



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. Identify and analyse the different routes through which non-EEA nationals may make an initial application for leave to remain in the UK to set up or run a business under the current points-based system. Make particular reference to any evidential requirements in your answer.

(25 marks)

2. Identify and analyse the development and current operation of the law relating to settlement in the UK:

(a) under "The Ankara Agreement";

(10 marks)

(b) for EEA nationals.

(15 marks)

(Total:25 marks)

3. Analyse the legal basis for, and the main features of, a grant of Humanitarian Protection in the UK including the impact on family members.

(25 marks)

4. Identify and explain the various circumstances in which a British national may cease to hold British citizenship, and any remedies that may be available to regain this status.

(25 marks)

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

Question 1

Ted is a 35-year old dual British/US national who lives in the United States of America with his fiancée, Nansi. Nansi is a 30-year old US national. Ted and Nansi began cohabiting 18 months ago and recently got engaged. The couple have no children together, although they both have children from previous relationships who live with them.

Ted has a son, Bobby, who is 10 years old and was born in the UK prior to Ted moving to the United States. Bobby holds a British passport. Bobby's mother is deceased. Nansi has a son, Meric, who is eight years old. Meric holds an American passport. Meric's father is also deceased.

Ted is a Software Technician for multinational IT company, Gumball. He earns a salary before bonuses of the equivalent in US dollars of £25,000 per year. Nansi also works at Gumball as a HR officer and earns the equivalent in US dollars of £18,000 per year. Nansi also has savings equivalent in US dollars of £20,000 held in cash in a bank account jointly in the name of Nansi and Ted, and this amount has been held for around two years. Both Ted and Nansi have worked for the company for over two years.

Ted has extensive family in the UK, whereas Nansi only has contact with her mother, brother and uncle in the United States and no family elsewhere. The couple have decided that they wish to get married in the UK so that Ted's extended family will be able to attend the ceremony without difficulty. Also, it will be cheaper for the few members of Nansi's family to travel to the UK for the wedding than it would be for all of Ted's family to travel to the United States.

In addition to this, Ted has had an informal chat with his line-manager at Gumball and it has been indicated that, should the couple wish to move permanently to the UK, it may be possible for them both to obtain transfers to the UK office of Gumball based in Reading, where their salaries would be greater than their current wages in the US. After discussing the matter in detail, they are keen to do this and request advice on how they could come to the UK to marry and for Nansi and her son to settle here. They are also interested to know the leave that Nansi would be granted if her application to settle as Ted's partner was successful and when she and Meric would be entitled to apply for indefinite leave to remain.

Nansi has recently been refused entry as a visitor, on arrival in the UK, due to a historic period of overstaying when she was in the UK as a student in 2003.

Advise Nansi on whether she will meet the requirements of the family immigration rules and the leave that would be granted on a successful application.

(25 marks)

Turn over

Question 2

Sonia is an Iranian national. She was brought up in a Shia Muslim family in Tehran. She fled to the UK in 2012 and claimed asylum at the airport, on the basis that she had conceived a child outside marriage. On arrival in the UK, she was three months pregnant. She used a Costa Rican passport that she purchased from an agent to travel to the UK from Iran.

Sonia's son, Zai, was born in the UK in January 2013. Shortly afterwards, Sonia's asylum claim was refused by the Secretary of State and she appealed against this decision. Sonia's asylum appeal was refused and she became appeal rights exhausted in December 2013, having unsuccessfully applied for permission to appeal to the Upper Tribunal. The reasons given for the refusal of Sonia's asylum claim were that she had given inconsistent statements regarding her marital status. Home Office records showed that she had told the immigration officer at the port that she was married. Sonia had denied this at first, but later admitted that she had said this because she was surrounded by other Iranians at the airport gate and had felt frightened and ashamed to say that she was unmarried and pregnant.

Sonia has not left the UK since she arrived. She has lived in the UK with her son since he was born, in National Asylum Support Service (NASS) provided accommodation. Zai is currently seven years old.

