

OISC LEVEL 1 ASSESSMENT – JANUARY 2024

Section 1: Multiple Choice Questions

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

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.

1. Your client, a British citizen, would like his sister to join him in the UK. His sister, an Australian national, aged 65, lives in Brisbane, Australia, alone. She is disabled and requires substantial assistance with her daily tasks. She was previously cared for by her parents who have both recently passed away. What will be the relevant financial requirement for the most appropriate application?

- (a) The client must have a minimum income of at least £18,600.
- (b) The client must be able to maintain, accommodate and care for his sister adequately in the UK without recourse to public funds.
- (c) His sister must have adequate maintenance and accommodation without accessing public funds.
- (d) There is no financial requirement for this route.

answer (b)

2. Under Appendix EU (Family Permit), a person will be granted entry clearance for a period of

- (a) 60 months
- (b) 33 months
- (c) 30 months
- (d) 6 months

answer (d)

3. Where will you find the definition of 'public funds' for immigration purposes?

- (a) On the Department of Works and Pensions website
- (b) In the dictionary
- (c) In paragraph 6 of the Immigration Rules
- (d) In Appendix FM-SE

answer (c)

4. Your client made an application to extend her current leave under the Partner rules in Appendix FM a few days before the expiry of her entry clearance. After waiting for several months, the Home Office has just decided to refuse her application. How will you advise her about her immigration status in the UK?

- (a) She has continuing leave which will continue further if she makes an application for administrative review within 14 days of receiving the Home Office decision to refuse her application.
- (b) She must make a further application urgently to protect her continuing leave or leave the UK within 30 days of the decision.
- (c) She has continuing leave which will continue further if she lodges an appeal within 14 days of the Home Office decision being sent to her.
- (d) She has become an overstayer from the date her application was refused, but she will be able to stay in the UK whilst she challenges the decision.

answer (c)

5. Your client has been lawfully and continuously residing in the UK for ten years under various categories of the rules and wants to apply for settlement. Which of the following actions, if any, will break their continuity of residence in the UK?

- i) The client left the UK with extant leave to remain as a student. Whilst outside the UK their leave expired. They immediately applied for and were granted entry clearance as a skilled worker. They returned to the UK within 6 months of having left.
- ii) In 2021, the client left the UK having overstayed their leave by a few days. They immediately applied for entry clearance, which was granted and which allowed them to return to the UK within 6 months of having left.
- iii) Whilst the client was a student, they spent their holidays outside the UK. This amounted to a total of 560 days outside the UK in the last 10 years.

- (a) iii only
- (b) All of the above
- (c) None of the above
- (d) ii and iii only

answer (d)

6. When considering the “adequate maintenance” requirement under Appendix FM, the applicant will need to show:

- (a) That their income is at least the average UK income for a family of that size.
- (b) That they can meet the cost of their normal outgoings from their net income.
- (c) That the family’s income after paying income tax, national insurance contributions and housing costs is at least equal to the level of funds that would be available to them if the family was receipt of income support.
- (d) A minimum gross income of at least £18,600 (plus additional amounts for each child).

answer (c)

7. Susan is 17 and living in Australia. She has never visited the UK. Her mother was born in Australia to British citizen parents, who were both born in the UK. Her mother lived in Australia most of her life, except when she studied at Leeds University from 2000-2004. Susan would like to move to the UK to live permanently. You advise (as the most straightforward route):

- (a) She should make an application under Appendix UK Ancestry.
- (b) She should look for a job and apply under Appendix Skilled worker.
- (c) She should apply under the Youth Mobility Scheme.
- (d) She can make an application to register as British but must make the application before she turns 18.

answer (d)

8. Where a person is refused further leave to remain and has a right to seek administrative review of the Home Office decision, they must submit the

administrative review application in accordance with a deadline prescribed in which of the following?

