



CILEX Level 6 Single Subject Certificate/CILEX Level 6 Professional Higher Diploma in Law and Practice/CILEX Level 6 Graduate Fast-Track Diploma

Unit 8 – Immigration Law

Question paper

June 2024

Time allowed: 3 hours and 15 minutes (includes 15 minutes reading time)

Instructions and information

- It is recommended that you take **fifteen** minutes to read through this question paper before you start answering the questions. However, if you wish to, you may start answering the questions immediately.
- There are **two** sections in this question paper — Section A and Section B. Each section has four questions.
- You must answer **four** of the eight questions — at least **one** question must be from **Section A** and at least **one** question must be from **Section B**.
- This question paper is out of 100 marks.
- The marks for each question are shown — use this as a guide as to how much time to spend on each question.
- Write in full sentences — a yes or no answer will earn no marks.
- Full reasoning must be shown in your answers.
- Statutory authorities, decided cases and examples should be used where appropriate.
- You are allowed to make notes on your scrap paper during the examination.
- A basic calculator is provided should you require the use of one.
- You can use your own unmarked copy of the following designated statute book: ***Immigration Law Handbook, 11th edition, Frances Allen, Julia Gasparro, Jo Swaney, Margaret Phelan and James Gillespie Oxford University Press 2023.***
- You must comply with the CILEX Exam Regulations – Online Exams at Accredited Centres/CILEX Exam Regulations – Online Exams with Remote Invigilation.

Turn over

SECTION A

Answer at least one question from this section.

1. (a) Explain how Article 3 of the European Convention on Human Rights (ECHR) can offer alternative forms of protection where an asylum applicant cannot meet every aspect of the definition of a refugee under Article 1A of the Convention Relating to the Status of Refugees (Refugee Convention).

(15 marks)

- (b) If an applicant's asylum claim involving serious harm was refused but their human rights claim was allowed under Article 3 ECHR, explain what type of leave would be granted in this situation and the main features of this type of leave.

(10 marks)

(Total: 25 marks)

2. Explain the requirements that must be met by a person who wishes to naturalise as a British citizen and how these have been interpreted by the courts.

(25 marks)

3. Critically assess the operation of immigration bail as granted by the Secretary of State, including the process for making a bail application and the grounds that may be relied upon.

(25 marks)

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

(10 marks)

- (b) Critically analyse the application of relevant statutory provisions, the 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

Juan and Manuel are friends who are both 19 years old and living in Cuba. Currently they each live in their family home in Cuba with parents and siblings. They have friends who are studying in the UK and both Juan and Manuel wish to join their friends in the UK. Manuel is working as a bar manager in Cuba but his employers are happy for him to take six months off from his job and return to work after this period. Juan is not working as he intends to study.

Juan has been accepted on to a business studies course at the University of Knowledge in Berkshire. He wishes to live in the student halls of residence. He has only £4000 in savings, which he wishes to use to travel the UK and pay towards his living expenses while he is studying in the UK. His parents are funding his course fees and are happy initially to give him some extra money to help him pay for deposits on accommodation and to maintain him until he starts earning money. Juan is therefore hoping to work alongside his studies to supplement his finances and wishes to know if this is permitted.

Manuel simply wants to visit his friends in the UK for five or six months. He has an aunt and uncle who live near the University of Knowledge, and they are happy for him to stay at their house during his visit. They do not want him to pay any board as he is family. Manuel thinks that if he decides that he would like to try one of the courses at the University he could change to being a student and enrol on a course. Manuel thinks he could then stay in the UK longer if he wishes. Manuel has £5000 in savings, which he thinks will be sufficient to fund his five- or six-month visit.

Juan and Manuel have found open return flights for £800 and £440 for a single fare flight. Manuel intends to buy a return ticket and Juan a single ticket. They will use some of their savings to pay for their tickets if they are granted entry clearance.

Advise on the requirements of the Immigration Rules that Juan and Manuel will have to meet in order to succeed in their applications and any issues that may arise.

(25 marks)

Turn over

Question 2

Faith is a 28-year-old South African national from South Africa. She has been in the UK for the last two years working at Marketing Solutions Ltd, a UK-based company, under the skilled worker route. A year and six months ago she started dating Archie, a 30-year-old British citizen who also works at Marketing Solutions Ltd. Archie has worked at Marketing Solutions Ltd for the last five years. Archie earns £50,000 per year and Faith earns £31,000 per year. Six months into their relationship they started cohabiting and have lived in Archie's two-bedroomed flat in Leeds for the past year.

