

## **2.29 Exceptional circumstances — primary claimants who have no specific relationship with child**

- (1) This rule is made for paragraph 2.28 (1) (d) and applies to a person who is not:
  - (a) the partner of the birth mother of the child; or
  - (b) for an adopted child — the partner of the adoptive parent of the child; or
  - (c) for parents who are divorced or separated:
    - (i) the other legal parent of the child; or
    - (ii) the partner of the other legal parent of the child.
- (2) For a person to whom this rule applies, the circumstances are as follows:
  - (a) the partner of the birth mother, or of the adoptive parent, is incapable of caring for the child;
  - (b) the child was not entrusted to the care of the person, or to the care of the person's partner, under a decision by a State or Territory child protection agency under legislation dealing with child protection in the State or Territory;
  - (c) the Secretary is satisfied on reasonable grounds that:
    - (i) the person became the primary carer of the child in special circumstances; and
    - (ii) it would be unreasonable for the partner of the child's birth mother, or the partner of the child's adoptive parent, to care for the child; and
    - (iii) it is in the interests of the child for the person to care for the child.

*Note* For what is unreasonable and in the interests of the child, see rule 2.31.

## **55 When a claim is effective**

- (1) A claim for parental leave pay is not effective unless the requirements of the following provisions that apply to the claim are satisfied:
  - (a) section 56 (which deals with the form etc. of the claim);
  - (b) section 57 (which deals with the nominated start date);
  - (c) section 58 (which deals with expected date of birth etc.);
  - (d) section 59 (which deals with tax file number statements);
  - (e) section 60 (which deals with when to make the claim).
- (2) A claim for parental leave pay is also not effective if it is made by a person who cannot make that type of claim under section 54.
- (3) A claim for parental leave pay that is not effective is taken not to have been made.

## **56 Requirements of the claim**

- (1) The claim for parental leave pay must:

- (a) be made in the form approved, and the manner required, by the Secretary for that type of claim; and
  - (b) contain any information (including information about the claimant's employer or the claimant's employment with that employer) required by the Secretary; and
  - (c) be accompanied by any documents required by the Secretary.
- (2) For the purposes of paragraphs (1)(b) and (c), the Secretary may require that different information be contained in, and different documents accompany:
- (a) different types of claims; or
  - (b) different claims of the same type of claim.

## 57 Nominated start date

- (1) If the claim is a primary claim, the claim must state a specific date (the ***nominated start date***) on which the primary claimant wants parental leave pay to start being paid.
- Note 1: For the purposes of subsection (1), "6 months after the birth of the child" would not be a specific date. However, the "date of birth of the child" would be.
- Note 2: Even though a primary claimant nominates a specific date, parental leave pay may not be payable from that date because, for example, the primary claimant has not verified the child's birth before that date: see subsection 11(4).
- (2) Before a payability determination is made on the primary claim, the primary claimant may change his or her nominated start date by notifying the Secretary of the new nominated start date.
- (3) If a payability determination is made that parental leave pay is payable to the primary claimant, the primary claimant may only change his or her nominated start date (the ***old date***) by:
- (a) notifying the Secretary, before the old date, of the new nominated start date; and
  - (b) nominating a new nominated start date that is on or after the day the person notifies the Secretary of the change.

## 58 Expected date of birth and expected day of primary care

### *Primary claim*

- (1) If the claim is a primary claim and it is made before the child's birth, the claim must specify the child's expected date of birth.

### *Secondary claim*

- (2) If the claim is a secondary claim and it is made before the day the secondary claimant expects to become the child's primary carer, the claim must specify the day the claimant expects to become the child's primary carer.

## 59 Tax file number statement

- (1) The claim for parental leave pay must contain the person's ***tax file number statement***, which is a statement of the kind set out in subsection (2), (3) or (4).

*Statement of tax file number*

- (2) The first kind is a statement of the person's tax file number.

*Statement that person does not know his or her tax file number*

- (3) The second kind is a statement that the person:
- (a) has a tax file number but does not know what it is; and
  - (b) has asked the Commissioner of Taxation to inform the person of his or her tax file number; and
  - (c) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) whether the person has a tax file number; and
    - (ii) if the person has a tax file number—that number.

*Statement that an application for a tax file number is pending*

- (4) The third kind is a statement that the person:
- (a) has an application for a tax file number pending; and
  - (b) authorises the Commissioner of Taxation to tell the Secretary:
    - (i) if a tax file number is issued to the person—that number; or
    - (ii) if the application is refused—that the application has been refused; or
    - (iii) if the application is withdrawn—that the application has been withdrawn.