Sonia felt very low during the course of her asylum proceedings and often confided in her neighbour, Lily. Lily is a British national and a practising Christian; she attends a Baptist church in the local area. Lily invited Sonia to attend her local Baptist church with her in Spring 2014. From this time, Sonia and her son regularly attended the church and Sonia has found significant comfort in doing so. Sonia also attends Bible study and is on the church rota for organising flowers for services. Zai attends Sunday School every week. Although Sonia was brought up as a Muslim, she now feels a strong connection with Christianity. The minister of the church she attends has suggested that she be baptised as a Christian, and she wishes to do this. She feels that she has developed a Christian faith, but is becoming increasingly concerned about the effect her conversion to Christianity would have on her safety if she were to be returned to Iran.

Objective country evidence indicates that Iranian Christian converts are at risk of persecution in Iran.

- (a) Advise Sonia on the merits of pursuing a further asylum application, the legal basis for this and the evidence that would assist her in being successful.

(13 marks)

In the event that a further asylum application was not successful:

- (b) Advise Sonia with regard to any other appropriate application she may be able to make under Appendix FM, the arguments she would need to make and the process for doing so.

(12 marks)

(Total:25 marks)

N.B You are required to answer both parts of the question.

Question 3

Berhane is a 23-year old Eritrean national. He fled Eritrea in January 2019 due to a political problem and travelled to Libya by four-wheel drive cars and lorry using an agent. Berhane spent four months in Libya before finding a different agent to take him across the Mediterranean Sea to Greece. Berhane spent two weeks in Greece and then spent the next four months travelling across Europe, using a combination of lorries and cars. He spent brief periods in Bulgaria, Germany and France during his journey to the UK, whilst waiting to be moved on by an agent.

Berhane recently arrived in the UK concealed in the back of a lorry. The police were called when he was discovered and he immediately expressed his wish to claim asylum. Berhane had an initial interview with an immigration officer and explained his route to the UK in full. Berhane also had his fingerprints taken. The Secretary of State has made enquiries and carried out a EURODAC fingerprint database search. The Secretary of State has informed Berhane that his fingerprints have been found on the database, placing him in Germany prior to coming to the UK.

The Secretary of State has informed Berhane that the Home Office will make a request to the German government to take responsibility for his asylum claim and seek to remove him to Germany in due course.

Berhane states that he has recently discovered that his 15-year old sister, Miriam, is living in foster-care in the UK. Miriam went missing from the family home around three years ago and the family presumed that she had died. Miriam has informed Berhane that she was trafficked to the UK for the purposes of domestic servitude, but escaped from her traffickers and has since been granted asylum in the UK.

Miriam was accepted to be an Eritrean national in her asylum case and succeeded on that basis. If Berhane's asylum claim is considered in the UK he is likely to succeed as a result of his nationality as well.

Advise Berhane of the legal basis for the Home Office's course of action and outline any practical steps that may be taken in order to prevent removal or obtain release from any detention.

(25 marks)

Turn over

Question 4

Tuan is a 19-year old Vietnamese national. He recently finished formal schooling in China and decided to spend a few years getting work experience before progressing to higher education. Tuan lives in Vietnam with his parents and his grandmother. Tuan's grandfather died approximately six months ago and left a substantial sum of money to Tuan by way of an inheritance. Tuan 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 Vietnam at the end of his studies.

Tuan has undertaken some research on available degree programmes in Australia, France and the United Kingdom and is particularly interested in studying for an undergraduate degree in Nursing at Mid Wales University, which is a licensed sponsor. The fees for each year of study in the three-year degree programme are £11,000 for non-EU students.

Tuan 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.

Tuan spent a year of his formal schooling in Australia as part of a student exchange programme and is able to speak and understand English well.

Advise Tuan with regard to:

- the requirements he must meet to study for his degree in the UK
- any steps the university must take to assist him with the application
- the likely conditions that will be attached to any entry clearance that is issued

(25 marks)

End of Examination Paper

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