

**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, 7<sup>th</sup> edition, Phelan and Gillespie, Oxford University Press 2011.**
- 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. (a) To what extent do non - EU family members enjoy free movement rights under EU law when accompanying an EU citizen coming to the UK to work?

**(12 marks)**

- (b) Explain how those who fail to qualify as refugees under the **Refugee Convention 1951** may still be granted protection in the UK.

**(13 marks)**

**(Total: 25 marks)**

2. Discuss the role and jurisdiction of the UK Courts, the immigration and asylum chambers of the First-tier Tribunal, the Upper Tribunal in relation to challenges to decisions affecting an individual's immigration status.

**(25 marks)**

3. (a) Compare and contrast the position of those admitted before 6 April 2011 and now present in the UK as Tier 1 (General) migrants and those seeking admission after that date on the basis of their exceptional talent.

**(13 marks)**

- (b) Explain and contrast the requirements for admission, and in due course settlement, of those seeking to invest money in the UK and those seeking to establish a business in the UK.

**(12 marks)**

**(Total: 25 marks)**

4. Compare and contrast the grounds on which a person and their family can be administratively removed or deported from the UK.

**(25 marks)**

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

**Question 1**

Adad is a Terranovian national who has claimed asylum in the UK. When 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 is that he believes that, if arrested, as is likely if he returns to Terranovia, he will be subjected to torture during his interrogation by the authorities. Adad has now received notification from the Home Office that his claim for asylum has been rejected and that he is to be removed to Terranovia. Adad wishes to appeal against this decision on the basis of his fear of torture should he be forced to return to Terranovia. He has been informed that the Secretary of State may decide that failure to remove Adad from the UK may damage the UK's relationship with Terranovia.

Whilst he has been in the UK Adad has been staying with his sister Tira whose limited leave to enter expired sometime ago and who has lodged an appeal against a decision that she should be administratively removed to Terranovia. At the core of Tira'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.

Discuss the grounds on which Adad and Tira intend to appeal.

**(25 marks)**

**Question 2**

- (a) Diego and Lisa, who are married, currently live in Tallinn, Estonia. They decided to come to the UK. Diego is a Chilean national married to Lisa, a British citizen, and they have two children. Diego was deported from the UK for having committed a criminal offence, but before this happened he had met and married Lisa. Although Lisa has subsequently pursued a successful career in Estonia, the couple now wish to settle in Coventry (UK) where Lisa will divide her time between a university post and looking after the children who are still of school age.

Although Diego has applied for the revocation of the deportation order and for entry clearance on the basis of marriage, he believes that he can circumvent immigration control and enter the UK whilst his application is being considered.

Advise Diego and Lisa of their position under UK and European law.

**(12 marks)**

- (b) Husna and her brother Aban originate from Pakistan. They have a right of abode in the UK. Since their arrival in the UK they have been providing financial assistance to some members of their family in Pakistan. Their family used to run a farm but this was totally destroyed by fire. The family members concerned now live separate lives. They are now mainly dependent on Husna and Aban as they had no other relatives in Pakistan who can support them.

Malik, their father, aged 70, has recently divorced their mother and lives alone. Their mother Rana, aged 63, is also living on her own and is in poor health. She has a small pension from a former employer. Husna and Aban's niece, Yalda, aged 14, is living temporarily with a neighbour.

Husna and Aban are anxious to find out whether their father, mother and niece could join them in the UK and have approached a firm of immigration specialists, Kempston, Manor & Co, for advice. It is intended that the parents will continue to lead separate lives and that Malik will live with Aban and Rana with Husna. Yalda will live with Husna.

What advice should Kempston, Manor & Co give Husna and Aban on the prospects of any of these family members being able to come to join them in the UK and on any conditions that may be imposed?

**(13 marks)**

**(Total: 25 marks)**

### Question 3

Chul, a North Korean citizen has claimed asylum in the UK and his claim is being processed under the New Asylum Model. The file on which Chul's first interview will be based contains the following key pieces of information:

- It appears that Chul did not travel direct to the UK but spent some (unspecified) time in Italy possibly with an uncle before travelling to the UK to claim asylum
- Chul cannot produce a passport
- Chul has produced travel documents from North Korea in which the destination appears to have been altered from Albania to Italy
- From Chul's explanation of alleged persecution in North Korea the extent of state involvement is unclear

You have been asked to interview Chul on behalf of the UKBA as part of the assessment of his claim. Identify the issues that you consider affect Chul's credibility. If Chul was granted refugee status are there any circumstances in which that status could later be revoked?

**(25 marks)**

**Question 4**

- (a) Salman, a Nigerian citizen, and his Slovak partner Draza lived together in Bratislava in Slovakia and came to the UK in 2008 when Draza was appointed to a lectureship at a UK university.

In 2010 they adopted Salman's two nephews, who are orphans currently staying with his mother and father in Nigeria [Note: Adoption orders made in Nigeria are recognised by the UK], and are now seeking their admission to the UK. Salman and Draza have indicated that they wish to marry in the autumn of 2012.

Before carrying out their plans Salman and Draza have decided to seek the advice of Kempston, Manor & Co who are immigration law specialists. What advice should Kempston, Manor & Co give Salman and Draza on the immigration law implications of their plans?

**(13 marks)**

- (b) Max, a US citizen, and Jalita, a UK citizen, lived together in Dakota, USA, for three years. Max was admitted to the UK as an unmarried partner two years ago and now wishes to apply for settlement. Although Max and Jalita are currently living together there have been periods during which they have lived separately. They have also discussed the possibility of Max returning to the USA to work for four months. They have two children under 16 years of age.

Explain the steps that Max should take to apply for settlement and the likelihood of him being successful. What would Max's position be if the relationship had broken down during the two-year period following his admission to the UK?

**(12 marks)**

**(Total: 25 marks)**

**End of Examination Paper**

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