

### 31 When a person is *eligible* for parental leave pay

- (1) This section sets out when a person is eligible for parental leave pay for a child on a day.

#### *Eligible*

- (2) First, a person is *eligible* for parental leave pay for a child on a day if, on that day:
- (a) the person satisfies the work test (see Division 3); and
  - (b) the person satisfies the income test (see Division 4); and
  - (c) the person satisfies the Australian residency test (see Division 5); and
  - (d) the person is the primary carer of the child (see Division 6); and
  - (e) the person has not returned to work (see Division 7).
- (3) Second, a person is *eligible* for parental leave pay for a child on a day if:
- (a) the child is stillborn or has died before that day; and
  - (b) on that day, the person would be eligible under subsection (2) for parental leave pay for the child, if paragraphs (2)(d) and (e) were disregarded; and
  - (c) the person would have been the child's primary carer on that day had the child not been stillborn or died.
- (4) Third, a person is *eligible* for parental leave pay for a child on a day if, on that day:
- (a) if the person is the primary claimant:
    - (i) the person satisfies the work test (see Division 3); and
    - (ii) the person satisfies the income test (see Division 4); and
    - (iii) the person satisfies the Australian residency test (see Division 5); and
    - (iv) the person satisfies the conditions prescribed by the PPL rules; and
  - (b) if the person is a secondary claimant or tertiary claimant—the person satisfies the conditions prescribed by the PPL rules.

#### *Not eligible—overlap with DAPP period*

- (4A) If there is in force a payability determination that dad and partner pay is payable to a person for a child for the person's DAPP period, then, despite subsections (2), (3) and (4), the person is not *eligible* for parental leave pay for the child on a day that is in the DAPP period.

#### *Not eligible—excess days*

- (4B) Despite subsections (2), (3) and (4), if:
- (a) there is in force a payability determination that dad and partner pay is payable to a person for a child for the person's DAPP period; and
  - (b) combined, the total days in the DAPP period and the reference period for the person's claim for parental leave pay for the child exceed 126;

then:

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|  | <p>(c) the Secretary must exclude from the reference period the excess number of days; and</p> <p>(d) the person is not <b>eligible</b> for parental leave pay for the child on a day excluded by the Secretary.</p> <p><i>Not eligible—claimant deceased</i></p> <p>(5) Despite subsections (2), (3) and (4), a person is not <b>eligible</b> for parental leave pay for a child on a day if, on that day, the person is deceased.</p> <p><i>Not eligible—newly arrived resident’s waiting period</i></p> <p>(6) Despite subsections (2), (3) and (4), a person is not <b>eligible</b> for parental leave pay for a child on a day in a newly arrived resident’s waiting period for the person (see section 31A).</p> |
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