

**QUESTIONS
and ANSWERS
on
IMMIGRATION
to BRITAIN**

FARID RAYMOND ANTHONY

**QUESTIONS AND ANSWERS ON
IMMIGRATION TO BRITAIN**

Page Intentionally Left Blank

QUESTIONS AND ANSWERS ON IMMIGRATION TO BRITAIN

Farid Raymond Anthony

Barrister (England and Wales) (non-practising)
Barrister and solicitor, notary public, commissioner for oaths
(Republic of Sierra Leone)

Barrister and solicitor of the Republic of the Gambia
Member of the Honourable Society of the Inner Temple
Member of the Immigration Law Practitioners' Association
Member of the Joint Council for the Welfare of Immigrants

 **Routledge**
Taylor & Francis Group
LONDON AND NEW YORK

Dedicated to my wife Joan and to my children

First published in 1996 by
FRANK CASS & CO. LTD.

This edition published 2013 by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN
711 Third Avenue, New York, NY 10017

Routledge is an imprint of the Taylor & Francis Group, an informa business

Copyright © Farid Raymond Anthony 1996

British Library Cataloguing in Publication data
A catalogue record for this book is available
from the British Library

ISBN 0-7146-4272-X

Library of Congress Cataloging-in-Publication data
A catalog record for this book is available
from the Library of Congress

All rights reserved. No part of this publication may be reproduced in any form, or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publisher.

Contents

Acknowledgements	vii
Abbreviations	viii
List of questions	ix
Cases mentioned	xxi
Foreword	xxv
Introduction	xxvii
<i>1. General (questions 1–41)</i>	<i>1</i>
<i>2. Visitors:</i>	<i>25</i>
Ordinary visits (questions 42–55)	25
Medical visits (questions 56–60)	31
Academic visits (questions 61–63)	33
Visitors in transit (question 64)	34
Visits by entertainers / film crews (question 65)	35
<i>3. Professional workers</i>	<i>37</i>
Doctors, dentists, lawyers (questions 66–72)	37
<i>4. Students (questions 73–103)</i>	<i>40</i>
<i>5. People entering on business</i>	<i>55</i>
Businessmen and self-employed (questions 104–118)	55
Representatives of overseas firms (questions 119–124)	60
Writers, composers and artists (questions 125–130)	62
Investors (questions 131–134)	65
ECAA businessmen (questions 135–136)	66
<i>6. Working in the United Kingdom</i>	<i>69</i>
Employment/work permit (questions 137–144)	69
Approved work training/ work experience (questions 145–150)	71
Working holidaymakers (questions 151–157)	74
UK ancestral connections (questions 158–162)	78
Au pairs (questions 163–169)	80
Seasonal agricultural workers (questions 170–173)	82
Teachers and language assistants (questions 174–177)	83
Overseas government employees (questions 178–181)	85
Private servants in diplomatic household (questions 182–185)	86
Domestic servants (not in diplomatic employment) (questions 186–190)	88
Ministers of religion, missionaries, members of religious orders (questions 191–201)	90

<i>7. Entry for other purposes</i>	94
Retired persons of independent means (questions 202–207)	94
Access to child resident in the United Kingdom (questions 208–213)	96
Diplomats (questions 214–216)	98
European Union nationals (questions 217–220)	99
<i>8. Settlement</i>	102
Right of abode (questions 221–223)	102
Spouses (questions 224–236)	103
Fiancé(e)s (questions 237–239)	112
Children (questions 240–243)	113
Adopted children (questions 244–247)	116
Other relatives (questions 248–250)	118
Homosexuals (question 251)	120
Cohabitation (question 252)	121
Returning residents (questions 253–257)	122
Holders of special vouchers (questions 258–260)	124
Concessions (questions 261–262)	125
<i>9. Asylum (questions 263–280)</i>	127
<i>10. Offences and deportation</i>	139
Illegal entry (questions 281–284)	139
Assisting illegal entry (question 285)	141
Other offences (question 286)	142
Offences connected with ships/aircraft/ports (question 287)	143
Deportation by court recommendation (questions 288–289)	144
Deportation by the Home Office (questions 290–298)	144
Bail (questions 299–304)	149
<i>11. Appeals (questions 305–308)</i>	152
<i>12. British nationality (questions 309–321)</i>	155
<i>Postscript</i>	162