Archie has insisted that Faith does not pay towards the mortgage because Archie owns the property and is the higher earner. Faith does, however, pay towards the household bills and the supermarket shopping, and has bought some furniture for the flat.

Faith's employment contract comes to an end in a year's time and Marketing Solutions Ltd is currently making redundancies; Faith is therefore unsure as to whether her contract will be renewed. She wishes to know if she could apply to stay in the UK as Archie's partner. At the moment the couple are not planning to marry but they have talked about the possibility of marrying if it would ensure that Faith could remain in the UK. They require advice on the best course of action to take and whether Faith could meet the requirements to remain in the UK as either the spouse or unmarried partner of Archie.

Faith has previously applied to enter the UK as the partner of a British man, Jake, whom she met during a six-month visit to the UK. They married in South Africa after her return from the UK. The application for entry clearance was refused as the relationship was found not to be genuine. Faith and Jake divorced a year after the refusal of the application. Faith maintains that she was very young and naïve at that time but that her current relationship with Archie is genuine and enduring.

- (a) Advise Faith on whether she and Archie can meet the requirements for her to remain in the UK as an unmarried partner or spouse and the factors that will be considered by the Entry Clearance Officer in assessing the application.

(20 marks)

- (b) Explain the Limited Leave to Remain that Faith would be granted if her application was successful and when could she apply for Indefinite Leave to Remain.

(5 marks)

(Total: 25 marks)

Question 3

Faheem is a Sudanese national from Sudan. He entered the UK as a student three years ago and has recently completed a degree in political science at the University of Bedford. Since being in the UK, Faheem has become involved in protesting against the Sudanese regime and has written blogs about the human rights abuses taking place there. He has also taken part in several demonstrations in London against the Sudanese regime and other countries where human rights abuses are rife. These protests have often been broadcast on social media. Faheem is very active on social media and often posts his views against the regime. He has also posted videos of his own involvement in the protests.

Faheem's student visa is about to expire and he fears that he can no longer return to Sudan because of his activities against the regime. His family in Sudan have been questioned by the government authorities about his activities and whereabouts. A summons has been issued for his arrest in Sudan and he is wanted for questioning concerning anti-governmental actions. Faheem does not, however, have this summons as his family are too afraid to send it to him in the UK in case the post is being tracked by the Sudanese government. Faheem is afraid the Home Office will not believe him without this evidence.

Faheem fears being arrested and interrogated if he returns to Sudan. It is known that interrogation techniques by Sudanese governmental forces can be severe and involve torture. The prison conditions are also reported to be harsh and life threatening, with overcrowding and a lack of sanitation leading to the spread of diseases. Faheem is afraid that if he returns to Sudan, he will be detained and tortured, and would risk imprisonment in these poor conditions.

Faheem wishes to claim asylum in the UK.

- (a) Advise Faheem on whether he could have a valid claim for asylum in these circumstances, whether he meets the definition of a refugee and what he needs to establish to prove his case.

(18 marks)

- (b) Advise Faheem as to which human rights arguments he could also put forward in support of his claim.

(7 marks)

(Total: 25 marks)

Turn over

Question 4

Saanvi and Imran are Indian nationals currently living in India. They are friends and both wish to make separate applications for entry clearance to the UK. Saanvi is a 35-year-old university lecturer and undertakes groundbreaking research in the field of psychology. She has written world-leading papers on her research into the link between Post Traumatic Stress Disorder (PTSD) and its impact on the testimony of witnesses in asylum cases. She wishes to present papers at leading psychology conferences in London in August 2024 and in Manchester in September 2024; her proposals to do this have been accepted. She also wishes to continue her research in the UK and has forged links with several refugee legal centres and charities, which are able to help her carry out research with asylum seekers who use their organisations for legal representation and other services. Saanvi has the support of the British Academy (for humanities and social sciences) and has secured a grant from them for her work.

Imran is a 30-year-old nurse and wishes to apply to work in the UK. He has secured a job at the Bedford General Infirmary from the beginning of August 2024. The hospital wishes to employ him on a fixed-term contract for two years with the option of extending his contract at the end of that period. He will be paid £32,000 per annum. He is keen to take up this offer and wishes to know how he should go about applying to enter the UK to do this, and what the hospital will need to do to support his application.

Advise Saanvi and Imran on the relevant entry for work routes most suitable to their situations, the requirements they will need to meet and the type of leave that each of them would be granted on a successful application.

(25 marks)

End of the examination

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