- (a) Part 1 of the Immigration Rules
- (b) Appendix AR
- (c) Administrative review: caseworker guidance
- (d) The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

answer (a)

9. What level of English language is required for a Student applying to study below degree level?

- (a) A1
- (b) B1
- (c) B2
- (d) There is no specific English language requirement as it is presumed that the education provider will be satisfied of the person's English language ability before offering them sponsorship.

answer (b)

10. For EU applications, the definition of "continuous qualifying period" can be found in

- (a) Annex 1 of Appendix EU
- (b) Appendix Continuous Residence
- (c) Paragraph 6 of the immigration rules
- (d) EEA Regulations 2016.

answer (a)

11. Your client wants to apply for a visit visa. They tell you that three months ago they were convicted of a criminal offence for which they received a non-custodial sentence in their own country. How will you advise them?

- (a) They should wait until the conviction is spent.
- (b) They should wait for 12 months from the date of the conviction before applying.
- (c) There is no need for them to disclose this conviction to the Home Office.
- (d) The Home Office are only concerned with custodial sentences. The conviction must be disclosed, but they will probably disregard it.

answer (b)

12. Esther is a Rwandan national living in Rwanda with her British citizen partner. She tells you her grandmother was born in the UK. She is currently working as a dentist in Kigali and has been offered a dentistry position in the UK. Which is the best application for her to allow her to work and settle in the UK?

- (a) A dentist visa
- (b) An ancestry visa
- (c) A skilled worker visa
- (d) An application to register as a British citizen

Answer (b)

13. You are contacted by Amanda. She is a French national exercising her free movement rights in the Republic of Ireland. She has been living and working in Cork since February 2021. She has received a job offer in London and wishes to relocate from Cork to London. You advise her:

- (a) The Republic of Ireland is part of the Common Travel Area: therefore, Amanda can enter the UK and work here without being subject to immigration control.
- (b) Amanda has no right to live and work in the UK and will need to apply for entry clearance to move to London for work. She will be able to make this application from Ireland.
- (c) Amanda can relocate to London, entering as a visitor without needing a visa. She will then be able to make an appropriate application from within the UK.
- (d) Amanda has no right to live and work in the UK and will need to apply for entry clearance to move to London for work. She will have to return to Germany to make the application.

answer (b)

14. Who, if anyone, is responsible for granting permission to enter to a non-visa national at the UK border?

- (a) An Entry Clearance Officer
- (b) An Immigration Officer working for the Border Force
- (c) Non-visa nationals do not require permission to enter the UK for a visit.
- (d) A UKVI caseworker

answer (b)

15. Samuel is settled in the UK. His son, Amir, made an application to join him as the child of a settled parent after the death of his mother. Amir was 17 years old when he made the application but in the 8 months waiting for a decision he has turned 18. He is worried he will no longer meet the requirements. You advise them:

- (a) The application will be decided based on the facts at the date of decision and Amir will be refused unless there are exceptional circumstances.
- (b) Amir should withdraw the application and make an application as an adult dependent relative.
- (c) The fact that Amir has turned 18 will make no material difference if he is still financially and emotionally dependent on Samuel.
- (d) The application will be granted if he meets all the non-age-based requirements of the rules.

answer (d)

16. For the purposes of making an application under Appendix FM which of the following nationals will not have to complete English Language exam simply due to their nationality?

- (a) Samoa
- (b) Guyana
- (c) Nigeria
- (d) Portugal

answer (b)

17. Your client wants to apply for naturalisation. He tells you that he was sentenced to a community order following a conviction for an offence. Where will you look to see how this may affect the timing of his application?

- (a) In the Immigration staff guidance
- (b) In the Nationality guidance
- (c) In the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- (d) In the British Nationality Act 1981

answer (b)

18. Your client applied for a fee waiver on 29th December 2023. Their leave to remain as a partner expired on 5th January 2024. They received a positive response from the fee waiver application on 6th January 2023. They seek your advice on making the application for an extension of stay. You advise them:

- (a) They have 14 days from the date their leave expired, but as an overstayer they must show a good reason why the application was not submitted in time (which in these circumstances should not be a problem).
- (b) They have 14 days from date their leave expired to make an in-time application.
- (c) They must make the application within 10 working days of the receipt of the fee waiver decision.
- (d) They must make the application within 14 calendar days of the receipt of the fee waiver decision.

answer (c)

19. Your client, a Gambian national, has been traveling in Europe. They have a visit visa in France and contact you from France asking if they can make a visit visa application from France to travel to the UK. You advise them:

- (a) As a non-visa national they can ask to be granted permission to enter as a visitor at the UK border.
- (b) They will need to return to Gambia to make an application for entry clearance as a visitor from Gambia.