Acknowledgements

I wish to thank my wife, Joan, and our children who pestered me to continue my legal career or do something along the same lines to keep my mind active and alert (as a result of which I set up the Immigration Advisory Services of Kent). My thanks also go to my wife for helping with the checking of the manuscript for the inevitable spelling and typing errors. I also wish to thank His Honour Judge Eugene Cotran (editor in chief of the Butterworths Immigration Law loose leaf service) immensely for looking through my manuscript and making suggestions, and for writing the Foreword to this book.

My thanks also go to Desmond de Silva Q.C., head of chambers at 2 Paper Buildings, Inner Temple, and an old friend in whose chambers I started reading immigration law. This was where I became interested in the subject. I thank Adrian Jack, my 'pupil-master', who did not discourage me from doing anything not connected with criminal or civil law.

Regrettably, due to a life-long practice in my own chambers abroad, practising in a fused system, I found the split system of practice in the United Kingdom inconvenient, time-wasting and more costly, and so set up a consultancy. I wholeheartedly support those colleagues who are advocating a fused system in Britain!

The Immigration Advisory Services of Kent has been instrumental in getting the manuscript off the ground.

I thank all those who in one way or the other have made this publication possible.

Finally I thank Frank Cass & Co. Ltd for publishing this book.

Abbreviations

AC: Appeal Cases
All ER: All England Law Reports
BDT: British Dependent Territory
BNA: British Nationality Act
CIO: Chief Immigration Officer
CMLR: Common Market Law Report
CTA: Common Travel Area
D of E: Department of Employment
EC: European Community
ECO: Entry Clearance Officer
EEA: European Economic Area
EU: European Union
FCR: Family Court Report
HO: Home Office
HOPO: Home Office Presenting Officer
HX/(number): Hatton Cross hearing centre and reference number of the case
Imm.A.R.: Immigration Appeals Report
IAT: Immigration Appeals Tribunal
IO: Immigration Officer
NHS: National Health Service
QBD: Queen's Bench Division
SSHD: Secretary of State for Home Department
TA: Temporary Admission
TH/(number): Thanet House hearing centre and reference number of the case
TLR: Times Law Report
UNHCR: United Nations High Commission for Refugees
WLR: Weekly Law Reports

List of questions

1 General

1. What is an 'ECO' and what is 'entry clearance'?
2. What is an immigration officer (IO)?
3. What is the difference between a High Commission and an Embassy?
4. From which countries are citizens 'Commonwealth citizens'?
5. Which countries are British dependent territories (BDTs)?
6. Which countries are 'visa countries'?
7. Are there any exemptions from the visa requirements for visa nationals?
8. Do those not designated as 'visa nationals' still need entry clearance to come to the United Kingdom?
9. When is entry clearance not mandatory?
10. What are 'leave to enter' and 'leave to remain'?
11. When can entry clearance or leave to enter be refused?
12. Once entry clearance has been obtained by an individual before leaving his home country, will he be examined or interviewed again on arrival at a port or airport in the United Kingdom?
13. What is 'limited leave'?
14. What is 'indefinite leave to remain'?
15. Is registration with the police normally imposed on every foreign entrant?
16. What is 'settlement'?
17. What is meant by 'right of abode'?
18. Does everyone need a sponsor before applying to come to the United Kingdom?
19. Who are considered as 'parents'?
20. Who are considered as children for immigration matters?
21. What if I overstay the period granted me?
22. What is the 'common travel area' (CTA)?
23. When I enter the common travel area would I need a permit to travel from the country that I entered to any of the other countries in the CTA?
24. Having entered United Kingdom lawfully, can I then travel freely to other countries which form the European Union – the United Kingdom being part of the European Union?
25. Which countries form the European Union?
26. Can any other type of British passport entitle free entry to the United Kingdom?
27. What are the immigration rules?
28. Apart from the rules what other legislation, orders or rules are there relating to immigration?

