



# FACT SHEET

## Paid Parental Leave Scheme

Updated: January 2022  
Replaces: December 2020

The *Paid Parental Leave Act 2010* (the 'Act') introduced a paid parental leave ('PPL') scheme funded by the Commonwealth Government. The Act encompasses two forms of paid parental leave, one form, PPL, is specifically for the Primary Care Giver of the child and the other form is for Dads and Partners ('D&PP').

This Fact Sheet provides a summary of the main elements of the PPL scheme in regard to the two forms of paid parental leave listed above (Primary Care Giver and Dad and Partner).

### WHAT IS THE PAID PARENTAL LEAVE SCHEME?

#### **PRIMARY CARE GIVER**

The Government's PPL scheme provides eligible primary carers of a newborn or adopted child with a legal entitlement to 18 weeks paid parental leave (90 payable days) whilst they are providing care for their newborn or adopted child.

The weekly payment payable to eligible persons on PPL will be the National Minimum Wage ('NMW') which may be increased in July of each year. As at 1 July 2021, the NMW is \$772.55 per week before tax, and this will be paid to any eligible person on PPL, regardless of whether their employment status is full-time, part-time or casual.

For children born or adopted after 1 July 2020, the 18 weeks of PPL includes both:

- A continuous PPL period of up to 12 weeks (60 payable days'); and
- 30 flexible PPL days that can be taken at the end of the 12 week PPL period, or at a later suitable time within 2 years of the birth or adoption.

Eligible persons are able to make an application for PPL to Services Australia ('SA') (formerly the Department of Human Services). Please note the application for PPL is not made with the employer and the employer is not responsible for assessing whether a person is eligible for PPL. Eligible persons can make an application up to three months prior to the expected date of the birth or adoption.

SA assesses the PPL application and the person seeking PPL must provide the necessary information such as a group certificate or other pay summary document to SA to enable eligibility assessment. It is not expected that an employer will be contacted to provide information.

PPL is not a form of leave for an employee. It operates in conjunction with parental leave entitlements provided in the National Employment Standards ('NES') as enshrined in the *Fair Work Act 2009* and provides for the payment of up to 18 continuous weeks during the NES provided parental leave.

*Refer: QHA's Parental Leave under NES Fact Sheet*

### WHAT IS THE DAD AND PARTNER PAY SCHEME?

The Dad and Partner Pay (D&PP) scheme is an extension to the current PPL scheme for primary care givers as discussed above. The D&PP scheme provides two weeks parental leave payment (10 payable days) for eligible working fathers and partners (including adoptive parents and same sex couples) caring for children born or adopted from 1 January 2013.

The D&PP scheme is provided for under the *Paid Parental Leave and Other Legislation Amendment (Dad and Partner Pay and Other Measures) Act 2012* which has amended the *Paid Parental Leave Act 2010*.

The payment for an eligible person on D&PP will be the NMW.

Further, for a person to be eligible for D&PP, the father or partner of the child must be caring for the child (whether this is as the primary care giver or as a joint care giver) and must be on a period of unpaid leave during the D&PP payment period.

Members should note that D&PP is not funded by an employer and like the PPL scheme eligible, fathers and partners must make an application for D&PP to SA who will then assess their eligibility via a set income test, work test and residency requirements.

Additionally, fathers and partners will not be eligible for the D&PP payment unless an application is made within the first 12 months after the birth or adoption of the child.

### **HOW DOES A PERSON APPLY?**

A person seeking PPL or D&PP lodges their application with SA, who will assess whether they are eligible. The employer does not assess applications, and it is the employee's sole responsibility to lodge their claim.

An employee's claim will be accepted once the proof of the child's birth or adoption is provided to SA and the other eligibility criteria have been satisfied. Once proof is provided to SA, the employer will be notified of acceptance of the claim.

On approval of PPL eligibility, an employee will nominate the period for which they wish to receive PPL.

### **ELIGIBILITY CRITERIA**

PPL and D&PP differ from the NES parental leave scheme, therefore, eligibility for parental leave under the NES does not necessarily mean eligibility for PPL, D&PP or vice versa. A person will only be eligible for PPL or D&PP if they satisfy the required eligibility criteria.

Information regarding eligibility criteria for PPL is available here:

<https://www.servicessaustralia.gov.au/individuals/services/centrelink/parental-leave-pay/who-can-get-it>

Information regarding eligibility criteria for D&PP is available here:

<https://www.servicessaustralia.gov.au/individuals/services/centrelink/dad-and-partner-pay/who-can-get-it>

### **IMPACT OF PPL ON OTHER GOVERNMENT BABY SCHEMES**

PPL and D&PP are both voluntary schemes that a person may seek to opt-in to and apply for. Equally, they may elect not to apply for PPL or D&PP.

Where a person is on PPL or D&PP they generally will not receive the following for the period of the PPL:

- Family Tax Benefit Part B;
- Newborn Upfront Payment and Newborn Supplement;
- Child Housekeeper; or
- Housekeeper Tax Offsets

It should be noted that in the event of a multiple birth or adoption, for example, twins, D&PP will only be paid for one child.

