

OISC Level 1 Assessment

SECTION 1: MULTIPLE CHOICE QUESTIONS

This examination is open book. You may refer to materials such as the OISC exam resource book, published texts and your own notes.

Please note there is only ONE correct answer for each of the questions in Section 1 so a maximum of ONE mark may be awarded for each.

Please ensure that you complete your answers in the grid as shown on the second page of your answer book and do not mark your answers on the question paper.

Part 1 Multiple Choice Questions

- 1. If a person arrived in the UK on a fiancé visa and has since married, what form will they use to apply for an extension of stay as a partner?**
 - (a) FLR(O)
 - (b) SET(M)
 - (c) FLR(M)
 - (d) FLR(P)

- 2. On what date were the provisions in Appendix FM introduced?**
 - (a) 28 October 2013
 - (b) 9 July 2012
 - (c) 1 January 2014
 - (d) 4 August 1914

- 3. Where are the Knowledge of Life and language in the UK requirements for ILR applications found?**
 - (a) Appendix KOLL
 - (b) British Nationality Act 1981 (as amended)
 - (c) Paragraph 6 of the Immigration Rules
 - (d) Part 1 of the Immigration Rules

- 4. For how long should a person with leave to enter as a general visitor remain in the UK?**
 - (a) For a maximum period of 6 months
 - (b) For the period stated in their visa application form or entry interview, not exceeding 6 months
 - (c) For a minimum period of 6 months
 - (d) It will depend on their reason for visiting the UK

- 5. To what extent can a general visitor study English in the UK?**
- (a) Not at all
 - (b) For up to 30 days but only if recreational study
 - (c) For up to 30 days in an accredited or regulated institution
 - (d) For 6 months with a Tier 4 sponsor
- 6. When considering the funds requirement for a Tier 4 visa, which of the following will NOT be a relevant consideration?**
- (a) The length of proposed study
 - (b) The location of the proposed study
 - (c) The fact that the student has free accommodation in the UK provided to them by a relative
 - (d) The cost of the proposed study
- 7. In regard to an application for entry as a Tier 5 (Temporary worker) which of the following will NOT be a relevant consideration**
- (a) Their previous immigration history
 - (b) English language
 - (c) Sponsorship
 - (d) Maintenance
- 8. When the Secretary of State amends the Immigration Rules, she will do so by publishing**
- (a) Amendments to the Operational Guidance
 - (b) Amendment Regulations
 - (c) Immigration Directorate Instructions
 - (d) A Statement of Changes
- 9. The phrase “must not be leading an independent life” in the immigration rules relating to children is defined in**
- (a) The Immigration Rules at paragraph 6
 - (b) The Immigration Act 1971
 - (c) The UN Convention on the Rights of the Child
 - (d) Section 55 of the Borders Act 2009
- 10. For an application made under the Points-based System, if a specified supporting document is provided in the wrong format but the application would otherwise be allowed, the UKVI**
- (a) must refuse the application
 - (b) may contact the applicant to give them a limited time to provide the correct document
 - (c) must allow the application
 - (d) return the application to the applicant because it is invalid

- 11. In order to regularise his or her stay in the UK, where necessary, a child who is born in the UK and who has lived here for the first ten years of its life will be advised to**
- (a) Apply for leave to remain
 - (b) Naturalise as a British citizen
 - (c) Apply for asylum
 - (d) Register as a British citizen
- 12. To be a 'qualified person' an EEA national will have to meet the definition provided in**
- (a) Part 6 of the European Casework Instructions
 - (b) Section 6 of the Qualification Directive 2004
 - (c) Paragraph 6 of the Immigration Rules
 - (d) Regulation 6 of the EEA(Immigration)Regulations 2006
- 13. A non-EEA family member will normally be entitled to join an EEA national who is in the UK who**
- (a) Is a job-seeker
 - (b) has an initial right to reside
 - (c) has permanent residence
 - (d) All of the above
- 14. The 42 year old non-EEA son of an EEA national who has a right to reside in the UK can join the EEA national parent in the UK under the provisions in Immigration (EEA) Regulations 2006 in which one of the following circumstances?**
- (a) They are financially dependent on their EEA national parent
 - (b) They are financially or emotionally dependent on their EEA national parent
 - (c) They would be a qualified person if they were an EEA national
 - (d) A refusal of admission would breach their Article 8 rights
- 15. A non-EEA national who is in the UK in breach of UK immigration laws marries an EEA national who has a right to reside in the UK. Will the non-EEA national have a right to reside in the UK?**
- (a) Yes - so long as the marriage is not a sham marriage
 - (b) Yes – so long as they were granted a Certificate of Approval
 - (c) No – they must first leave the UK and apply for a Family Permit as a spouse
 - (d) No –they must leave the UK and wait for 12 months before applying to return
- 16. If you are aware that your client has been granted ILR by deception and they ask for your help to apply for naturalisation you must;**
- (a) Not assist them to make the application and report them to UKVI as they have committed a serious criminal offence
 - (b) Assist them, as it has nothing to do with you that they have previously used deception
 - (c) Not assist them, and not report them to the UKVI

