

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 the question paper fully.** However, you may make notes on the 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. The 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, 6th edition, Phelan and Gillespie, Oxford University Press 2009.**
- Candidates must comply with the ILEX 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 ball point 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 ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL**

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

1. Compare and contrast the law relating to deportation and to administrative removal. Your answer should also refer to the prospects of those deported or removed being readmitted to the UK.

(25 marks)

2. (a) Explain and illustrate the concept of 'internal relocation' and its relevance to determining whether an individual should be granted refugee status.

(8 marks)

- (b) On what basis can an individual be excluded from protection under the **Refugee Convention 1951**?

(9 marks)

- (c) How has the concept of 'persecution' in the Refugee Convention been developed by the Qualification Directive and recent UK legislation?

(8 marks)

(Total: 25 marks)

3. Discuss, with reference to appropriate court decisions, how indefinite leave to remain in the UK can be acquired through long residence and the consequences for indefinite leave to remain of absence from the UK.

(25 marks)

4. (a) Explain the rights of family members of an EU national who has exercised Treaty rights in the UK on the death or departure from the UK of that national or on the termination of a relationship in which that national was involved.

(17 marks)

- (b) Outline the arrangements that exist to permit workers from other EU states, not enjoying full freedom of movement under Directive 2004/38/EC, to work in the UK without being assessed under the points based system.

(8 marks)

(Total: 25 marks)

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

Question 1

- (a) Genaro, a Chilean national aged 18, was admitted to the UK on 1 January 2009 to study on a one-year course at Kempston University. In December 2009 he became engaged to Magda, a Polish national, who is also studying at the University and whose course does not finish until December 2010. They are now planning their wedding which they wish to take place in June 2010.

Discuss the steps that Genaro and Magda must take before they can marry and consider whether the couple can stay together in the UK after Genaro's course comes to an end.

How would your answer differ if Genaro was 22 years of age and based in Chile and wished to travel to the UK to be with Magda following their engagement?

(13 marks)

- (b) Lance, a US citizen, and Daksha, a UK citizen, lived together in Arkansas, USA, for three years. Lance was admitted to the UK as an unmarried partner two years ago and now wishes to apply for settlement. Although Lance and Daksha are still together there have been periods during which they have lived separately. They have also discussed the possibility of Lance returning to the USA to work for four months. They have two children.

Explain the steps that Lance should take to apply for settlement and the likelihood of him being successful.

What would Lance's position be if the relationship had broken down during the two-year period?

(12 marks)

(Total: 25 marks)

Question 2

Jackie, Nanako, Dean and Miranda were fellow students at university in Manchester. They are planning a reunion in Manchester where they intend to take a holiday together for up to four months. They all intend to work whilst in the UK and are now considering their options.

Jackie is a Canadian national, aged 27, and since graduating she obtained a PhD in chemical engineering in the UK and hopes to be employed in the oil industry during her visit.

Nanako is a Japanese student, aged 24, based in Japan where she is studying for a further qualification in law. She needs to spend some of her time in the UK working to finance her trip but is keen to have some free time to travel around the UK. She is hoping to get work which gives her experience of the English legal system.

Dean is a citizen of the USA, aged 31, and is a talented athlete who, although, not yet recognised internationally, hopes one day to represent his country. He is also a church worker in the USA and is thinking of either taking part in exhibition athletic events or undertaking outreach work for his church.

Miranda, aged 26, is Croatian and works as a professional musician. She has approached an agent in Manchester who has indicated that he could organise a short tour of clubs in the area. Failing this Miranda has said that she would work as an au pair.

Discuss the options being considered by each member of the group and outline the position of any of their spouses, partners, civil partners or children who may wish to travel with them to the UK.

(25 marks)

Question 3

Hamid is a Terranovian national who has claimed asylum in the UK. Whilst in Terranovia he was a leading member of one of the main opposition parties. He left Terranovia after being accused of terrorist activity by the Government to avoid his imminent arrest. A key part of his claim for asylum was that he believed that if arrested, as is likely if he returned to Terranovia, he would be subjected to torture during his interrogation by the authorities. Hamid, who was granted leave to remain in the UK for 18 months, received notification from the Home Office that his claim for asylum has been rejected and that he is to be removed to Terranovia. 12 days later Hamid decides to appeal against this decision on the basis of his fear of torture should he be forced to return to Terranovia. He also feels that the Home Office has discriminated against him on the grounds of his ethnicity, as he knows of individuals of other ethnic groups from Terranovia, with a similar background to his, who have been granted asylum in the UK.

Whilst he has been in the UK Hamid has been staying with his sister Khalida whose temporary leave to enter expired sometime ago and who has been appealing against a decision that she should be administratively removed to Terranovia. Her appeal to a First-tier Tribunal has been rejected and she now wishes to have that decision reviewed. At the core of Khalida's claim to remain in the UK is that she is suffering from an incurable disease that has led to severe depression needing treatment of a quality, which, she claims, is only available to her in the UK.

- (a) Discuss the basis on which Hamid intends to appeal and the procedures that must be followed if he wishes to pursue that appeal.

What are the implications, in terms of the appeal procedures, of the Secretary of State deciding that he believes that failure to remove Hamid would damage the UK's relationship with Terranovia.

(14 marks)

- (b) Critically assess, by reference to decided cases, the basis of Khalida's appeal and discuss the routes open to her to review the decision made by the First-tier Tribunal.

(11 marks)

(Total: 25 marks)

Question 4

Members of the Habib family wish to settle their immigration status and are seeking advice so that they can take steps to make good any irregularities. They have provided the following biographical details to Kempston, Manor and Co, a firm of immigration specialists, who have agreed to give the family written advice:

Abdul and Muna, who were born in Trinidad (which gained independence from the UK in 1962), came from there to the UK in 1966 bringing with them their son Roshan and their daughter Nawal. In 1978 Abdul received documents from the Home Office apparently confirming his UK citizenship. From 1979 to 1984 both Abdul and Muna lived and worked in South Africa.

Roshan was born in Trinidad in 1947 and qualified as a barrister in 1974. Between then and 1984 he had several tours of duty in Hong Kong where he worked as a prosecutor. He is married to Emma who comes from Hong Kong.

Nawal was born in Trinidad in 1949. She left the UK in 1973 and prior to her departure registered as a British Citizen. She had two children with a Canadian citizen from whom she is now separated. Muneer, her son, was born in Canada in 1974 and Lateefa, her daughter was born in the UK in 1982. In 1980 Nawal returned to live in the UK.

Emma, Roshan's wife was born in Hong Kong and came to the UK in 1977 where she met her husband. She settled here in the UK and was married in 1984. Emma's mother, Nancy, who is resident in Hong Kong, registered as a British National (Overseas) in 1996. She is planning to visit her daughter's family with a view to settling in the UK.

What advice should Kempston, Manor and Co give the Habib family (including Nancy) regarding their immigration status? Identify any documents that you believe should be available to assist with giving advice.

(25 marks)

End of Examination Paper

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