- (c) They can make an application for entry clearance as a visitor from Paris.
- (d) As a visa national arriving from France, they can ask to be granted permission to enter as a visitor at the UK border.

answer (c)

20. Your client has been offered a job in the UK and wants to check if that role can be sponsored. Where will they find the list of eligible jobs for sponsorship?

- (a) Appendix Skilled Worker
- (b) Appendix Skilled Occupations
- (c) Appendix Shortage Occupation List
- (d) There is no list. A person can be sponsored for any job as long as the employer has a sponsor licence and pays at least the minimum applicable salary.

answer (b)

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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

Heru and Masudi are Egyptian nationals and married to each other. They both studied and then worked in the UK from 2010 until 2019. In 2018, they were both granted Indefinite leave to remain.

Heru fell pregnant with their first child in early 2022, and they decided to return to Egypt to be near family whilst she was pregnant. On 1st May 2022 they moved to Egypt intending to stay for 12 months. Their son Abbas was born on 20th October 2022.

Masudi returned to the UK permanently in September 2023. He is living in their three-bedroom house and working as an IT consultant earning £42,000. Heru is still in Egypt but wants to return and has a job offer with her former employer which has a start date in May 2024. She plans to re-enter with Abbas in late April 2024.

Question 1

Please draft a letter to Masudi explaining the following:

a) Heru and Masudi's immigration status in the UK.

(4 marks)

- They both still have ILR (1)
- As they have not been outside the UK for more than two years (1)
- Heru must re-enter the UK before 1st May 2024 (1)
- Or her leave will lapse (1)
- **And she will have to apply to return as a returning resident (bonus)**

b) What is Abbas's status and is there any application he needs to make?

(3 marks)

- Abbas is an Egyptian national (1)
- Abbas was born outside the UK and has no leave to enter or remain (1)
- Can make an application for Indefinite Leave to enter as the child of settled parents (1)

c) What are the facts they will need to evidence for Abbas's application?

(4 marks)

- Masudi and Heru are his parents (1)
- They are present and settled in the United Kingdom **Or** one is present and settled and the other returning for settlement (1)
- Adequate maintenance without recourse to public funds (1)
- Adequate accommodation/ house ownership (1)

d) What documents will they need to provide?

(6 marks)

- Abbas's birth certificate with parents' names on it (1)
- Marriage certificate (1)
- **Other evidence of maternity, eg hospital records (bonus)**
- BRP card and passports for Heru and Masudi (1)
- Bank statements and payslips for Masudi (1)
- Letter from Masudi's employer confirming income (1)

- Documents showing house ownership (1)
- **Any relevant reference to a certified translation (bonus)**

e) What is the procedure for making the application?

(4 marks)

- Submit the application online (1)
- Pay fee (1)
- Make appointment and enrol biometrics (1)
- Upload documents (1)
-

f) How Abbas can obtain a British passport (including reference to any relevant statutory provision that covers this)

(4 marks)

- Can apply to register as a British citizen (1)
- by discretion (1)
- Section 3(1) BNA 1981 (1)
- And can apply for a passport when registered (1)

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

Model letter

Name

Address

Our Ref:

Date:

Dear Masudi

Immigration Advice

Thank you for coming to see me yesterday to discuss your immigration case. Here is the advice letter that I said I would send you. I will send you a further letter providing our terms of business.

As I understand it, you asked me for advice about your and your wife's immigration status in the UK, and how you might bring your son, Abbas to join you both here.

Your instructions

Not required for this exercise

Your and Heru's immigration status

You left the UK for about 16 months after having been granted Indefinite Leave to Remain (ILR). You then returned to the UK. As you were not outside the UK for a continuous period of more than two years, you still have your ILR (now usually referred to as settlement).

