn over

Question 4

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

Victor has undertaken some research on available degree programmes in other countries and is particularly interested in studying for an undergraduate degree in Nursing at Midlands University in the UK. The fees for each year of study in the three-year degree programme are £11,000 for international students.

Victor 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.

Victor spent a year of his formal schooling in New Zealand as part of a student exchange programme and is able to speak and understand English well, though sometimes struggles with written English.

Advise Victor with regard to the requirements he must meet in order to study for his chosen degree in the UK, and the likely conditions that will be attached to any entry clearance that is issued.

(25 marks)

End of the examination

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