## **EMPLOYER OBLIGATIONS – PAYMASTER FUNCTION**

### **PRIMARY CARE GIVER**

*NOTE: Reference to an employer 'providing' PPL is reference to providing the payment made to them by SA, not the employer needing to make payments from their own funds.*

Employers may be required to act as SA's 'paymaster'. In this context an employer acting as a paymaster will be required to forward PPL payments made from SA to the employer to the employee.

### **NOTICE TO ACT AS PAYMASTER**

SA will advise an employer in writing of their need to act as paymaster. The details that will be provided are:

- The employee's name;
- That the employee is eligible for PPL;
- The period of time the employer is to provide the PPL; and
- The employer's obligations with respect to PPL including appeal rights in the event the employer disagrees with the requirement to provide PPL.

In addition, SA will request necessary details to allow SA to pay the PPL amounts to the employer. SA will also require written notice that the employer accepts their PPL obligations. The notice and acceptance may be provided electronically.

### **EXCEPTIONS TO PAYMASTER FUNCTION**

In certain circumstances an employer will not be required to act as SA's paymaster. In the following circumstances an employer will not have to provide PPL:

- To a short term employee. A short term employee is an employee with less than 12 months service;
- To an independent contractor;
- Where the employee resigns prior to their period of PPL; or
- Where an employee will receive less than eight weeks of PPL.

Where an employee resigns part way through their period of PPL, SA will provide the remaining PPL payments to the person.

### **PAYMENT OF FUNDS TO THE EMPLOYER**

SA requires certain information from employers to enable PPL payments to be forwarded to them. SA will therefore work with employers with respect to timing and payment in advance.

SA can make up to nine fortnightly payments, however an employer can elect to receive the payments in three payments (ie each six week period). Funds will be transferred electronically to the employer's nominated bank account, and a payment notice will be provided with each payment.

An employer is not obliged to make payments to an employee on approved PPL in advance of receiving the funds from SA.

### **GENERAL OBLIGATIONS**

Where an employer is to act as paymaster, the employer is required to provide the required details including bank account and pay cycle details to enable SA to provide PPL payments to the employer.

In addition, an employer has a number of other obligations to advise SA:

- When an employee on PPL returns to work;
- If the employee is no longer employed with the employer;
- If the employer has changed their bank account details;
- If the employer has changed its pay cycle;

- If the employer has been overpaid an amount of PPL;
- If the employer sells the business; or
- If the employer becomes unable to provide PPL payments to an employee for another reason such as they cease to trade, transfer ownership or merge with another business.

Where an eligible employee has multiple employers, the employee must nominate which employer is to act as paymaster.

### **DAD AND PARTNER PAY**

Employers should note that D&PP is not the employer's responsibility and SA will pay the employee directly. As such, there is no paymaster function like the PPL scheme as noted above. It is still important to be aware of D&PP because an employee may approach an employer about taking unpaid leave so that they can receive D&PP.

SA will pay an employee who makes a claim for D&PP directly after the child is born or adopted and once the claim is finalised. Where a claim for D&PP is finalised prior to the authorised period of leave, the payment from SA will be processed on the first day of the employee's leave.

### **EMPLOYER OBLIGATIONS – RETURN TO WORK OF THE EMPLOYEE**

Where an employee seeks to return to work prior to the conclusion of the approved PPL period, PPL payments will cease. As an employee is required under the Parental Leave provisions in the NES to provide notice of their intention to return to the workplace, employers must advise SA of such an intention.

### **KEEPING IN TOUCH PROVISIONS**

Employees who are receiving payment in accordance with the PPL scheme are able to access 'keeping in touch' days. However this will be subject to the agreement between the employer and employee and in accordance with the provisions the *Paid Parental Leave Act 2010*. If the employer and employee agree to 'keeping in touch' days whilst an employee is on a period of PPL, this will not affect the employee's ability to access unpaid parental leave entitlements under the NES.

The PPL scheme allows an employee on approved PPL to work in paid work for up to 10 days during their parental leave period without it affecting their PPL entitlements. It should be noted that a keeping in touch day does not extend the PPL period. For example, if an employee accesses two (2) 'keeping in touch' days, this will not extend the period of PPL or NES unpaid parental leave by 2 days.

An employee accessing a 'keeping in touch' day will be regarded as engaging in paid work and therefore will be entitled to be paid in accordance with their contract of employment or industrial instrument for such time worked. Time worked will also be counted for attracting employment entitlements and conditions including leave accruals, and superannuation contributions.

Section 79A of the NES, which works in conjunction with the *Paid Parental Leave Act 2010*, provides that there is no obligation for an employer to grant the employee a 'keeping in touch day'. However, if the employer and employee agree to a 'keeping in touch' day, the employer must note the following;

- An employee cannot request to attend work on a 'keeping in touch' day within 14 days after the date of birth or day of placement of the child;
- An employer cannot request an employee to attend work on a 'keeping in touch' day within 42 days after the date of birth or day of placement of the child; and
- If the parental leave is extended to beyond the initial 12 month entitlement, both parties may agree to arrange a further 10 'keeping in touch' days.

