

Your responses suggest that you may not be able to make an effective secondary claim for PPL.

4 Guide to this Act

Parental leave pay is paid to a person for a particular period. That period is called the person's PPL period. The maximum period for which any person may be paid parental leave pay is 18 weeks. A person's PPL period may be the full 18 weeks or a lesser period (e.g. where the person is not eligible for parental leave pay for that full period).

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

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.

2.33 Exceptional circumstances for secondary claimants — general

- (1) The circumstances are as follows:
- (d) if the person is not the partner of the primary claimant for the child — the person is covered by subrule (2).
- (2) For paragraph (1) (d), a person is covered by this subrule if any of the following apply:
- (b) the Secretary is satisfied on reasonable grounds that:
 - (ii) it would be unreasonable for the primary claimant or the primary claimant's partner to care for the child; and

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.

Subdivision 2.4.1.2 Exceptional circumstances for secondary claims

2.32 Who can make a secondary claim

- (1) This Subdivision is made for paragraph 54 (2) (d) of the Act and prescribes the circumstances that are exceptional circumstances in which a secondary claim can be made for a child.
- (2) A person who satisfies the circumstances prescribed by this Subdivision can make a secondary claim.

2.33 Exceptional circumstances for secondary claimants — general

- (1) The circumstances are as follows:
 - (a) the person has, and is likely to continue to have, care of the child for at least 26 weeks;
 - (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) if the person is the partner of the primary claimant for the child — the primary claimant 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;
 - (d) if the person is not the partner of the primary claimant for the child — the person is covered by subrule (2).

- (2) For paragraph (1) (d), a person is covered by this subrule if any of the following apply:
 - (a) the primary claimant and the primary claimant's partner are incapable of caring for the child and are likely to be incapable of caring for the child for at least 26 weeks;
 - (b) 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 primary claimant or the primary claimant's partner 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 2.34.

2.34 Unreasonableness and interests of child

- (1) For subparagraph 2.33 (2) (b) (ii), it is unreasonable for a person to care for the child if the Secretary is satisfied that:
 - (a) there has been extreme family breakdown, or similar circumstances, in relation to the child's family situation; or
 - (b) there is a serious risk to the child's physical or mental wellbeing from violence, neglect or sexual abuse in the child's family situation.
- (2) For subparagraph 2.33 (2) (b) (iii), in considering what is in the interests of the child, the Secretary is to consider the arrangements for the child's care with the person in comparison with the arrangements for the child's care in the child's previous family situation.

Example

The Secretary may consider that it is in the interests of the child for the person to care for the child if the primary claimant refuses to provide any care for the child or because the child is severely disabled and the primary claimant is incapable of providing for the child's needs.

Division 6—Primary carer

47 When a person is the *primary carer* of a child

- (1) A person is the ***primary carer*** of a child on a day in the person's reference period if:
 - (a) the child is in the person's care in that period; and
 - (b) the person meets the child's physical needs more than anyone else in that period.
- (2) A person's ***reference period*** is the period that is determined by the Secretary for the purposes of making a payability determination on the person's claim.
- (3) Only one person can be a child's primary carer on a particular day.
- (4) Despite subsection (1), a person is not the ***primary carer*** of a child on a day if, before that day, the child has died.