(d) Charge them extra due to the risks involved in such an application

17. The legal requirements for a valid application for leave to remain are in

- (a) General Guidance to Applicants
- (b) Part 1 of the Immigration Rules
- (c) Immigration Act 1971
- (d) Immigration (Applications) Regulations 2009

18. Where reference is made to 'specified evidence' in Appendix FM of the Immigration Rules, this is a reference to provisions in

- (a) Appendix FM-SE
- (b) Modernised Guidance
- (c) Guidance to applicants on the UKVI website
- (d) Immigration Directorate Instructions

19. Having taken instructions from your client on a partner application, it becomes apparent that, despite the fact that they work long hours, they cannot meet the financial requirements of the Immigration Rules. You will

- (a) Tell them they cannot therefore sponsor their partner to come to the UK
- (b) Help them make an application outside the Immigration Rules relying on Article 8
- (c) Suggest they get a second job
- (d) Refer them to an OISC Level 2 adviser

20. Your client's previous grant of leave runs out whilst they are awaiting a decision on an extension application. You will advise them that

- (a) They can no longer work lawfully in the UK until the new application is decided
- (b) It is Home Office policy that they will be treated as having continuing leave until a decision is made on their application
- (c) They will have continuing leave under provisions in the Immigration Act 1971
- (d) They should go home to reapply for a visa to return to the UK

SECTION 2: SCENARIO BASED QUESTIONS

Please note that MULTIPLE marks can be gained for answers to each of the questions in Section 2. The maximum marks are indicated in brackets at the end of each question. You may use this as a guide for the number of points you should include in your answers.

In addition to the marks gained for the content of the answers, applicants should be mindful of the need to provide answers which are legible and communicate advice clearly in plain English.

This examination is open book. You may refer to materials such as the OISC exam resource book, published texts and your own notes.

Total marks for this section: 32 marks

Krystyna from Poland rings you. She wants to come to the UK, initially for an extended holiday for 6 months or so. She tells you she has saved plenty of money and has no intention to work or look for work during that period. She explains that her grandparents have been living in the UK since shortly after the second-world war and are now very elderly. She plans to stay with them to help look after them and to look for work when her money runs out. She is an experienced secondary school maths teacher. Her long-term plan is to settle in the UK.

(i) Write a letter of advice to Krystyna, explaining how she can accomplish all of this, whilst ensuring that she remains in the UK in compliance with any relevant rules, and including any procedural requirements that may apply at each stage. (25 marks)

After receiving your letter, Krystyna rings you with a question. She tells you that she has a partner in Poland, and will want to return to Poland from time to time to spend time with her. She wants to know if fairly frequent trips back to Poland to spend time with her partner might delay her plan to settle in the UK

(ii) Write a brief note for her file explaining the advice you have given her. (3 marks)

(iii) Presuming all goes according to plan, when will Krystyna be able to apply for a British passport? (4 marks)

SECTION 1: MULTIPLE CHOICE QUESTIONS WITH ANSWERS

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1. If a person arrived in the UK on a fiancé visa and has since married, what form will they use to apply for an extension of stay as a partner?

- (a) FLR(O)
- (b) SET(M)
- (c) FLR(M)
- (d) FLR(P)

Answer (c)

2. On what date were the provisions in Appendix FM introduced?

- (a) 28 October 2013
- (b) 9 July 2012
- (c) 1 January 2014
- (d) 4 August 1914

Answer (b)

3. Where are the Knowledge of Life and language in the UK requirements for ILR applications found?

- (a) Appendix KOLL
- (b) British Nationality Act 1981 (as amended)
- (c) Paragraph 6 of the Immigration Rules
- (d) Part 1 of the Immigration Rules

Answer (a)

4. For how long should a person with leave to enter as a general visitor remain in the UK?

- (a) For a maximum period of 6 months
- (b) For the period stated in their visa application form or entry interview, not exceeding 6 months
- (c) For a minimum period of 6 months
- (d) It will depend on their reason for visiting the UK

Answer (b)

5. To what extent can a general visitor study English in the UK?

- (a) Not at all
- (b) For up to 30 days but only if recreational study
- (c) For up to 30 days in an accredited or regulated institution
- (d) For 6 months with a Tier 4 sponsor

Answer (c)

6. When considering the funds requirement for a Tier 4 visa, which of the following will NOT be a relevant consideration?

