

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.

SECTION A

(Answer at least one question from this section)

1. Analyse the routes through which a person may obtain leave to remain in the UK in order to set up or run a business, with particular reference to any evidential requirements.

(25 marks)

2. Explain and analyse the legal basis for, and the main features of, a grant of humanitarian protection.

(25 marks)

3. Critically analyse and evaluate the circumstances in which a British national may lose their British citizenship, and any remedies that may be available to prevent this, with particular reference to recent developments in the law.

(25 marks)

4. (a) Explain and analyse the grounds upon which a person can be deported from the UK.

(10 marks)

- (b) Critically analyse the application of relevant statute, immigration rules and human rights arguments used to challenge deportation where family life is established in the UK.

(15 marks)

(Total: 25 marks)

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

Question 1

Sybil Petrov is a 20-year-old Russian national. She recently finished formal schooling in Russia and decided to spend a few years getting work experience, before progressing to higher education. Sybil lives in Moscow with her parents and elderly aunt. Sybil's elderly uncle died approximately six months ago and left Sybil an inheritance roughly equivalent to £20,000. Sybil would like to use this money to study for a degree abroad, as she believes that this will improve her job prospects on return to Russia at the end of her studies.

Sybil has undertaken some research on available degree programmes in Australia, France and the UK, and is particularly interested in studying for a BSc in Adult Nursing at Greater London University. The fees for each year of study in the three-year degree programme are £14,000 for international students.

Sybil may also be able to obtain a further £8,000 from her parents as a gift, if this is necessary for her to be able to study abroad. Sybil is interested to know whether she will be able to work in the UK to support herself.

Sybil previously spent a year travelling in Canada and is able to speak and understand English well.

(a) Advise Sybil with regard to the requirements that she must meet in order to study for her chosen degree in the UK, and on the likely conditions that will be attached to any entry clearance that is issued.

(15 marks)

(b) Outline any remedies that Sybil may be able to rely on, in the event that she applies but her application is refused.

(10 marks)

(Total: 25 marks)

Turn over

Question 2

Eleanor Kelly is a 30-year-old Australian national. She came to the UK in November 2019 as a visitor. Eleanor did not return to Australia when her leave to remain expired, and she became an overstayer. In August 2020, Eleanor met her partner, Zayeed, a Libyan national with indefinite leave to remain in the UK. Zayeed is a recognised refugee. Shortly after the relationship began, Eleanor moved into Zayeed's flat, and the couple have cohabited since that time.

In February 2021, Zayeed made an application for Eleanor to remain in the UK as his partner. This application was successful, and Eleanor was granted leave to remain on the 10-year route to settlement as the partner of a person present and settled in the UK.

In August 2021, Eleanor discovered that she was pregnant. Eleanor's expected date of delivery is in April 2022. Although Zayeed was initially excited at the prospect of becoming a father, this news, combined with learning that his employment had been put at risk of redundancy, contributed to him suffering a mental breakdown. In September 2021, Zayeed was diagnosed with schizophrenia. It was determined by the mental health professionals involved in Zayeed's care that his condition could be managed in a community setting, for the present time.

Since Zayeed's mental breakdown, he has become convinced that the baby Eleanor is carrying is not his child. As a result, Zayeed has made numerous telephone calls to the police, claiming that his partner has been attacked. He has also made threats to Eleanor that he will harm the baby once it is born. Eleanor now feels unsafe in Zayeed's presence.

As a result of Zayeed's behaviour, in December 2021, Social Services became involved with the family. They have informed Eleanor that, if she continues to live with Zayeed once the baby is born, there is a high likelihood that the child will be taken into care.

Advise Eleanor of the most appropriate application she can make in order to legally remain in the UK while no longer living with Zayeed, the requirements that must be met and the evidence that will be needed to support the application.

(25 marks)

Question 3

Sameera Ghulam is a 45-year-old Afghan woman. She qualified as a lawyer in Afghanistan in 2010 and began working as a judge in the criminal court in Kabul in 2016. In June 2021, Sameera became concerned that the Taliban would soon take control of Afghanistan and that her life would be at risk as an educated woman who had convicted members of the Taliban in her court. Sameera therefore obtained a visitor visa for the UK to attend a conference on women in the justice system, which was due to take place in Birmingham in August 2021.

Sameera travelled to the Afghan-Pakistani land border and crossed into Pakistan. She then travelled to Islamabad, where she boarded a plane which brought her to the UK. On arrival in the UK, Sameera confirmed, to immigration officers at the airport, that her reason for travelling to the UK was to attend a conference. Sameera was able to enter the UK using her visitor visa.

Sameera attended the conference in August but did not return to Afghanistan afterwards. Sameera states that this was because the security situation had deteriorated in Afghanistan, and the UK and other Western governments were urgently attempting to fly out of the country anyone who had assisted them or who was otherwise at risk from the Taliban. Sameera, therefore, continued to remain in the UK on her visitor visa.

Sameera has only a few days remaining on her visitor visa. She does not wish to overstay her visa but does not feel it is safe to return to Afghanistan.

Advise Sameera of any application that she may be able to make in order to remain in the UK for the purposes of safety, with reference to the factual, legal and evidential requirements that apply.

(25 marks)

Turn over

Question 4

Arjun Singh was born in Uganda on 8 November 1967 to parents of Sikh Indian descent. Arjun's parents had lived in Uganda for many years. However, after Uganda gained independence from the British Empire and joined the Commonwealth in 1962, treatment of the Indian sub-continent minority in Uganda worsened, so in January 1968, Arjun's family decided to move to the United Kingdom. Arjun travelled with his parents to the UK using passports that described his parents as 'Citizens of the UK and Colonies' issued by the UK government. Arjun travelled to the UK on his father's passport. The family settled in Nottingham, where his father found employment and the family were able to rebuild their lives.

Arjun attended primary school and secondary school in Nottingham, and then went to a local college, where he trained as a medical administrator. From 1991 to 1995, Arjun worked as an administrative assistant at a local hospital in Nottingham. From 1995 to 2006, Arjun worked as a Records Administrator for a local GP practice. In 2006, Arjun was promoted to Administrative Manager of the GP practice.

Since his arrival in the UK, Arjun has not left the UK and has not applied for a passport of any nationality.

In 2007, Arjun's father died of cancer. Arjun's mother continued to live in Nottingham.

In June 2021, Arjun's employer undertook a review of all staff records and requested that Arjun provide evidence of his right to work in the UK. Arjun contacted his mother, who informed him that, on arrival in the UK, they had not been provided with any specific paperwork relating to Arjun, as he was a baby. Arjun's mother is retired and has recently moved into sheltered retirement accommodation. She confirmed that she threw out a lot of old paperwork during the move and thinks that she is no longer in possession of any of the documents that were used to enter the UK.

Arjun has been suspended from work, because his employer cannot establish that he has the right to work in the UK.

(a) Advise Arjun of his immigration status in the UK.

(10 marks)

(b) Advise Arjun how he may be able to evidence his status, with reference to any appropriate application that may be made.

(15 marks)

(Total: 25 marks)

End of Examination Paper

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