

information sheet

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European Jobseekers

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Last year saw three successive sets of changes to the Regulations that apply to nationals of the European Economic Area (EEA), i.e. the European Union, plus four other non-EU countries¹. Since these Regulations were first introduced in 2007 there have been fourteen subsequent amendments over the years. In this rapidly changing context it can be difficult to work out what European nationals' legal entitlements are. References to "European(s)" in this sheet should be taken to mean nationals of the European Economic Area.

In this Information Sheet we set out the rules for European nationals who are unemployed and seeking work within the United Kingdom, termed "Jobseekers".

Background: Free Movement in Europe

Nationals of European countries can avail of 'free movement' rules. This is a cornerstone of European Union law and policy which means that individuals can move to other EEA States to work or to seek work. These rules have applied in the UK since it joined the European Union in 1973. They provide that there shall be no discrimination between nationals of the home State and other European nationals in terms of their access to the labour market. It is a matter for each State to implement European law; however the same set of legal rules bind everyone and the ultimate arbiter of what the law actually mean in practice is the European Court of Justice in Luxemburg.

Who is a 'jobseeker'?

Any European national can enter the UK to seek work and will be able to avail of a right to reside on this basis for a limited period of time as a 'jobseeker'. They will also have the right to claim benefits, if they meet certain conditions and subject to limitations that are outlined below. A European national who is in the UK and starts looking for work will also fall within the jobseeker category. If a person has worked in the UK and becomes

¹ Norway, Iceland and Liechtenstein are formal members of the EEA. Switzerland is treated by all States as if it is a member.

unemployed and looking for work, they will be able to retain their “worker” status for six months; this is a more favourable status in respect of benefits entitlements.

What are jobseekers’ entitlements to benefits?

In 2014 the Government changed the rules so that jobseekers have to wait three months before they can claim Jobseekers’ Allowance. They also altered the definition of ‘jobseeker’ so that persons who have been seeking work for more than six months will no longer qualify. What this means in practice is that European jobseekers can only claim benefits for a three-month period, that is, after their third month in the UK and beyond their sixth.

Are there any exceptions?

There is an exception: a person can continue to claim benefits after six months if s/he can provide “compelling evidence” that s/he has a “genuine chance of being engaged.” This would appear to be a fairly high threshold. The only other way to become a jobseeker again (and thus be eligible for benefits) is to leave the UK for at least a year before returning to seek work. If that happens, the clock will start to run again.

What about former workers?

The rules are slightly different for people who have previously had employment in the UK. These people fall within the “worker” category which is more favourable. When a worker becomes unemployed they retain the worker status for a period of six months, during which they can claim jobseekers allowance. They may be able to get an extension beyond that if they have previously worked for more than one year in the UK (but again, they must pass the evidential hurdle of showing ‘compelling evidence that they have a genuine chance of being engaged’).

Are the changes lawful?

The changes have made it more difficult for Europeans to claim benefits to support themselves during periods of unemployment, which is likely to inhibit their freedom to move to the UK or to remain here after becoming unemployed. The Government has repeatedly made public its intention to restrict access to the labour market by nationals of the European Economic Area (EEA). The intention is to restrict the free movement rights to the bare minimum proscribed by Europe; it is certainly arguable that the UK has already gone too far. However that can only be determined by the Courts, unless and until a test case is brought, Europeans who wish to claim jobseekers benefits must show that they meet the EEA Regulations as they currently stand. Individuals adversely affected by the changes may wish to obtain legal advice from a European law specialist or charity working in the sector.

Further Information

ILPA’s general information sheet on Free Movement is available here: <file:///C:/Users/SGillan/Downloads/10.06.1137.pdf>