- (a) The length of proposed study
- (b) The location of the proposed study
- (c) The fact that the student has free accommodation in the UK provided to them by a relative
- (d) The cost of the proposed study

Answer (c)

7. In regard to an application for entry as a Tier 5 (Temporary worker) which of the following will NOT be a relevant consideration

- (a) Their previous immigration history
- (b) English language
- (c) Sponsorship
- (d) Maintenance

Answer (b)

8. When the Secretary of State amends the Immigration Rules, she will do so by publishing

- (a) Amendments to the Operational Guidance
- (b) Amendment Regulations
- (c) Immigration Directorate Instructions
- (d) A Statement of Changes

Answer (d)

9. The phrase “must not be leading an independent life” in the immigration rules relating to children is defined in

- (a) The Immigration Rules at paragraph 6
- (b) The Immigration Act 1971
- (c) The UN Convention on the Rights of the Child
- (d) Section 55 of the Borders Act 2009

Answer (a)

10. For an application made under the Points-based System, if a specified supporting document is provided in the wrong format but the application would otherwise be allowed, the UKVI

- (a) must refuse the application
- (b) may contact the applicant to give them a limited time to provide the correct document
- (c) must allow the application
- (d) return the application to the applicant because it is invalid

Answer (b)

11. In order to regularise his or her stay in the UK, where necessary, a child who is born in the UK and who has lived here for the first ten years of its life will be advised to

- (a) Apply for leave to remain
- (b) Naturalise as a British citizen
- (c) Apply for asylum
- (d) Register as a British citizen

Answer (d)

12. To be a 'qualified person' an EEA national will have to meet the definition provided in

- (a) Part 6 of the European Casework Instructions
- (b) Section 6 of the Qualification Directive 2004
- (c) Paragraph 6 of the Immigration Rules
- (d) Regulation 6 of the EEA(Immigration)Regulations 2006

Answer (d)

13. A non-EEA family member will normally be entitled to join an EEA national who is in the UK who

- (a) Is a job-seeker
- (b) has an initial right to reside
- (c) has permanent residence
- (d) All of the above

Answer (d)

14. The 42 year old non-EEA son of an EEA national who has a right to reside in the UK can join the EEA national parent in the UK under the provisions in Immigration (EEA) Regulations 2006 in which one of the following circumstances?

- (a) They are financially dependent on their EEA national parent
- (b) They are financially or emotionally dependent on their EEA national parent
- (c) They would be a qualified person if they were an EEA national
- (d) A refusal of admission would breach their Article 8 rights

Answer (a)

15. A non-EEA national who is in the UK in breach of UK immigration laws marries an EEA national who has a right to reside in the UK. Will the non-EEA national have a right to reside in the UK?

- (a) Yes - so long as the marriage is not a sham marriage
- (b) Yes – so long as they were granted a Certificate of Approval
- (c) No – they must first leave the UK and apply for a Family Permit as a spouse
- (d) No –they must leave the UK and wait for 12 months before applying to return

Answer (a)

16. If you are aware that your client has been granted ILR by deception and they ask for your help to apply for naturalisation you must;

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- (b) Assist them, as it has nothing to do with you that they have previously used deception
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- (d) Charge them extra due to the risks involved in such an application

Answer (c)

17. The legal requirements for a valid application for leave to remain are in

- (a) General Guidance to Applicants
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Answer (b)

18. Where reference is made to 'specified evidence' in Appendix FM of the Immigration Rules, this is a reference to provisions in

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Answer (a)

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Answer (d)

20. Your client's previous grant of leave runs out whilst they are awaiting a decision on an extension application. You will advise them that

- (a) They can no longer work lawfully in the UK until the new application is decided
- (b) It is Home Office policy that they will be treated as having continuing leave until a decision is made on their application
- (c) They will have continuing leave under provisions in the Immigration Act 1971
- (d) They should go home to reapply for a visa to return to the UK

Answer (c)

SECTION 2: SCENARIO BASED QUESTIONS WITH MODEL ANSWERS AND MARKING SCHEME

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Krystyna from Poland rings you. She wants to come to the UK, initially for an extended holiday for 6 months or so. She tells you she has saved plenty of money and has no intention to work or look for work during that period. She explains that her grandparents have been living in the UK since shortly after the second-world war and are now very elderly. She plans to stay with them to help look after them and to look for work when her money runs out. She is an experienced secondary school maths teacher. Her long-term plan is to settle in the UK.