29. To whom does an applicant who has been refused entry or other applications appeal?
30. Who are adjudicators?
31. What is the Tribunal?
32. What is judicial review?
33. Are there time limits for an appeal to be brought?
34. If leave to enter is refused can a person get temporary admission (TA)?
35. What is variation of leave and curtailment?
36. Do Commonwealth citizens have to register with the police in the United Kingdom? How is registration carried out?
37. What is meant by 'public funds'?
38. What is meant by 'adequate accommodation' and 'exclusive accommodation'?
39. What is meant by maintenance?
40. What is a 'prohibition' on, or a 'restriction' from, employment?
41. What is meant by 'close connections' with the United Kingdom?

2 *Visitors*

42. How long can a visitor be allowed to stay in the United Kingdom?
43. Do all arrivals need entry clearance?
44. If a visit is sponsored who makes the application for entry clearance?
45. What are the requirements for a visit?
46. Apart from the above, will I have to show a reason for visiting?
47. With regard to accommodation and maintenance, will the visitor have to show that he can do both by himself?
48. What form does the 'intention to return' test take?
49. What do I have to do to show that I intend to return?
50. Can a visitor transact business during his visit?
51. Can a visitor apply to extend his stay?
52. What are the conditions or requirements for a permanent stay if a visitor gets married?
53. Generally can a visitor change his status during his visit?
54. What happens if a visitor arrives without an entry clearance and is held at the airport until a decision is taken to admit or refuse him entry?
55. Apart from ordinary visits are any other 'types' of visit permitted?
56. What is the position if a visit is for the purpose of medical treatment?
57. If visiting the United Kingdom for medical treatment will six months be the maximum period that will be granted?

58. What if the visit is for a medical check-up or assessment?
59. What if the treatment is on-going for life?
60. If the treatment needs visits at widely spaced intervals will a continuous stay between treatments be granted?
61. What are the requirements for an academic visit?
62. What is the period granted for an academic visit?
63. What if the academic visitor does not meet the requirements set out above?
64. What are the requirements for a visitor in transit?
65. What are the rules relating to entertainers or film crews visiting the United Kingdom?

3 Professional workers

66. What are the requirements for doctors and dentists seeking entry for postgraduate training?
67. How long will a doctor or dentist be given to stay?
68. Can this period be extended?
69. Does a doctor or dentist need prior entry clearance?
70. Will the spouse be allowed in?
71. Will the children be allowed in?
72. What of lawyers wishing to come to the United Kingdom to practise?

4 Students

73. Does a student need an entry clearance or a visa before coming to the United Kingdom to study?
74. What are the requirements for a student to satisfy before he will be granted an entry clearance or visa or be allowed into Britain?
75. What proof will a student need to show the ECO or IO?
76. How is intention to return assessed?
77. What is meant by 'a full time course'?
78. Should the entry clearance applied for be for a specific course of a fixed duration?
79. Can a student come to do a vocational course if he is not proficient in English?
80. Can a student get entry to do a correspondence course in the United Kingdom?
81. What if he has not applied and been accepted to do a course and wishes to come as a prospective student?
82. What will be the next step for a prospective student if he gets entry to the United Kingdom?
83. Can a prospective student apply for an extension of time?

84. Is it advisable for an intending student to apply for a visitor's visa and then apply to study when in the United Kingdom?
85. Who are classified as student nurses or midwives?
86. What are the requirements to train as a midwife or nurse?
87. After qualifying as a nurse or midwife in the United Kingdom can he then switch to work-permit employment?
88. What is the position of a qualified nurse or midwife who comes to the United Kingdom for a visit and wishes to work?
89. Can the wife or husband of a student be allowed to enter or join the other spouse?
90. Can the children of a student be allowed to enter or join their student parent?
91. Can the mother of a student child be allowed to join him?
92. What is 'the sole responsibility' rule?
93. Can a student take up employment during the course of his/her studies?
94. Can the spouse of a student take up employment?
95. Can a student apply for extension of the period granted him?
96. Can a student move from one course to another?
97. Can an overseas student get a grant from the United Kingdom to study?
98. What is the position of a trainee?
99. Can a student change his immigration status?
100. Can a student stay in the United Kingdom after he has completed his studies?
101. Can a student travel out of the United Kingdom during the period granted him to remain?
102. What is the position if a student wishes to study to be a barrister?
103. What are the requirements to study to become a solicitor?

