



# Welfare Reform Act 2007

## 2007 CHAPTER 5

### PART 1

#### EMPLOYMENT AND SUPPORT ALLOWANCE

##### *Miscellaneous*

#### 17 **Income and capital: general**

- (1) In relation to a claim for an employment and support allowance, the income and capital of a person shall be calculated or estimated in such manner as may be prescribed.
- (2) A person's income in respect of a week shall be calculated in accordance with prescribed rules, which may provide for the calculation to be made by reference to an average over a period (which need not include the week concerned).
- (3) Circumstances may be prescribed in which—
  - (a) a person is to be treated as possessing capital or income which he does not possess;
  - (b) capital or income which a person does possess is to be disregarded;
  - (c) income is to be treated as capital;
  - (d) capital is to be treated as income.
- (4) Regulations may provide that a person's capital shall be deemed for the purposes of this Part to yield him an income at a prescribed rate.

#### **Modifications etc. (not altering text)**

- C1** Pt. 1 modified by 1995 c. 18, Sch. 1 para. 2(2) (as inserted (27.10.2008) by [Welfare Reform Act 2007](#) (c. 5), s. 70(2), [Sch. 3 para. 12\(6\)](#); S.I. 2008/787, art. 2(4)(f))

#### **Commencement Information**

- II** [S. 17](#) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), [art. 2\(1\)](#)

*Status: Point in time view as at 12/11/2009.*

*Changes to legislation: Welfare Reform Act 2007, Cross Heading: Miscellaneous is up to date with all changes known to be in force on or before 03 June 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)*

**I2** S. 17 in force at 27.10.2008 in so far as not already in force by S.I. 2008/787, **art. 2(4)(a)**

## 18 Disqualification

- (1) Regulations may provide for a person to be disqualified for receiving an employment and support allowance, or treated for such purposes as the regulations may provide as not having limited capability for work, if—
  - (a) he has become someone who has limited capability for work through his own misconduct,
  - (b) he remains someone who has limited capability for work through his failure without good cause to follow medical advice, or
  - (c) he fails without good cause to observe any prescribed rules of behaviour.
- (2) Regulations under subsection (1) shall provide for any such disqualification, or treatment, to be for such period not exceeding 6 weeks as may be determined in accordance with Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14).
- (3) Regulations may prescribe for the purposes of subsection (1)—
  - (a) matters which are, or are not, to be taken into account in determining whether a person has good cause for any act or omission;
  - (b) circumstances in which a person is, or is not, to be regarded as having good cause for any act or omission.
- (4) Except where regulations otherwise provide, a person shall be disqualified for receiving a contributory allowance for any period during which he is—
  - (a) absent from Great Britain, or
  - (b) undergoing imprisonment or detention in legal custody.

### Modifications etc. (not altering text)

- C2** S. 18(4)(b) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **160(3)**
- C3** S. 18(4)(b) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **160(1)**

### Commencement Information

- I3** S. 18(1)(2)(4) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
- I4** S. 18(1)(2)(4) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(a)**
- I5** S. 18(3) in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(a)**

## 19 Pilot schemes

- (1) Any regulations to which this subsection applies may be made so as to have effect for a specified period not exceeding [<sup>F1</sup>36 months].
- (2) Subject to subsection (3), subsection (1) applies to—
  - (a) regulations which are made under any provision of this Part, other than sections 3, 8 and 9;
  - (b) regulations which are made under the Administration Act, so far as they relate to an employment and support allowance.

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- (3) Subsection (1) only applies to regulations if they are made with a view to ascertaining whether their provisions will or will be likely to—
  - (a) encourage persons to obtain or remain in work, or
  - (b) make it more likely that persons will obtain or remain in work or be able to do so.
- (4) Regulations which, by virtue of subsection (1), are to have effect for a limited period are referred to in this section as a “pilot scheme”.
- (5) A pilot scheme may provide that its provisions are to apply only in relation to—
  - (a) one or more specified areas;
  - (b) one or more specified classes of person;
  - (c) persons selected—
    - (i) by reference to prescribed criteria, or
    - (ii) on a sampling basis.
- (6) A pilot scheme may make consequential or transitional provision with respect to the cessation of the scheme on the expiry of the specified period.
- (7) A pilot scheme may be replaced by a further pilot scheme making the same or similar provision.

