



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, 9th edition, Phelan and Gillespie, Oxford University Press, 2015.**
- 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**

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

1. Discuss the requirements for entry as a standard visitor to the United Kingdom for someone applying within this category.

(25 marks)

2. Explain the requirements governing the grant of indefinite leave to remain under:

(a) the long residence route;

(15 marks)

(b) the private life route.

(10 marks)

In each case, discuss how an application can be made.

(Total: 25 marks)

3. (a) Explain the definition and indicators of trafficking and the process of referring and assessing the credibility of a claim made by a victim. Refer to case law examples in your answer.

(16 marks)

(b) Explain the role played by a Competent Authority in deciding who is a victim of trafficking.

(9 marks)

(Total: 25 marks)

4. Explain and analyse the key issues in the Supreme Court's ruling on the minimum income requirement and the Appendix FM rules in MM (Lebanon) & others v the Secretary of State for the Home Department (2017) UKSC 10, and identify the changes that gave effect to these findings.

(25 marks)

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

Question 1

Ella is 30 years old and single. She is a Filipino national from the Philippines. She came to the UK on a prospective student visa in 2008 when she was 21 years old. She applied to extend her stay as a student. She completed her studies at the University of Hull and graduated with a nursing degree. After her studies, Ella was unable to secure employment. Her leave ran out and she later returned to the Philippines.

While she was back in the Philippines, Ella and her parents were in a car accident. Her parents died, but Ella survived. After the accident, Ella developed a long-term health condition, which means that she can no longer care for herself.

Ella's brother, Joe, lives in Hull with his family, and her sister, Arleen, lives in Chester with her family. Joe is a single father with four young children. His wife died shortly after Ella graduated from her course. Joe and Arleen are British citizens.

Joe works long hours and is on a low income. While Ella was studying in Hull, she spent a lot of her time looking after her brother's children and grew very close to them. They are very fond of her and they see her as a mother figure.

Joe's youngest child, Damien, suffered a physical trauma during his birth, which affects his co-ordination and muscle control. Damien finds it difficult to relate to most people except Ella. Damien's school had been working closely with Ella to help Damien improve, while she was in the UK. It is clear that Ella plays a vital role in Damien's rehabilitation. They both share a very close bond with each other.

Joe supports Ella financially and he is happy to support her application to return to the UK. Joe and Arlene have been visiting the Philippines, in turn, to care for Ella, but they need to return to the UK to care for their younger children.

Advise Ella on her immigration situation explaining, with reference to the applicable law, the application she may be able to make to join her family in the UK and the evidence she will need to provide to support her application.

(25 marks)

Question 2

Peter Baholdin is a Ukrainian citizen. He was arrested in December 2005, when he attempted to depart the United Kingdom (UK) on a false passport. He was served with illegal entrant paperwork on 9 March 2006. He claimed asylum on the same day.

On 28 March 2006, at Miles End Crown Court, Peter was convicted of using a false instrument with intent, for which he was imprisoned.

On 4 August 2006, Peter's asylum claim was refused and he was removed from the UK.

A few months later, Peter returned to the UK. In November 2007, he was arrested for shoplifting, for which he was sentenced to one day in detention. Peter was served with illegal entrant paperwork and he was removed from the UK.

On 10 June 2010, Peter married his wife in Latvia. After his marriage, Peter returned to the UK with his wife. In March 2012, he applied for an EEA residence card as a family member of an EEA national. Peter's application was refused and he requested that his application be reconsidered.

On 30 May 2013, Peter's application was reconsidered and he was issued with an EEA residence card, valid until 30 May 2018.

On 27 March 2015, at Miles End Crown Court, Peter was convicted of driving while disqualified and committing acts/series of acts with intent to pervert the course of justice, for which he was sentenced to eight months' imprisonment.

On 17 January 2017, Peter was notified that because of his criminal convictions/behaviour in the UK, the Secretary of State intended to make a deportation order against him.

