

31 When a person is *eligible* for parental leave pay

- (1) This section sets out when a person is eligible for parental leave pay for a child on a day.

Eligible

- (2) First, a person is *eligible* for parental leave pay for a child on a day if, on that day:
- (a) the person satisfies the work test (see Division 3); and
 - (b) the person satisfies the income test (see Division 4); and
 - (c) the person satisfies the Australian residency test (see Division 5); and
 - (d) the person is the primary carer of the child (see Division 6); and
 - (e) the person has not returned to work (see Division 7).
- (3) Second, a person is *eligible* for parental leave pay for a child on a day if:
- (a) the child is stillborn or has died before that day; and
 - (b) on that day, the person would be eligible under subsection (2) for parental leave pay for the child, if paragraphs (2)(d) and (e) were disregarded; and
 - (c) the person would have been the child's primary carer on that day had the child not been stillborn or died.
- (4) Third, a person is *eligible* for parental leave pay for a child on a day if, on that day:
- (a) if the person is the primary claimant:
 - (i) the person satisfies the work test (see Division 3); and
 - (ii) the person satisfies the income test (see Division 4); and
 - (iii) the person satisfies the Australian residency test (see Division 5); and
 - (iv) the person satisfies the conditions prescribed by the PPL rules; and
 - (b) if the person is a secondary claimant or tertiary claimant—the person satisfies the conditions prescribed by the PPL rules.

Not eligible—overlap with DAPP period

- (4A) If there is in force a payability determination that dad and partner pay is payable to a person for a child for the person's DAPP period, then, despite subsections (2), (3) and (4), the person is not *eligible* for parental leave pay for the child on a day that is in the DAPP period.

Not eligible—excess days

- (4B) Despite subsections (2), (3) and (4), if:
- (a) there is in force a payability determination that dad and partner pay is payable to a person for a child for the person's DAPP period; and
 - (b) combined, the total days in the DAPP period and the reference period for the person's claim for parental leave pay for the child exceed 126;

then:

- (c) the Secretary must exclude from the reference period the excess number of days; and
- (d) the person is not **eligible** for parental leave pay for the child on a day excluded by the Secretary.

Not eligible—claimant deceased

- (5) Despite subsections (2), (3) and (4), a person is not **eligible** for parental leave pay for a child on a day if, on that day, the person is deceased.

Not eligible—newly arrived resident’s waiting period

- (6) Despite subsections (2), (3) and (4), a person is not **eligible** for parental leave pay for a child on a day in a newly arrived resident’s waiting period for the person (see section 31A).

(Paid Parental Leave Rules 2010)

2.9 Care requirements for secondary claimants — temporary inability to care

For subparagraph 2.8 (2) (d) (ii), the requirements are as follows:

- (a) the person will be, or previously was, the primary carer of the child;
- (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 2.10 (b);
- (c) the period of the temporary inability is likely to be less than 26 weeks;
- (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;
- (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.