5 People entering on business

104. Does someone coming to the United Kingdom to set up a business or become self-employed need an entry clearance?
105. What must be shown to the ECO?
106. What type of business can a businessman set up in the United Kingdom?
107. Are there different requirements where the businessman intends to join as a partner or take over an existing business in the United Kingdom?
108. In considering the minimum amount can an applicant's house in United Kingdom be counted towards this sum?
109. What if he inherits a business already in the United Kingdom worth over the required amount?
110. What is meant by 'money or funds under his control'?

111. How long will a businessman be allowed to stay in the United Kingdom?
112. Can a businessman extend his stay after the four years?
113. Can he, whilst in the United Kingdom as a businessman, take up employment abroad?
114. Can a businessman bring in his spouse and family?
115. Can the spouse and children take up employment in the United Kingdom?
116. Can he change his status from that of businessman to any other category?
117. Can he get settlement?
118. Are there differences between coming as a businessman or coming as self-employed?
119. Can a representative of an overseas firm with no branch or subsidiary in the United Kingdom be allowed to set up as such in the United Kingdom?
120. What are the requirements for representatives of overseas newspapers, news agencies and broadcasting organisations?
121. How long can such representative be allowed to stay?
122. What are the requirements for overseas airlines employees?
123. How long will an airline representative be given to stay in the United Kingdom?
124. Can the representatives of either an overseas airline or a newspaper or news agency or broadcasting organisation get indefinite leave to remain in the United Kingdom?
125. What are the requirements for writers, composers and artists?
126. What period of stay will a writer, composer or artist be allowed?
127. What do the terms 'writers', 'artists', 'composers' include?
128. As writers, artists and composers are classified as 'self-employed' will they need to have £200 000?
129. Can the spouse and children of writers, composers or artists be allowed to accompany or join them?
130. Can the writer or composer or artist and his spouse and children be allowed to remain indefinitely?
131. Who is regarded as an investor?
132. What other requirements must an investor satisfy?
133. How long will an investor be allowed to stay?
134. Can he and his spouse and children obtain indefinite leave to remain?
135. What are the requirements for those from the ECAA wishing to establish a business in the United Kingdom?
136. How long will any of the above businessmen be granted to stay in the United Kingdom?

6 Working in the United Kingdom

137. What requirement should someone coming to the United Kingdom to seek employment meet?
138. Does such a person need a prior entry clearance?
139. Are there any categories of workers eligible for work permits?
140. What is the age qualification for workers?
141. Can a worker change his employment after entering Britain?
142. How long will the work permit holder be given to stay?
143. Can he obtain indefinite leave to stay?
144. Can he bring his spouse and children?
145. What are the requirements to enter as a trainee or to obtain work experience?
146. How long can a trainee or someone coming for work experience be allowed to remain?
147. Can either a trainee or a work experience permit holder get indefinite leave to remain in the United Kingdom?
148. Can the spouse and children of either category be allowed to come in with or join their spouse?
149. Can a visitor apply to vary his category to that of trainee or participant in a work experience permit scheme?
150. Can a student apply?
151. Who is a working holidaymaker?
152. How is the period allowed calculated?
153. Can a working holidaymaker take up employment?
154. What are the requirements for children?
155. Will the application be refused if the applicant has settled down in his country before deciding to come to the United Kingdom for a working holiday?
156. Will non-Commonwealth citizens be allowed to come as working holidaymakers?
157. Can someone already in the United Kingdom apply to become a holidaymaker?
158. Is there any difference if the applicant has ancestral connections with the United Kingdom?
159. What countries are referred to as the United Kingdom and islands?
160. How long will someone with ancestral connections be granted to stay?
161. Can such a person bring his spouse and children with or to join him?
162. Can someone with United Kingdom ancestry who entered the United Kingdom in any other capacity be able to remain in the United Kingdom in this capacity?
163. Who can become an au pair?
164. What are the requirements to be satisfied?
165. How is the period allowable calculated?
166. Do all au pairs need entry clearance?

