



# Welfare Reform Act 2012

## 2012 CHAPTER 5

### PART 2

#### WORKING-AGE BENEFITS

### CHAPTER 4

#### MISCELLANEOUS

##### *Claimants dependent on drugs etc*

#### **60 Claimants dependent on drugs etc**

- (1) Section 17C of, and Schedule A1 to, the Jobseekers Act 1995 (persons dependent on drugs etc: jobseekers allowance) are repealed.
- (2) Section 15A of, and Schedule 1A to, the Welfare Reform Act 2007 (persons dependent on drugs etc: employment and support allowance) are repealed.
- (3) In the Welfare Reform Act 2009, section 11 and Schedule 3 (which includes provision for review of the provisions repealed by this section) are repealed.

##### *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—

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*Status: This is the original version (as it was originally enacted).*

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“(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—

“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

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*Status: This is the original version (as it was originally enacted).*

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- “(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—
    - “(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)—

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*Status: This is the original version (as it was originally enacted).*

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- (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.”
- (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.”