

*Based on your responses you may not be entitled to compassionate leave for this person.*

#### **104 Entitlement to compassionate leave**

1. An employee is entitled to 2 days of compassionate leave for each occasion (a permissible occasion) when:
  - (a) a member of the employee's immediate family or a member of the employee's household:
    - (i) contracts or develops a personal illness that poses a serious threat to his or her life; or
    - (ii) sustains a personal injury that poses a serious threat to his or her life; or
    - (iii) dies; or
  - (b) a child is stillborn, where the child would have been a member of the employee's immediate family, or a member of the employee's household, if the child had been born alive; or
  - (c) the employee, or the employee's spouse or de facto partner, has a miscarriage.
- (2) Paragraph (1)(c) does not apply:
  - (a) if the miscarriage results in a stillborn child; or
  - (b) to a former spouse, or former de facto partner, of the employee.

Note: For the definition of a *stillborn* child, see subsection 77A(2).

#### **77A Effect of stillbirth or death of child on unpaid parental leave**

##### *Stillbirth—preserving entitlement to birth-related leave*

- (1) If:
  - (a) a child is stillborn; and
  - (b) an employee would have been entitled to unpaid parental leave that is birth-related leave, if the child had been born alive;then the employee is taken to be entitled to the unpaid parental leave, despite the stillbirth of the child.
- (2) A *stillborn* child is a child:
  - (a) who weighs at least 400 grams at delivery or whose period of gestation was at least 20 weeks; and
  - (b) who has not breathed since delivery; and
  - (c) whose heart has not beaten since delivery.