167. Can an au pair seek employment whilst remaining here as such?
168. Can someone who entered in another category but who would otherwise have satisfied the rules change to become an au pair?
169. Can an au pair move from one family to another?
170. Who is classed as a seasonal agricultural worker?
171. How long can such a person be allowed to stay?
172. Can this period be extended?
173. Can he bring his wife and dependants with him?
174. What are the requirements to be satisfied by teachers and language assistants?
175. How long will he be allowed to remain in the United Kingdom?
176. Can he bring his spouse with him or to join him?
177. Can the children be allowed to come with or join the parents?
178. Who is an overseas government employee?
179. What are the requirements to be satisfied?
180. How long can such an employee be given to remain in the United Kingdom?
181. Can his spouse or children come in with him or join him?
182. What are the requirements for private servants in diplomatic households to enter?
183. How long can such a servant be allowed to work in the United Kingdom?
184. Can a servant in a diplomatic household bring in his spouse and children?
185. What will be the position if a servant in employment in a diplomatic household finds another job with another employer who is not a diplomat?
186. Can a domestic servant be allowed into the United Kingdom if not coming to work for a diplomat or someone in a consular position or a member of their family?
187. How long can such a servant be allowed to remain?
188. Can a domestic servant change his employers?
189. Does a servant have to travel with his master every time he travels out of the United Kingdom on short visits?
190. What if he marries in the United Kingdom to a British citizen?
191. Who are considered as ministers of religion?
192. Who are considered as missionaries?
193. Who are considered as members of a religious order?
194. Are the entry requirements the same for each or are there different requirements?
195. What are the requirements for a minister of religion to enter the United Kingdom as such?
196. What are the requirements for a missionary to enter as such?
197. What are the requirements for entry as a member of a religious order?

198. How long can each of these categories remain in the United Kingdom?
199. Can any of the above categories have his spouse and children accompany or join him?
200. Can a minister of religion also teach as a member of a religious order?
201. Can a minister of religion change his employment?

7 Entry for other purposes

202. Who is considered as a person of independent means?
203. What are the requirements for such a person to come to the United Kingdom?
204. How long will such a person be allowed in the United Kingdom?
205. Can a spouse or children accompany or join the person applying to enter as a person of independent means?
206. Can such a person obtain indefinite leave to remain?
207. Can the spouse or children take employment?
208. Who has the right to enter the United Kingdom in order to exercise right of access to his child?
209. What are the requirements for such entry?
210. How long will such leave be?
211. Can he extend this period?
212. How often can such a visit take place?
213. What is meant by the requirement that the parent must be divorced or legally separated from his wife?
214. Who are diplomats?
215. What of the spouses of those in the diplomatic service?
216. Are those in employment in the diplomatic missions subject to immigration control?
217. Which countries make up the European Union?
218. Can any EU national enter into the United Kingdom without an entry permit?
219. Who are considered as family members in such cases?
220. Can an EU national remain indefinitely in the United Kingdom?

8 Settlement

221. Who has the right of abode in the United Kingdom?
222. What of the wife of a person with the right of abode?
223. How does a person prove a right of abode?
224. What is the minimum age for a spouse to be allowed to enter or join the other spouse in the United Kingdom?