#### Textual Amendments

**F1** Words in s. 19(1) substituted (12.11.2009) by [Welfare Reform Act 2009 \(c. 24\)](#), ss. 28(2), 61(1)

#### Commencement Information

**I6** S. 19 in force at 27.10.2008 by [S.I. 2008/787](#), art. 2(4)(a)

## 20 Relationship with statutory payments

- (1) A person is not entitled to an employment and support allowance in respect of a day if, for the purposes of statutory sick pay, that day—
  - (a) is a day of incapacity for work in relation to a contract of service, and
  - (b) falls within a period of entitlement (whether or not it is a qualifying day).
- (2) Except as regulations may provide, a woman who is entitled to statutory maternity pay is not entitled to a contributory allowance in respect of a day that falls within the maternity pay period.
- (3) Regulations may provide that—
  - (a) an amount equal to a woman's statutory maternity pay for a period shall be deducted from a contributory allowance in respect of the same period,
  - (b) a woman shall only be entitled to a contributory allowance if there is a balance after the deduction, and
  - (c) if there is such a balance, a woman shall be entitled to a contributory allowance at a weekly rate equal to it.
- (4) Except as regulations may provide, a person who is entitled to statutory adoption pay is not entitled to a contributory allowance in respect of a day that falls within the adoption pay period.

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- (5) Regulations may provide that—
- (a) an amount equal to a person's statutory adoption pay for a period shall be deducted from a contributory allowance in respect of the same period,
  - (b) a person shall only be entitled to a contributory allowance if there is a balance after the deduction, and
  - (c) if there is such a balance, a person shall be entitled to a contributory allowance at a weekly rate equal to it.
- (6) Except as regulations may provide, a person who is entitled to additional statutory paternity pay is not entitled to a contributory allowance in respect of a day that falls within the additional paternity pay period.
- (7) Regulations may provide that—
- (a) an amount equal to a person's additional statutory paternity pay for a period shall be deducted from a contributory allowance in respect of the same period,
  - (b) a person shall only be entitled to a contributory allowance if there is a balance after the deduction, and
  - (c) if there is such a balance, a person shall be entitled to a contributory allowance at a weekly rate equal to it.
- (8) In this section—
- “the additional paternity pay period” has the meaning given in section 171ZEE(2) of the Contributions and Benefits Act;
- “the adoption pay period” has the meaning given in section 171ZN(2) of that Act;
- “the maternity pay period” has the meaning given in section 165(1) of that Act.

**Modifications etc. (not altering text)**

- C4** S. 20(2) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **80(2)**
- C5** S. 20(4) excluded (27.10.2008) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a), **81(2)**
- C6** S. 20(6) excluded (27.10.2008 for specified purposes) by [Employment and Support Allowance Regulations 2008 \(S.I. 2008/794\)](#), regs. 1(a)(c), **82(2)**

**Commencement Information**

- I7** S. 20(1)(8) in force at 27.10.2008 by [S.I. 2008/787](#), **art. 2(4)(a)**
- I8** S. 20(2)-(7) in force at 18.3.2008 for specified purposes by [S.I. 2008/787](#), **art. 2(1)**
- I9** S. 20(2)-(7) in force at 27.10.2008 in so far as not already in force by [S.I. 2008/787](#), **art. 2(4)(a)**

## 21 Deemed entitlement for other purposes

Regulations may provide for a person who would be entitled to an employment and support allowance but for the operation of any provision of, or made under, this Part, the Administration Act or Chapter 2 of Part 1 of the Social Security Act 1998 (c. 14) (social security decisions and appeals) to be treated as if entitled to the allowance for the purposes of any rights or obligations (whether his own or another's) which depend on his entitlement, other than the right to payment of it.

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#### Commencement Information

**I10** S. 21 in force at 27.10.2008 by S.I. 2008/787, art. 2(4)(a)

## 22 Supplementary provisions

Schedule 2 (which contains further provisions in relation to an employment and support allowance) has effect.

#### Commencement Information

**I11** S. 22 in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

**I12** S. 22 in force at 27.10.2008 in so far as not already in force by S.I. 2008/787, art. 2(4)(a)

## 23 Recovery of sums in respect of maintenance

- (1) Regulations may make provision for the court to have power to make a recovery order against any person where an award of income-related allowance has been made to that person's spouse or civil partner.
- (2) The reference in subsection (1) to a recovery order is to an order requiring the person against whom it is made to make payments to the Secretary of State or to such other person or persons as the court may determine.
- (3) Regulations under subsection (1) may include—
  - (a) provision as to the matters to which the court is, or is not, to have regard in determining any application under the regulations;
  - (b) provision as to the enforcement of orders under the regulations;
  - (c) provision for the transfer by the Secretary of State of the right to receive payments under, and to exercise rights in relation to, orders under the regulations.
- (4) In this section, “the court” means—
  - (a) in relation to England and Wales, a magistrates' court;
  - (b) in relation to Scotland, the sheriff.

#### Commencement Information

**I13** S. 23(1)(3) in force at 18.3.2008 for specified purposes by S.I. 2008/787, art. 2(1)

**I14** S. 23(1)(3) in force at 27.10.2008 in so far as not already in force by S.I. 2008/787, art. 2(4)(a)

**I15** S. 23(2)(4) in force at 27.10.2008 by S.I. 2008/787, art. 2(4)(a)

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