



Welfare Reform Act 2012

2012 CHAPTER 5

PART 2

WORKING-AGE BENEFITS

CHAPTER 4

MISCELLANEOUS

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

Status: This is the original version (as it was originally enacted).

“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—
 - “(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—

Status: This is the original version (as it was originally enacted).

- “(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.”
- (6) In section 171ZEA (additional statutory paternity pay: birth)—
- (a) in subsection (2), after paragraph (b) there is inserted—
- “(ba) that at the end of that prescribed week the claimant was entitled to be in that employment;”;
- (b) in subsection (3), before paragraph (a) there is inserted—
- “(za) exclude the application of the condition mentioned in paragraph (ba) of subsection (2) in prescribed circumstances;”.
- (7) In section 171ZEB (additional statutory paternity pay: adoption)—
- (a) in subsection (2), after paragraph (b) there is inserted—
- “(ba) that at the end of that prescribed week the claimant was entitled to be in that employment;”;
- (b) in subsection (3), before paragraph (a) there is inserted—
- “(za) exclude the application of the condition mentioned in paragraph (ba) of subsection (2) in prescribed circumstances;”.
- (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—

Status: This is the original version (as it was originally enacted).

“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.”
- (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.”