- (a) Discuss the grounds upon which the Secretary of State can remove Peter, stating the immigration rules, statute and human rights arguments that could be raised to support his removal.

(20 marks)

- (b) Explain whether Peter can appeal against the decision to deport him and, if so, on what grounds?

(5 marks)

(Total: 25 marks)

Turn over

Question 3

Ada is an Italian citizen. She was born in Rome and lived in Italy continuously until she arrived in the United Kingdom (UK) on 10 October 2011. Ada came to the UK on the encouragement of her British friend Elena. Ada is now 29 years old and she speaks fluent English.

Ada is married to Noah Madison, a Polish national. They have been married since 2009. Noah was born in Warsaw and works in Poland. Noah's mother is 65 years old and lives alone in Poland. Noah's father died four months ago and Noah is worried about his mother. Noah is an only child.

Ada and Noah have two children, Victor aged 5 and Bella aged 3. Both Victor and Bella live with Ada in the UK. Victor has a visual impairment and requires additional support in his day-to-day activities. The pressure on Ada is taking its toll on her relationship with Noah and her ability to gain employment due to her family commitments.

Ada was finally able to secure a job that provided flexibility for childcare arrangements. After a couple of months, Ada lost her job. She is very keen to find work. Ada currently lives in privately rented accommodation, for which she has paid rent in advance for the next six months and, as a result, Ada has very little money in the bank.

Ada wants her husband to join her, so that he can help. Noah is a freelance journalist. He supplements his earnings by undertaking supply teaching.

- (a) Discuss Ada's and Noah's immigration positions with regard to their rights to enter, remain and work in the UK.

(17 marks)

- (b) Explain whether Ada's immigration position would be affected by the fact that she is not working at present, and any difficulty this may cause if she cannot obtain work.

(8 marks)

(Total: 25 marks)

Question 4

Mr Claude Catalonga is from Southern Cameroons, a region in the south-west part of Cameroon. Mr Catalonga's family has a history of support for the Southern Cameroons Movement for Independence (SCMI). Mr Catalonga is politically active himself. The SCMI wants there to be a separation of the English-speaking (anglophone) and French-speaking (francophone) regions of Cameroon. Mr Catalonga's father was an SCMI activist and disappeared two years ago, in May 2016. Mr Catalonga's family is one of the four large, well-known families in Southern Cameroons. All four families are part of the Bakwerian tribe. The Bakwerian tribe are an ethnic group in Southern Cameroons.

Southern Cameroons is predominately anglophone. The government and the ruling party of Cameroon are controlled by francophone people. Mr Catalonga suspects that his father's disappearance was politically motivated following his father's involvement with the SCMI.

In April 2018, Mr Catalonga was at home with his mother, when government armed police arrested him. He was taken away to an unknown location. He was asked to provide details of his family's involvement with the SCMI and when he did not, he was badly beaten and tortured. Mr Catalonga and two other people were able to escape. He eventually made his way to the UK.

Mr Catalonga was browsing the Internet for news about his father, when he saw that an arrest warrant had been published in the Cameroon Sun Newspaper with his name and photograph. The newspaper also reported that those described by the state as activists are being detained and prosecuted at the military court and are facing charges of hostilities against the fatherland, punishable by the death penalty or imprisonment of 25 years or more.

Mr Catalonga is fearful for his life and the lives of his family. He says he cannot return to Cameroon, as he will be arrested, tortured and killed. He says his family's name is associated with the political struggle for independence and that the ruling party views them as enemies. He says there is nowhere he could go in Cameroon where he and his family would be safe.

There are reports from the Home Office Country of Origin Information (COI) which show instability and unrest in the country, but there have been no executions in recent years. However, the US State Department Report describes how a number of human rights activists have been sentenced to death and others have been tortured.

Advise Mr Catalonga as to whether he can establish a case for refugee status and set out what further information you would require in order to give him full advice.

(25 marks)

End of Examination Paper

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