



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: 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, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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

1. Critically analyse and explain the single power of removal introduced by the Immigration Act 2014.

Note: Your answer should include the different ways of serving a notice of liability to remove.

(25 marks)

2. (a) Identify and analyse the decisions which attract a right of appeal under the current appeals regime introduced by the Immigration Act 2014. Exclude any transitional arrangements.

(15 marks)

- (b) Explain any pre-Immigration Act 2014 appeal rights which continue to exist for decisions made on or after 6 April 2015.

(10 marks)

(Total: 25 marks)

3. Analyse the legal framework which governs the rights of European Economic Area (EEA) nationals and their family members in the context of UK immigration law.

(25 marks)

4. Explain the difference between the decisions made under the UK Borders Act 2007 and the decisions made under the Immigration Act 1971, to deport a non-EEA National.

(25 marks)

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

Question 1

Nkiru was born to Nigerian parents on 2 May 1983 and lived in Nigeria. She speaks very limited English. In 2004 she was coerced by a group of men in Nigeria to travel to Italy for work. All her expenses were paid for on the condition that she had to work to pay them back. Nkiru was told that if she failed to pay back what she owed, her family in Nigeria would be punished. Nkiru's family is poor and has little or no money.

When Nkiru arrived in Italy, she was physically and emotionally abused. She was forced to work as a prostitute for very long hours with no means to support herself. She was kept in a brothel under the control of her perpetrators all the time she was there.

In 2005, Nkiru was trafficked into the UK from Italy. She then managed to escape but was young, lonely and homeless with no support. She slept for days on the streets until she met Stephen and Mary, a devout Christian family, who provided her with shelter and clothes. Nkiru began to rebuild her life through the support of Stephen and Mary. Nkiru attended Church and Christian events, integrating well within the Christian community. She has had no contact with her family in Nigeria and has no idea where they are now.

In 2007, Nkiru had a brief encounter with Raymond during one of their Christian events in Birmingham. She fell pregnant with his child shortly after but Raymond refused to have any involvement with Nkiru for fear of being castigated by the Christian community for being adulterous. She had to care for herself and eventually for her son, James, as a single mother. Raymond is British and is married to Shannon who is also British. Raymond's details are registered on James' birth record.

At some time in 2007 Nkiru claimed asylum but her asylum application was refused. Nkiru lodged an appeal against her asylum refusal. The asylum appeal was dismissed. Permission to appeal to the Upper Tribunal was sought, this was rejected. Nkiru became appeal rights exhausted.

James was born in Birmingham. He is 8 years old. He attends school at St. Kilroy's Anglican Primary school. He has lived continuously in the UK since birth.

Nkiru is currently unemployed and has no income.

(a) Identify and explain the grounds under the Refugee Convention 1951 that Nkiru would have relied upon in making her original asylum application and the possible reasons why her application failed.

(8 marks)

(b) Advise Nkiru on what further grounds she can now raise in order to make an application to remain in the UK.

(17 marks)

(Total: 25 marks)

Turn over

Question 2

Sindija Azizi is a Bangladeshi citizen and she is 66 years old. She is divorced and currently lives alone in Bangladesh. Her only child, Habib, is a British citizen. He lives in the UK with his wife and children. Sindija's sister Jasmina also lives in the UK.

Sindija cannot perform everyday tasks for herself owing to ill-health and requires long-term personal care. In the past she has had a series of home-helps, each of whom has subsequently left because they cannot provide the level of care she needs. She currently has no home-help.

Sindija wants to come and live in the UK. Habib and his family can provide the required level of care. Jasimina is also available to provide support if required.

At present Habib has been visiting Bangladesh regularly to care for his mother, but cannot continue to do this, as he needs to return to the UK to care for his young family. Sindija appears to have nobody in Bangladesh capable of providing the level of care that she requires and therefore appears to be unable to cope without the help and support of her family in the UK.

Sindija is very lonely and wishes to join her son in the UK permanently.

Advise Habib on the type of application his mother should be making and what evidence she should provide to support her application.

(25 marks)

Question 3

Alborz is a very talented 22-year-old single student at the University of Britrania in Iran. He is expected to graduate in 6 months time with a double distinction in Chemistry. Alborz is from a very well respected and gifted family. Some years ago, his parents studied in the UK before returning to Iran.

After the reopening of the British embassy in Iran, nearly four years after it was closed, increasing numbers of students from Iran wish to study at UK universities.

Alborz applied to a number of UK universities to study an undergraduate degree in Material Science. He received various offers of admission from top UK universities including the University of Oxbridge in London. The University of Oxbridge is keen to accept him for his chosen course of study and to offer him a full scholarship, which includes living costs, as he has been assessed as having an exceptional talent. The duration of his chosen course is 4 years. The University of Oxbridge is a highly trusted sponsor and has a current Home Office sponsor licence.

Alborz has a good level of English language because his course at the University of Britrania was taught in English.

In the light of the past political and economic situation in Iran, the University of Oxbridge is very keen to be reassured of the requirements to be met for a valid Certificate of Acceptance for Studies ('CAS') in order for it to be able to sponsor Alborz. Also, Alborz is concerned as to whether he would meet the requirements for a Tier 4 visa.

(a) Advise Alborz as to whether he meets the general requirements for a Tier 4 (General) visa.

(18 marks)

(b) Advise the University of Oxbridge of the detailed requirements to be met for a CAS to be valid.

(7 marks)

(Total: 25 marks)

Turn over

Question 4

Josephine Seneld is a Polish citizen. She has been living and working in the UK since May 2004. Josephine has three young children from a previous relationship, all living with her together in the UK. Josephine and her children were granted Permanent Residency in the UK in April 2010.

Josephine met Karim whilst on holiday in Greece. They have been in a relationship since May 2015. She is not married to Karim. However, they do intend to get married at some point in the future. Josephine travels regularly to Italy on short visits to see Karim, who has been studying there. Her mother looks after the children when she is away.

Karim was previously married to his German wife Alexis and was living in Germany. He is now divorced from Alexis according to German laws. He does not have German citizenship or any entitlement to live in Germany.

Karim is from Tunisia but currently lives with his sister Hiba in Italy. His Italian student visa is due to expire fairly soon.

Karim is temporarily back in Tunisia, to register his divorce from Alexis according to Tunisian laws. He will be returning back to Italy in a few weeks time.

Karim wants to join Josephine in the UK so that they can live together.

Advise Karim if he can join Josephine in the UK under EU law and, if so, upon what basis.

(25 marks)

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