



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 points requirements that must be met for entry under the Tier 4 (General) Student category of the points-based system.

(15 marks)

- (b) Explain the duties that apply to sponsoring institutions under Tier 4 of the points-based system.

(10 marks)

(Total: 25 marks)

2. (a) Identify and discuss the statutory immigration offences that might be committed by an entrant to the UK.

(12 marks)

- (b) Identify and discuss any defences that may be available in relation to these offences.

(13 marks)

(Total: 25 marks)

3. Critically analyse the grounds for administrative removal and deportation, highlighting any relevant differences between the two principles.

(25 marks)

4. Explain the stages through which a first asylum application will progress in the UK, including any appeal proceedings that may be commenced within the Tribunal.

(25 marks)

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

Question 1

Alexei Antonov

Alexei is a Russian national and he entered the UK illegally in August 2012. Alexei claimed asylum on arrival at port in the UK. Although Alexei'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 prison in Russia by a group of prison guards. Medical **evidence** supporting the development of Post-Traumatic Stress Disorder as a result of the **mistreatment** was provided to the Home Office during the course of Alexei's asylum case and was accepted by the Tribunal on appeal. Alexei was granted Refugee Status for five years in April 2013.

Alexei applied for settlement and was granted Indefinite Leave to Remain in May 2018. Unfortunately, the stress caused by the uncertainty of having to complete the application for settlement caused Alexei's mental health to deteriorate, and he was briefly admitted to a psychiatric unit. This resulted in Alexei'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 this did not affect the decision to grant him Indefinite Leave to Remain.

Although Alexei'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, Alexei has not felt well enough to leave the UK since his arrival. However, this year, he went on a trip to Denmark with a support organisation for two weeks in February 2019.

Alexei meets with you in June 2019 and asks for advice on whether he is eligible to apply to naturalise as a British citizen. He informs you that his friend has told him 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 Alexei 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

Salim Ahmed

Salim is a Yemeni national. He recently travelled to the UK using a false Costa Rican passport and arrived at Gatwick International Airport, where he claimed asylum.

Salim has just attended an appointment with you. He indicates that he has claimed asylum as he fears for his safety in Yemen due to the general security situation and his position as an ordinary civilian with no links to any of the warring factions in Yemen. Salim states that he has not been personally attacked in the ongoing fighting. Salim 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 Yemen.

- (a) Advise Salim 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, including any relevant case law.

(15 marks)

Salim is granted the protection that you previously discussed with him by the UK government. He informs you that he wishes to apply for family reunion for his wife and 17-year-old daughter, both of whom stayed behind in Yemen, to join him in the UK.

- (b) Advise Salim 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 3

Elena Schultz

Elena is a dual Canadian-Swiss national. Elena moved to the UK in March 2014. She initially worked as a translator for one year and then set up her own cake-making business. Three years ago, Elena married Andrew. Andrew is a British national. Elena and Andrew now have a one-year-old daughter, Cara. Cara was born in the UK with a British father and is therefore a British national. Although Elena reduced the amount of time spent on her cake-making business following the birth of her daughter, she continued to bake cakes during this time, and there was no noticeable change in her income.

Elena earns approximately £300 per month from her cake-making business and has evidence of this income spanning the past four years. Elena also has evidence of her income from when she first entered the UK by way of a record of translation invoices for that 12-month period. In her first year of living in the UK, she earned approximately £1,500 per month from her translation work.

Advise Elena whether she is able to remain permanently in the UK, outlining the legal basis for your advice.

(25 marks)

Turn over

Question 4

Izzy Partington

Izzy is an Australian national. She travelled to the UK with entry clearance as a spouse under Appendix FM six months ago, having met her husband Colin, a British national, while he was travelling in Australia. The couple married in Australia and decided to move to the UK to set up a marital home.

Izzy has recently obtained a highly paid job in marketing. Izzy states that, since they moved to the UK, her husband's behaviour has changed. He has become very controlling. She informs you that Colin took away her mobile telephone, so that she was unable to contact family in Australia without his permission. In addition, Colin has made upsetting comments about her weight and has installed locks on the fridge and kitchen cupboards, so that she cannot access food without his approval.

During an argument three days ago, Colin accused Izzy of having an affair with her supervisor at work. Although Colin did not physically harm Izzy, she nevertheless felt threatened and feared for her safety. Therefore, after waiting for Colin to fall asleep in front of the television, Izzy left the marital home and walked to the local police station, where she made a complaint against Colin in relation to domestic abuse. Izzy was put in touch with a local women's organisation, which was able to offer her a temporary space in a women's refuge.

Izzy is concerned that she will be forced to leave the UK, if she decides to permanently leave her marriage.

- (a) Advise Izzy with regard to her current immigration status and the requirements of any immigration application that may assist her.

(15 marks)

Following your advice, Izzy makes an immigration application. The application is refused by the Home Office.

- (b) Advise Izzy with regard to any procedures for review that are available to her.

(10 marks)

(Total: 25 marks)

End of Examination Paper

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