



## 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, 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 and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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

1. In April 2015, the Immigration Rules on short-term visit visas were significantly overhauled. Explain the rationale of short-term visas and the different classes of short-term visit visas affected by this change.

**(25 marks)**

2. An application to become a British citizen as set out in the British Nationality Act 1981 (BNA 1981) is a significant life event for any applicant.

(a) Explain the requirements that a Tier 2 skilled worker needs to satisfy, to become eligible to apply for British citizenship.

**(8 marks)**

(b) One of the requirements under the BNA 1981 is the good character requirement. Explain the situations where an applicant would not be considered to be of good character.

**(17 marks)**

**(Total: 25 marks)**

3. The Home Office has the powers to detain and remove any person who is subject to immigration control.

(a) Explain the powers that the Home Office has to justify a decision to remove a person.

**(17 marks)**

(b) What factors must the Home Office take into account, before making a decision to detain a person pending a removal?

**(8 marks)**

**(Total: 25 marks)**

4. Discuss the key issues in the case of *Metock and Ors v Ireland* (Case C-127/08) and the implications for those who are in the UK irregularly and are facing removal.

**(25 marks)**

**Turn over**

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

**Question 1**

Jonathan Hart is a British citizen. He currently works full-time for a giant pharmaceutical company, Deluxe Pharmaceuticals, in Sweden. He earns the equivalent of £30,000 per annum. Jonathan has lived in Sweden and worked with Deluxe for the last five years.

Deluxe has offices in New York and Sweden. It has recently opened an office in London and has offered Jonathan a full-time position to manage the London office. Jonathan is very excited about the opportunity, but he is concerned about relocating to London, because of his family ties in Sweden.

Jonathan recently married his long-term partner, Mohammed Ahmed. Mohammed is an Iraqi national, studying in Sweden.

Jonathan would consider accepting the offer and relocating to London, if Mohammed could continue his studies in the UK.

- (a) Advise Jonathan on whether Mohammed can accompany him to the UK under British domestic law, as interpreted under Appendix FM.

**(8 marks)**

- (b) Explain the legal basis and the legal route under which Mohammed can accompany Jonathan under EEA Regulations and case law.

**(17 marks)**

**(Total: 25 marks)**

## **Question 2**

Azubike Okereke is a Nigerian citizen. In 1996, Azubike arrived in the UK to study at the University of Rotherham in Sheffield. While studying, he met and married his British wife, Carol Orange.

At the time, Azubike made an application to the Home Office on the basis of his marriage to Carol, which culminated in him being granted Indefinite Leave to Remain (ILR) in the UK in 2000. They both purchased a property in Sheffield. Azubike worked as a safety engineer at various nuclear stations in the UK until 2013, when he was offered a very lucrative job in Nigeria, which he decided to accept. Carol did not want to relocate to Nigeria, although she was very supportive of Azubike's career ambitions.

Azubike was offered a 12-month contract, which was renewable subject to performance and funding. With time and distance apart, their relationship began to suffer. At the end of the 12-month contract, Azubike accepted to renew his contract and remained in Nigeria. Carol took divorce proceedings against him and ended their relationship. They have no children and the property in Sheffield is registered to both of them.

Three months ago, Azubike decided to return to the UK. He sought advice from the British High Commission in Lagos, Nigeria. He was informed that, because he had remained outside the UK for more than two years, his ILR had automatically lapsed by operation of law. Azubike wants his ILR to be reinstated.

Explain, applying Azubike's circumstances, what factors will be considered in assessing whether to readmit Azubike for settlement.

**(25 marks)**

**Turn over**

### Question 3

John is a 50-year-old British citizen living and working in Guyana as a doctor. He is returning with his Guyanese wife to the UK to work. John has been working for George Town Emergency Hospital in Guyana for the last three years, earning a weekly gross figure equivalent of £259 for the last year.

John has a confirmed job offer to commence in Ancoat Royal Hospital in the UK, starting within ten weeks of his return, with a gross annual salary of £35,000. John also has cash savings of £30,000, which he has saved up in the last two years.

John has heard that the financial requirement under Appendix FM of the Immigration Rules is complex and he needs detailed evidence to prove he meets the requirement. John and his wife do not have any children.

- (a) Advise John whether he would meet the financial requirement to sponsor his wife under Appendix FM of the Immigration Rules.

**[In your answer, also consider whether your advice would be different if John had been unemployed overseas in the last 12 months.]**

**(20 marks)**

- (b) Advise John on the evidence that is required to meet the financial requirement applicable to him.

**(5 marks)**

**(Total: 25 marks)**

#### **Question 4**

Fredrick and Cecile are French nationals. They got married in the UK in 1998 at Hull district registry office. Fredrick and Cecile were already living and working in the UK when they got married.

Fredrick works as a senior nurse at Hull St Mary's Hospital, UK, and Cecile is a paediatric consultant at the same hospital. They have worked in the same hospital since 1996. Fredrick and Cecile met during their staff Christmas party in December 1997.

Fredrick and Cecile have three children, all born in the UK. Marie was born on 10 March 2000, Bella was born on 20 April 2002 and Albert was born on 2 October 2007.

Advise Fredrick and Cecile as to whether their children are British citizens.

**(25 marks)**

**End of Examination Paper**

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