

## **54 Who can make a primary claim, secondary claim or tertiary claim**

### *Primary claim*

- (1) Only the following people can make a primary claim for a child:
- (a) the child's birth mother;
  - (b) an adoptive parent of the child;
  - (c) a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a primary claim can be made.

### *Secondary claim*

- (2) Only the following people can make a secondary claim for a child:
- (a) the partner of a primary claimant;
  - (b) a person who:
    - (i) is a parent of the child; and
    - (ii) is not the primary claimant;
  - (c) a partner of a person covered by paragraph (b);
  - (d) a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a secondary claim can be made.

### *Tertiary claim*

- (3) Only a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a tertiary claim can be made can make a tertiary claim for a child.

## **2.28 Exceptional circumstances for primary claimants — general**

- (1) Subject to rule 2.30, the circumstances are that the person:
- (a) has, and is likely to continue to have, care of the child for at least 26 weeks; and
  - (b) became, or will become, the child's primary carer:
    - (i) before the child's first birthday; or
    - (ii) for an adopted child — before the first anniversary of the day of placement of the child; and
  - (c) is covered by subrule (2); and
  - (d) if rule 2.29 applies to the person — satisfies the circumstances mentioned in subrule 2.29 (2).
- (2) For paragraph (1) (c), a person is covered by this subrule if:
- (a) the birth mother, or adoptive parent, of the child is incapable of caring for the child and will be incapable, or is likely to be incapable, of caring for the child for at least 26 weeks; or
  - (b) the Secretary is satisfied on reasonable grounds that:
    - (i) the person became the primary carer of the child in special circumstances; and

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|  | <ul style="list-style-type: none"><li>(ii) it would be unreasonable for the birth mother, or adoptive parent, of the child to care for the child; and</li><li>(iii) it is in the interests of the child for the person to care for the child.</li></ul> |
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*Note* For what is unreasonable and in the interests of the child, see rule 2.31.