

SAMPLE QUESTION PAPER

OISC LEVEL 1 ASSESSMENT – NOVEMBER 2018

SECTION 2: SCENARIO BASED QUESTIONS

You have 1 hour and 15 minutes to complete this exam paper.

Total marks for this section: 30 marks

The maximum marks available for each question are indicated in brackets at the end of each question. A breakdown of marks within each question is also provided. 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.

Your instructions

Dinesh, aged 29, is a French national. He has been employed as a banker in the UK since January 2014. He has a Registration Certificate, which will expire soon.

He first came to the U.K in October 2012 to do a Master's degree and completed his studies in August 2013. During the period of his studies, Dinesh's father paid all of his costs (course fees, rent and living expenses). He has always held a valid European Health Insurance Card issued by the French authorities.

At the end of his studies (August 2013), Dinesh returned to France. He lived in France up to end of December 2013 (a total of five months). He, then, returned to the UK to start his current job.

In August 2018, Dinesh married his girlfriend, Adele, in the U.K.

Adele, aged 26, is a French national. They met a year ago at work, and have been living together for the last six months in a one-bedroom flat, which Dinesh rents. Adele has recently left her job and is financially supported by Dinesh.

The couple are nervous about Brexit and seek your advice on how they can stay in the U.K.

Question 1

Write a letter of advice to Dinesh, *explaining*

- (a) his status in the UK under EEA and UK law; **(2 marks)**

- (b) his options under EEA law, including any requirements he will need to meet, and the application procedures that may apply; **(5 marks)**

- (c) the specific documents that Dinesh will need to provide with his application to demonstrate his:
 - (i) identity and residence in the U.K under EEA law; **(4 marks)**

 - (ii) studies in the U.K; **(4 marks)**

 - (iii) employment in the U.K **(3 marks)**

- (d) the basis upon which Adele may be able to stay in the UK and the application procedure; **(3 marks)**

- (e) The specific documents Adele will need to provide (you do not need to re-list the documents Dinesh will provide to demonstrate his status under EEA law): **(4 marks)**

Note that up to 2 additional marks can be awarded for the structure and readability of the letter. Please note however that it is not necessary to confirm the client's instructions for this exercise.

Total marks available for question 1 = 27

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Question 2

After receiving your letter, Dinesh rings you. He tells you Adele is pregnant and is due to give birth early next year. He wants to know what status their child would gain under the U.K law. Make a note of your advice to him.

(3 marks)

MODEL ANSWER

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Question 1

Write a letter of advice to Dinesh, *explaining*

- (f) his status in the UK under EEA and UK law; **(2 marks)**

- (g) his options under EEA law, including any requirements he will need to meet, and the application procedures that may apply; **(5 marks)**

- (h) the specific documents that Dinesh will need to provide with his application to demonstrate his:
 - (iv) identity and residence in the U.K under EEA law; **(4 marks)**

 - (v) studies in the U.K; **(4 marks)**

 - (vi) employment in the U.K **(3 marks)**

- (i) the basis upon which Adele may be able to stay in the UK and the application procedure; **(3 marks)**

- (j) The specific documents Adele will need to provide (you do not need to re-list the documents Dinesh will provide to demonstrate his status under EEA law): **(4 marks)**

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Firm's name and address

Firm's Ref No.

27 November 2018

Dinesh

Dinesh's address

Dear Dinesh

Your immigration case

Thank you for instructing our firm to provide you with some immigration advice. As I promised in our recent meeting, here is the written advice about your situation.

Confirmation of Instructions

Not required for the purposes of this assessment.

Our advice

a) Your immigration status

Under EEA law you have acquired a right of permanent residence. Consequently, you do not currently require leave to remain under UK law and you do not have any such leave.

b) Your options

You may apply for a Document Certifying Permanent Residence. If you make that application, you will need to demonstrate to the Home Office that after your entry into the UK in 2012, you resided for a continuous period of five years in accordance with the Immigration (EEA) Regulations. You should be able to do so as you were a qualified person during that period – first as a student and then as a worker. Your absence from the UK in 2013 (the period you were living in France) did not break the continuity of your residence as it did not exceed six months.

It is not compulsory to apply for the Document but if you do so it will be necessary to complete form EEA(PR) online or submit it by post. There is a fee of £65 to pay to the Home Office.

c) Documents you will need to provide

If you make an application, you will need to provide the following documents:

Evidence of your identity and residence

- Your valid French passport / national identity card
- Your registration certificate
- Proof of your residence in the U.K for the last five years, such as: utility bills, bank statements, council tax bills, NHS letters, tenancy agreements

Evidence of being a student in the UK

- Your enrolment letter from university

- Your Master's degree certificate and results letter
- Your statement of sufficient financial resources
- Your bank statements
- Your European Health Insurance Card

Evidence of being a worker in the UK

- Letter from your employer
- Your wage slips
- Your bank statements showing receipt of wages
- Your contract of employment
- Your P60s

d) How Adele may prove her right to reside in the UK

Adele is your spouse and as such she is a family member of an EEA national with a right of permanent residence. Therefore she has an extended right to reside in the UK. She can apply for a Registration Certificate. It is not compulsory to apply but if she does so it will be necessary to complete form EEA(FM) online or submit it by post. There is a fee of £65 to pay to the Home Office.

e) Documents Adele will need to provide

Adele would need to prove that you have acquired a right of permanent residence (please see section c, above, for details) as well as providing the following:

- Her valid French passport / national identity card
- Her marriage certificate
- Evidence of living together with you i.e. correspondence / letters / bills in joint names or addressed to each of you individually at the same address

I strongly advise providing evidence of living together even though, strictly speaking, it is not a legal requirement.

I hope that this advice is helpful. Please contact me if there is anything you would like me to clarify. If you would like us to act on your behalf in making either application, please get in touch at the earliest opportunity.

Yours sincerely,

An Advisor

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After receiving your letter, Dinesh rings you. He tells you Adele is pregnant and is due to give birth early next year. He wants to know what status their child would gain under the U.K law. Make a note of your advice to him.

(3 marks)

Telephone Attendance

Dinesh

File Reference

Date

Client rang and informed me his wife, Adele, is pregnant. Due date early 2019. Asked what child's status would be.

Advised client that, assuming child born in the UK, child will be born a British citizen because client already has a right of permanent residence, which counts as being settled under BNA 1981. If child born outside the UK it would not be born British.