

### **Subdivision 2.3.1.3 When a person is eligible for parental leave pay — tertiary claimant**

#### **2.17 When a tertiary claimant is eligible for parental leave pay**

This Subdivision is made for paragraph 31 (4) (b) of the Act and prescribes the conditions that a person who is a tertiary claimant must satisfy to be eligible for parental leave pay for a child.

#### **2.18 Conditions — tertiary claimants**

- (1) The conditions are that:
  - (a) the person satisfies the Australian residency test; and
  - (b) the person:
    - (i) is the primary carer of the child; or
    - (ii) satisfies the requirements of rule 2.19 or rule 2.20; and
  - (c) the person:
    - (i) has not returned to work; or
    - (ii) if the person satisfies the requirements of rule 2.20 — has returned to work only for the period the child is not in the person's care; or
    - (iii) satisfies the requirements of rule 2.21 or 2.22; and
  - (d) the person is covered by subrule (2).
- (2) A person is covered by this subrule if both of the following are satisfied:
  - (a) the person and the person's partner are not entitled to baby bonus for the child;
  - (b) a former partner of the person was not entitled to baby bonus for the child when he or she was the person's partner.

#### **2.19 Care requirements for tertiary claimants — temporary inability to care**

For subparagraph 2.18 (1) (b) (ii), the requirements are that:

- (a) the person will be, or previously was, the primary carer of the child; and
- (b) the person is temporarily unable to be the primary carer of the child due to circumstances beyond the person's control, other than a circumstance mentioned in paragraph 2.20 (b); and
- (c) the period of the temporary inability is likely to be less than 26 weeks; and
- (d) there is no determination in force under the Act that parental leave pay is payable for the child to another person for the same day; and
- (e) the Secretary is satisfied that the person would have been the child's primary carer except for the person's temporary inability to be the child's primary carer.

**2.20 Care requirements for tertiary claimants — loss of care for child**

For subparagraph 2.18 (1) (b) (ii), the requirements are that:

- (a) the person previously was the primary carer of the child; and
- (b) an event occurs in relation to the child without the person's consent that prevents the child being in the person's care; and
- (c) the person takes reasonable steps to have the child again in the person's care; and
- (d) the person, or the person's partner, is the child's legal parent or is otherwise legally responsible for the child; and
- (e) if the child is in the care of another legal parent — the person, or the person's partner, has a court order or a parenting plan to the effect that the child is to live with the person or the person's partner; and
- (f) there is no determination in force under the Act that parental leave pay is payable for the child to another person for the same day.

**2.21 Work requirements for tertiary claimants — recall to duty**

For subparagraph 2.18 (1) (c) (iii), the requirements are that the person:

- (a) is a defence force member; and
- (b) has performed paid work on a day because the person has been compulsorily recalled to duty.

**2.22 Tertiary claimants working while care arrangements being settled**

For subparagraph 2.18 (1) (c) (iii), the requirements are that:

- (a) the person performed paid work, other than for a permissible purpose, on a day or days during the period commencing immediately after the secondary claimant stopped caring for the child and ending when the care arrangements for the child were settled; and
- (b) care arrangements for the child were settled within a reasonable time after the secondary claimant stopped caring for the child.