



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. Explain and analyse how a child born in the UK to non-British parents can be entitled to become a British citizen. Include in your answer the good character requirements that may apply.

(25 marks)

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

(25 marks)

3. (a) Explain the requirements that must be met by a person applying for entry clearance to visit a family member in the UK.

(10 marks)

- (b) Discuss the legal basis of any remedies or appeals that may be available following an Entry Clearance Officer's refusal of an application for entry clearance to visit a family member in the UK.

(15 marks)

(Total: 25 marks)

4. Analyse the provisions under which a person may be excluded from refugee or humanitarian protection in the UK.

DO NOT include discussion of the immigration rules in your answer.

(25 marks)

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

Question 1

Miriam Cesay is a Sierra Leonean national. Miriam is a qualified nurse and she came to the UK in July 2017 with leave to remain as a Tier 2 (general) migrant. She currently works at the South Wales Hospital. Miriam was accompanied to the UK by her daughter, Gloria, who is six years old. Gloria's father died four years ago from an illness.

Miriam is a member of the Temne tribe in Sierra Leone. As Gloria's father was also Temne, Gloria belongs to this tribe as well. This tribe practises girlhood Female Genital Mutilation (FGM) at a rate of around 80%. Miriam herself was subjected to this practice as a five-year-old girl, and it was this traumatic event that led Miriam to begin a career in healthcare, in the hope that she might be able to dissuade other families from putting their girls through the practice. Miriam and Gloria are from Freetown, the capital of Sierra Leone. While living in Freetown, Miriam was a vocal opponent of FGM and had written several newspaper articles criticising the practice, prior to travelling to the UK to work as a nurse in the NHS.

Miriam has become concerned about texts and emails that she has received from relatives in Sierra Leone, particularly from her maternal aunt, a local FGM practitioner. These texts and emails have a threatening tone and they ask that Miriam return to Sierra Leone, in order to allow Gloria to undergo the practice.

In Sierra Leone, there is no law that prohibits the practice of FGM and there is widespread cultural support for the practice. Miriam confirms that she fears for her own safety, should she have to return with Gloria and try to prevent members of her tribe from performing FGM on her.

Advise Miriam with regard to the legal basis of the most appropriate action she may be able to take in order to protect Gloria from having to return to Sierra Leone, and the requirements that will need to be met in order for her to be successful.

(25 marks)

Turn over

Question 2

Cecil Walker 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 Cecil's time in the UK, he has obtained unlawful employment at various times, but recently he has found it difficult to work, due to not having evidence that he has permission to do so.

In 2008, Cecil met Olivia, a British national. In 2010, the couple had a daughter – Delilah. Cecil and Olivia lived together with Delilah as a family unit. Olivia rented a two-bedroom flat in her own name from a private landlord and worked full-time in a nursery to support the family. Cecil has been responsible for the primary care of Delilah since she was 12 months old, and they share a particularly close relationship.

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

Since Olivia moved out of the flat, Cecil 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. Cecil also takes Delilah to visit Olivia every weekend.

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

Advise Cecil of the requirements of any application he may be able to make to remain in the UK with Delilah:

(a) under the immigration rules;

(15 marks)

(b) under European law.

(10 marks)

(Total: 25 marks)

Question 3

Sasha Watta is a Saudi Arabian national. She came to the UK in 2009 as a PhD student under Tier 4 of the Points-Based System. At the end of her PhD in 2014, she switched to a Tier 2 (general) migrant visa, as she was employed as a higher education lecturer by a London university. Sasha is about to complete six years in the UK under the Tier 2 scheme. Her current salary at the university is £35,000 per annum.

When Sasha travelled to the UK in 2009, she was married to a Saudi Arabian national, who remained in Saudi Arabia. From 2009 to 2016, Sasha travelled back to Saudi Arabia for one month in the summer and one month over the Christmas break to see her husband. These are the only trips outside the UK that she has taken.

Unfortunately, the long-distance nature of the relationship became a source of strain and in 2016, the couple decided to divorce. The divorce took place in Saudi Arabia, and it took 18 months for Sasha to be able to obtain confirmation of her divorce. As a result, there was a period of almost two years during which Sasha was divorced but was unable to formally update her police registration certificate or notify the Home Office.

Sasha now wishes to apply to stay in the UK permanently.

Advise Sasha as to the most appropriate application she can make to remain in the UK permanently, setting out the requirements that apply and the process she must follow.

(25 marks)

Turn over

Question 4

Lucky Singh is an Indian national. She came to the UK in 2017 with a Tier 4 (general) student visa in order to study Biological Sciences at university. In late 2018, Lucky began to find her course very stressful and she developed serious anxiety. During 2019, Lucky's condition worsened, and she developed symptoms of psychosis. In September 2019, unable to cope with the stress of beginning a new academic year at university, Lucky took an overdose of her medication in an attempt to commit suicide.

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

Lucky's friend, Clare, comes to see you, as she is concerned that Lucky is in the UK in breach of the conditions of her leave to remain. Clare states that she has spoken to Lucky's family in India, who have informed her that if Lucky were to return, they would have no choice but to lock Lucky 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 1 million people there are only three psychiatrists, and fewer psychologists.

In light of Lucky's ill-health, advise Clare of the most appropriate application that Lucky 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: There is no need to consider whether Lucky has the capacity to instruct you, as you are providing general advice to Clare.

(25 marks)

End of Examination Paper

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