



Welfare Reform Act 2012

2012 CHAPTER 5

PART 2

WORKING-AGE BENEFITS

CHAPTER 4

MISCELLANEOUS

PROSPECTIVE

Entitlement to work

61 Entitlement to work: jobseeker's allowance

- (1) The Jobseekers Act 1995 is amended as follows.
- (2) In section 1 (jobseeker's allowance), in subsection (2), before paragraph (a) there is inserted—
 - “(za) is entitled to be in employment in the United Kingdom;”.
- (3) In that section, after subsection (3) there is inserted—
 - “(3A) For the purposes of subsection (2)(za), a person is entitled to be in employment in the United Kingdom if, and only if—
 - (a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or
 - (b) the person has been granted such leave and—
 - (i) the leave is not invalid,
 - (ii) the leave has not for any reason ceased to have effect, and
 - (iii) the leave is not subject to a condition preventing the person from accepting any employment.”

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: Welfare Reform Act 2012, Cross Heading: Entitlement to work is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) In Schedule 1 (supplementary provisions), after paragraph 8 there is inserted—

“8ZA Regulations may prescribe circumstances in which a person may be entitled to a jobseeker's allowance without being entitled to be in employment in the United Kingdom.”

62 Entitlement to work: employment and support allowance

(1) The Welfare Reform Act 2007 is amended as follows.

(2) In section 1 (employment and support allowance), in subsection (3), before paragraph (a) there is inserted—

“(za) is entitled to be in employment in the United Kingdom.”.

(3) In that section, after subsection (3A) there is inserted—

“(3B) For the purposes of subsection (3)(za), a person is entitled to be in employment in the United Kingdom if, and only if—

(a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or

(b) the person has been granted such leave and—

(i) the leave is not invalid,

(ii) the leave has not for any reason ceased to have effect, and

(iii) the leave is not subject to a condition preventing the person from accepting any employment.”

(4) In Schedule 2 (supplementary provisions), after paragraph 4A (as inserted by section 54 of this Act) there is inserted—

“Entitlement to work in the United Kingdom

4B Regulations may provide that in prescribed circumstances a person who is not entitled to be in employment in the United Kingdom may nevertheless be entitled to an employment and support allowance.”

63 Entitlement to work: maternity allowance and statutory payments

(1) The Social Security Contributions and Benefits Act 1992 is amended as follows.

(2) In section 35 (state maternity allowance)—

(a) in subsection (1), at the end there is inserted “and

“(e) at the commencement of the week referred to in paragraph (a) above she was entitled to engage in the employment referred to in paragraph (b) above.”;

(b) in subsection (3), before paragraph (a) there is inserted—

“(za) for circumstances in which subsection (1)(e) above does not apply;”.

(3) In section 164 (statutory maternity pay)—

(a) in subsection (2), after paragraph (a) there is inserted—

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- “(aa) that at the end of the week immediately preceding that 14th week she was entitled to be in that employment;”;
- (b) in subsection (9), after paragraph (d) there is inserted—
 - “(da) provide for circumstances in which subsection (2)(aa) above does not apply;”.
- (4) In section 171ZA (ordinary statutory paternity pay: birth)—
 - (a) in subsection (2), after paragraph (b) there is inserted—
 - “(ba) that at the end of the relevant week he was entitled to be in that employment;”;
 - (b) after subsection (3) there is inserted—
 - “(3A) Regulations may provide for circumstances in which subsection (2)(ba) above does not apply.”
- (5) In section 171ZB (ordinary statutory paternity pay: adoption)—
 - (a) in subsection (2), after paragraph (b) there is inserted—
 - “(ba) that at the end of the relevant week he was entitled to be in that employment;”;
 - (b) after subsection (3) there is inserted—
 - “(3A) Regulations may provide for circumstances in which subsection (2)(ba) above does not apply.”
- ^{F1}(6)
- ^{F2}(7)
- (8) In section 171ZL (statutory adoption pay: entitlement)—
 - (a) in subsection (2), after paragraph (b) there is inserted—
 - “(ba) that at the end of the relevant week he was entitled to be in that employment;”;
 - (b) in subsection (3), after “(2)(b)“ there is inserted “, (ba)”;
 - (c) in subsection (8), before paragraph (a) there is inserted—
 - “(za) exclude the application of subsection (2)(ba) above in prescribed circumstances;”.
- (9) After section 173 there is inserted—

“173A Entitlement to be in employment

- (1) For the purposes of this Act a person is entitled to engage in or to be in any employment if (and only if)—
 - (a) the person does not under the Immigration Act 1971 require leave to enter or remain in the United Kingdom, or
 - (b) the person has been granted such leave and—
 - (i) the leave is not invalid,
 - (ii) the leave has not for any reason ceased to have effect, and
 - (iii) the leave is not subject to a condition preventing the person from accepting that employment.”