225. What are the requirements for one spouse coming with or joining the other spouse who is settled in the United Kingdom?
226. What is meant by 'primarily to obtain admission'?
227. What is meant by 'the parties have met'?
228. What else should an applicant be aware of at an interview?
229. What is considered as 'overcrowding'?
230. What if a marriage took place under customary law?
231. Will living in Europe before coming to the United Kingdom make a difference?
232. Will a spouse seeking entry for settlement be given settlement rights upon entry?
233. What will be the position of a person who entered as a spouse if the marriage breaks down?
234. What is the position where a man has more than one wife?
235. Can another wife enter as a visitor?
236. What is the position of children of polygamous marriages?
237. What is the position of those coming to get married?
238. How long will a fiancé(e) be given to remain in the United Kingdom?
239. What happens if the marriage does not take place within the period granted?
240. What are the requirements for a child whose parent or parents or relative is settled in the United Kingdom?
241. If a child was born in the United Kingdom will he have to qualify in the same way as mentioned above?
242. What is meant by 'sole responsibility'?
243. Will a child of a woman in a polygamous marriage be allowed to enter for settlement?
244. Can an adopted child come to settle in the United Kingdom?
245. Are adoptions in any country of origin of the child considered valid in the United Kingdom?
246. What is the position where there are no adoption laws in the country of origin of the child?
247. What becomes of the nationality of the adopted child?
248. What other relatives may be allowed to settle in the United Kingdom?
249. What are the requirements for relatives to enter?
250. What of the other members of the family: sons and daughters over 18, brothers, sisters, aunts, uncles, etc.?
251. What is the position relating to homosexuals?
252. If a male and female person are living together but not married, what is their position?
253. Who are considered as returning residents?
254. Does a returning resident need an entry clearance or visa?
255. What is the position of a returning resident who has stayed abroad for longer than two years?

256. Do the same rules apply to British citizens who have been away for over two years?
257. What if a person who claims entry as a returning resident is given leave to enter for a limited period?
258. Who may become holders of special vouchers?
259. What are the benefits of having a special voucher?
260. Can a special voucher holder bring his spouse and children to join him?
261. Are there any concessions granted for someone to settle after long period of residence in the United Kingdom?
262. In all the cases of settlement mentioned above what effect will settlement have on the citizenship of the persons who have settled?

9 Asylum

263. Who is an asylum seeker?
264. Who determines the application?
265. What rules govern the granting of asylum?
266. What happens to the applicant when he makes the application?
267. What is exceptional leave to remain?
268. What is the policy towards granting settlement to one with exceptional leave to remain wishing to bring his family to join him?
269. What is 'well founded fear of persecution'?
270. What is meant by 'a particular social group'?
271. What if there has been a previous application in another country?
272. Can the wife and children and dependants of an applicant be included in the application for asylum?
273. Can children apply for asylum if they are not accompanied by parents?
274. Can a person apply from overseas for asylum in the United Kingdom?
275. What is meant by 'safe third country' and 'links with the United Kingdom'?
276. What are the Convention and Protocol relating to the Status of Refugees and which countries are signatories to them?
277. What is the position of those running away from civil war?
278. Can someone with dual nationality seek asylum in the United Kingdom?
279. Can an asylum seeker, or someone granted refugee status, or other applicants travel abroad?
280. Can asylum be transferred from another country to the United Kingdom?

10 Offences and deportation

281. Is illegal entry an offence?
282. Who is an 'illegal immigrant'?
283. What will be the result if deception is used to enter or remain in the United Kingdom?
284. What may amount to deception?
285. Is it also an offence to assist someone to enter the United Kingdom?
286. What other offences are there relating to immigration?
287. Are there any offences that carriers are liable to commit?
288. Can a court sentence anyone to deportation?
289. When does a court recommend deportation?
290. When is someone liable to a Home Office deportation?
291. Can an appeal be made against deportation?
292. Is there anyone who cannot be deported?
293. What factors are taken into account before a deportation order is made?
294. Can anything be done after an appeal has failed but before the order to deport is made?
295. When the head of a family is deported will every other member of the family also be deported?
296. What happens after a deportation order has been signed?
297. Can a deportation order be revoked?
298. What is the difference between a deportation and a removal?
299. When is bail given?
300. Who may grant bail?
301. How is bail applied for?
302. Can bail be opposed?
303. If bail is granted, what next?
304. Can a person let out on bail be arrested?

11 Appeals

305. Who has the right to plead before the adjudicators or tribunal?
306. Are there people who have no right of appeal?
307. Where there is a right of appeal how long will the appellant have to bring the appeal?
308. What are the stages of appeal?

12 British nationality

309. Does having indefinite leave to remain make a person a British citizen?
310. Can a person become a British citizen and still keep his original nationality?