(i) Write a letter of advice to Krystyna, explaining how she can accomplish all of this, whilst ensuring that she remains in the UK in compliance with any relevant rules, and including any procedural requirements that may apply at each stage. (25 marks)

Marks for the above question are allocated in the following areas:

Introduction (1)

Structure (2)

Brief confirmation of instructions (1)

EU national (1)

Immigration (EEA) Regulations 2006 (1)

Right of admission (1)

Passport or national ID (1)

Right of initial residence for 3 months (1)

To extend her right to reside beyond that (1)

Must then get health insurance (1)

Until she begins looking for work (1)

Will be a qualified person as self-sufficient (1)

Then a job-seeker (1)

Should register at a Job Centre at that point (or have other evidence of seeking work) (1)

And then a worker (1)

Can apply for a Registration Certificate (1)

EEA1 (1)

£55 (1)

But no need (1)

Will be permanent resident (1)

after 5 years (1)

continuous residence (1)

as a qualified person (1)

Can apply for document certifying permanent residence at that point (1)

Reference to applicable regulations (i.e. 6, 11, 13, 14, 15, 16, 18) (up to 2 bonus marks)

Model Letter:

Dear Krystyna,

Re: Immigration Advice

I write following our telephone conversation earlier today. Here's the written advice I promised you about your immigration situation.

Your instructions

Just to confirm your instructions, you are a Polish national, and you want to come to the UK for 6 months or so for a holiday, and to look after your grandparents who live in the UK.

Following your holiday, you want to look for work in the UK. Your long-term plan is to settle here.

Please do let me know if I have misunderstood your plans.

My advice

As a European Union (EU) citizen, you have 'free movement' rights within the EU, including the UK. Your free movement rights are provided for in the UK by the Immigration (EEA) Regulations 2006.

Under those regulations, you have a right of admission to the UK on providing your passport or national ID card (Regulation 11).

You can then stay for up to three months without having to do anything about your immigration status. This period is called the 'initial right of residence' (Regulation 13).

After three months, presuming you still want to carry on with your holiday, you will need to become a 'qualified person' (Regulation 6). A qualified person has an extended right to reside for as long as they remain qualified (Regulation 14). In your case, you will be a qualified person if you can show you are self-sufficient. You will need to have enough money to support yourself here, and private health insurance.

When you start looking for work you will still be a qualified person, but as a 'job-seeker'. At that point, you will no longer need the health insurance. When you start looking for work, you should register with a local Job Centre or have other evidence of looking for work.

When you have lived in the UK for a continuous period of 5 years, spent as a job-seeker, worker, self-employed person, student, or self-sufficient person or a combination of these, you will be permanently resident (Regulation 15), and therefore 'settled' in the UK.

Documentation

As an EU national you can apply for a Registration Certificate to show that you have an extended right to reside in the UK (Regulation 16). You do not need to apply for this document as, usually, your passport will be enough to establish your rights. If you do apply, the application form is EEA1 and the cost is £55.00.

When you have been here for 5 years, you can apply for a Document Certifying Permanent Residence (Regulation 18). Again though, there is no requirement that you do so.

I hope this information is helpful to you. Please do not hesitate to contact me again if you require further help. I hope you enjoy your stay in the UK.

Yours sincerely

OISC Adviser

After receiving your letter, Krystyna rings you with a question. She tells you that she has a partner in Poland, and will want to return to Poland from time to time to spend time with her. She wants to know if fairly frequent trips back to Poland to spend time with her partner might delay her plan to settle in the UK

(ii) Write a brief note for her file explaining the advice you have given her. (3 marks)

Regulation 3 (1)

Continuity of residence (1)

Can spend up to 6 months out of UK in any year (1)

Any one absence from the United Kingdom not exceeding twelve months for an important reason such as pregnancy and childbirth, serious illness, study or vocational training or an overseas posting. (1 bonus)

Model Telephone attendance note on Krystyna – 28/03/14

Client rang to ask whether frequent trips back to Poland to see her partner would break her continuity of residence as she wants to become permanently resident. I told her Regulation 3 governs this. She can spend up to 6 months outside UK per year, or up to 12 months on one occasion if for an important reason such as pregnancy and childbirth, serious illness, study or vocational training or an overseas posting.

(iii) Presuming all goes according to plan, when will Krystyna be able to apply for a British passport? (4 marks)

After naturalising (1)

Can apply to naturalise one year after becoming permanently resident (1)

i.e. 6 years from date of entry (1)

So long as no more than 450 days outside the UK in 5 year period (1)

And 90 days in final year (1 bonus)

Model answer:

Krystyna can apply for a British passport immediately after she has naturalised (i.e. received her certificate of naturalisation). To naturalise she must first become permanently resident, and then live in the UK for one further year. During the five year period prior to applying for naturalisation, she should not spend more than 450 days outside the UK, and not more than 90 days in the final year.