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(10) In Schedule 11 (statutory sick pay: circumstances in which periods of entitlement do not arise)—

(a) in paragraph 2, at the end there is inserted—

“(i) the employee is not entitled to be in his employment on the relevant date.”;

(b) at the end there is inserted—

“9 Paragraph 2(i) above does not apply in prescribed circumstances.”

Textual Amendments

- F1** S. 63(6) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 7 para. 75; S.I. 2014/1640, art. 7(pp) (with art. 16)
- F2** S. 63(7) repealed (5.4.2015) by Children and Families Act 2014 (c. 6), s. 139(6), Sch. 7 para. 75; S.I. 2014/1640, art. 7(pp) (with art. 16)

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

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[View outstanding changes](#)

Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2013/1511 by [S.I. 2017/57 art. 51314Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/2657 by [S.I. 2016/596 art. 4-6Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/2657 by [S.I. 2017/57 art. 1315Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/2846 by [S.I. 2016/596 art. 347Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/983 by [S.I. 2018/138 art. 3](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/983 by [S.I. 2019/10 reg. 3\(1\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/983 by [S.I. 2019/167 art. 5\(2\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2013/983, art. 5A(1), 6(1) by [S.I. 2017/483 art. 2](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/1583 by [S.I. 2017/664 art. 5Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/209 by [S.I. 2016/596 art. 348Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/209 by [S.I. 2017/57 art. 1016Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/2321 by [S.I. 2016/596 art. 59Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/2321 by [S.I. 2016/963 art. 37813Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/2321 by [S.I. 2017/584 art. 5Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2014/2321 by [S.I. 2017/664 art. 5Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/101 by [S.I. 2016/596 art. 3-510Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/101 by [S.I. 2016/963 art. 46-1214Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/101 by [S.I. 2017/57 art. 3-9111217Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/101 by [S.I. 2017/584 art. 346-9Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/101 by [S.I. 2017/664 art. 3-57-9Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/1537 by [S.I. 2016/596 art. 3411Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/1537 by [S.I. 2016/963 art. 3-1215Sch.](#)

- specified provision(s) amendment to earlier commencing S.I. 2015/1537 by [S.I. 2017/57 art. 3-7912Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/1537 by [S.I. 2017/584 art. 346-9Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/1537 by [S.I. 2017/664 art. 3-9Sch.](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/33 by [S.I. 2018/138 art. 6](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/33 by [S.I. 2019/10 reg. 3\(2\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/33 by [S.I. 2019/167 art. 5\(3\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/33 by [S.I. 2019/37 art. 5](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/33, art. 6(11) by [S.I. 2017/483 art. 3](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/634 by [S.I. 2018/138 art. 6](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/634 by [S.I. 2019/10 reg. 3\(3\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/634 by [S.I. 2019/167 art. 5\(4\)](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/634 by [S.I. 2019/37 art. 5](#)
- specified provision(s) amendment to earlier commencing S.I. 2015/634, art. 7(2) by [S.I. 2017/376 reg. 4](#)
- specified provision(s) amendment to earlier commencing S.I. 2016/596 by [S.I. 2016/963 art. 17](#)
- specified provision(s) amendment to earlier commencing S.I. 2019/37 by [S.I. 2019/935 art. 2](#)
- specified provision(s) modification of earlier commencing S.I. 2014/1583 by [S.I. 2018/532 art. 3Sch.](#)
- specified provision(s) modification of earlier commencing S.I. 2014/2321 by [S.I. 2018/532 art. 3Sch.](#)
- specified provision(s) modification of earlier commencing S.I. 2015/101 by [S.I. 2018/532 art. 3Sch.](#)
- specified provision(s) modification of earlier commencing S.I. 2015/1537 by [S.I. 2018/532 art. 3Sch.](#)
- specified provision(s) modification of earlier commencing S.I. 2015/634 by [S.I. 2018/532 art. 5](#)