For Heru to keep her ILR, she must return to the UK by 1st May 2024 (two years after she left) at the latest. If she returns to the UK after that date, she will have lost her ILR and will not be able to enter. In that case, she would have to apply for a visa as a Returning Resident. This can be a complex application. It is better for her to make sure she returns to the UK before her ILR lapses.

Abbas

Abbas is an Egyptian national. If he had been born in the UK, he would have been born British. As he has no immigration status in the UK, you will need to apply for a visa for him before he can travel with Heru to the UK.

He can apply for indefinite leave to enter as the child of settled parents. His application will be made under paragraph 297 of the immigration Rules.

What you will need to show for Abbas's application

To succeed with the application, we will need to satisfy the entry clearance officer that:

- You and Heru are Abbas's parents
- You and Heru are settled in the UK. It will be okay to show that you have ILR and are in the UK, and that Heru has ILR and will be returning to live in the UK with you and Abbas no later than 1st May 2024.
- You and Heru will be able to accommodate and maintain Abbas without recourse to public funds (ie without having to claim benefits). Your income and house will be adequate for these purposes.

The documents that you must provide

To demonstrate that Abbas meets the requirements for his settlement visa, please provide me with the following documents. If possible, please provide me with scans of these documents so that I can upload them to the Home Office website when I have made the application.

- Your passport and BRP
- Heru's passport and BRP
- Your and Heru's marriage certificate
- Abbas's birth certificate (with your and Heru's name on it)
- Any other evidence of maternity (eg Heru's hospital records from giving birth)
- Evidence of your income: this must be
 - Your payslips since you have returned from Egypt
 - Bank statements for the same period showing your income being paid in
 - A letter from your employer confirming:
 - (i) your employment and gross annual salary;
 - (ii) the length of your employment;
 - (iii) the period over which you have been or were paid your current salary; and
 - (iv) the type of employment (permanent, fixed-term contract or agency).
- Evidence of your property ownership
- Evidence of the size of your house. If you don't have this amongst your paperwork, it will be necessary to get a property inspection report

All documents not in English must be accompanied by a certified English translation.

Application process

I will make your application online on the Home Office website, using the child settlement form. As I explained, I may need to ask you some more questions while completing the form. We agreed I should do this by email. I will then pay the fee online and submit the application to the Home Office. I will ask you to check the details on the form before I submit it.

When the application has been submitted, I will make an appointment for Heru to take Abbas to attend a Visa Application Centre in Egypt so that he can enrol his biometrics (have his photo taken). Before the appointment, I will upload scans of the documents you have provided. Then we wait for the decision.

Please send me the above documents as soon as possible so that I can make the application. I will confirm to you when that has been done, and we can then discuss making the appointment for Abbas.

British passport for Abbas

Sometime after Abbas has arrived in the UK, he will be able to apply to register as a British citizen. This will be a discretionary application made under section 3(1) British Nationality Act 1981. The policy for these types of application is laid out in the Home Office's nationality guidance. Ideally, he should be applying for registration at the same time as or after you and Heru have applied for British citizenship by naturalisation. When registered as a British citizen, he will be able to apply for a British passport.

Please contact me by phone or email if you have any questions.

Yours sincerely

An Advisor

Question 2

Heru and Masudi take your advice and return to your office 6 months later. Heru is pregnant and they would like advice on any application they will need to make for the baby when it is born. Heru is planning to give birth in the UK. Make a note of your advice, giving reasons.

(3 marks)

- Both Heru and Masudi have ILR (1)
- Therefore, their child will automatically acquire British citizenship when born in the UK (1)
- Under the British Nationality Act 1981 s1.1 (1)
- **Will be able to apply for a British citizen passport (bonus)**

Model Answer

Heru wants advice about the nationality of their new baby to be born in the UK. I advise that as both Heru and Masudi have ILR, their baby will be born British under the British Nationality Act 1981 s1(1). They can apply for a British citizen passport as soon as he is born.