The purpose of a 'keeping in touch' day is to enable the employee to keep in touch with his or her employment in order to facilitate a return to that employment once the period of unpaid parental leave ends.

In line with this purpose, a 'keeping in touch' day may be used by the employee to:

- Refresh their skills;
- Become familiar with new or updated processes;
- Participate in on-the-job training;
- Be involved in planning discussions or meetings that may affect their roles. Please note, if the employee's position or role function changes or no longer exists, the employer will have the obligation to consult with the employee as they would if the employee was in the workplace as discussed above.

Where an employee exercises their ability to return to work under the keeping in touch provisions, the employer is recommended to keep a record of the days the employee works, to ensure no more than 10 days are worked, as well as for the above mentioned employment matters.

### **REPLACEMENT EMPLOYEES**

Where an employer engages a replacement employee for the purpose of covering the duties of the employee taking paid parental leave, section 84A of the NES requires the employer to ensure that the replacement employee is aware of the fact that the position of the replacement employee is temporary.

Additionally, the employer must advise the employee in relation to the rights of both the employer and employee on parental leave with respect to:

- Cancelling leave where the pregnancy ends other than by the birth of a living child or if the child dies after birth but prior to the end of the unpaid parental leave period;
- Early termination of the parental leave period;
- The return to work guarantee to which the employee on parental leave is entitled; and
- The effect on the replacement employee's employment if the employee on leave ceases to have responsibility for the care of the child.

\*Section 84A of the NES has had effect since 23 July 2012.

### **CONSULTATION REQUIREMENTS WHILE ON PARENTAL LEAVE**

The NES requires employers to ensure employees on paid parental leave are informed about decisions that will have a significant effect on the status, pay or location of their pre-parental leave position – that is the position the employee held prior to starting parental leave, or the position held before they transferred to a safe job.

The employer must take all reasonable steps to keep the employee informed about, and provide an opportunity to discuss, the effect of any decision that will affect the employee's pre-parental leave position.

### **INTERACTION OF PPL WITH EMPLOYMENT ENTITLEMENTS**

PPL is not viewed as wages or ordinary time earnings for workers' compensation purposes. Other employment entitlement interactions include:

- Leave entitlements do not accrue for periods of PPL;
- Personal/carer's leave cannot be accessed during a period of PPL;
- Superannuation is not payable on PPL; and
- Payroll tax is not payable on PPL.

### **ANNUAL LEAVE WHILST ON PPL**

An employee on PPL may seek to take annual leave during the PPL period. Where on annual leave, the annual leave payment is 'ordinary time earnings' for superannuation purposes and contributions will need to be made. Such leave will be ordinary leave for the purposes of workers' compensation and payroll tax.

### **EMPLOYER FUNDED PAID PARENTAL LEAVE SCHEME**

Section 99A of the Act confirms PPL is in addition to other entitlements provided by an employer.

This means that where employers have an existing paid parental leave scheme, they must continue to provide entitlements in line with their existing scheme. PPL does not alter existing entitlements guaranteed to employees.

An employee can be on PPL at the same time as an employer scheme, therefore, notation of the separate payments will be necessary. With regard to an employer funded paid parental leave scheme, there may be obligations under the terms of the employer scheme with regard to superannuation etc.

### **PPL AND TAXATION / PAYMENT DOCUMENTATION**

The scheme provides for the payment of the NMW for up to 18 weeks. With regard to taxation and payment documentation:

- The PPL payment is taxable (at the appropriate rate applying for the amount of the PPL and any other payments), therefore an employer is required to withhold tax under the usual PAYG withholding arrangements;
- While an employer does not need to separately identify PPL in annual financial statements, PPL amounts will need to be distinguished from any other amounts that attract superannuation, payroll tax and workers' compensation;
- Employers must also include PPL payments in the total amounts on an employee's annual or part-year payment summary;
- Payment details must be provided to an employee, and this can be done by including payment details on an employee's pay slip (remembering a pay slip must be provided).

### **OTHER FINANCIAL STATEMENTS**

Employers are required to maintain financial records regarding PPL payments for a period of seven years. Payment details should be kept in the same manner as other payroll data.

### **TRANSFER OF PPL**

An eligible employee may seek to transfer their PPL part way through the approved period. An example where this may occur is where the birth mother wishes to return to the workplace and transfers the balance of their PPL to their spouse who will become the primary carer. In this circumstance the employer of the birth mother will cease to provide the PPL payments at the time the birth mother completes their period of PPL.

Payments to an eligible spouse to whom the PPL has been transferred shall be made by their employer, or, if the period of PPL is less than eight weeks (or other exclusions apply), by SA.

An employer will need to inform SA upon notice the employee wishes to return to work from parental leave.

### **DISPUTE RESOLUTION**

In the event an employer does not agree with a decision of SA that they (the employer) must provide PPL payments, the employer may seek a review of the decision. An example of this may be where the employee has not completed 12 months' service (which means an employer does not have to provide the payments). Appeals of reviews may be made to the ***Social Services & Child Support Division of the Administrative Appeals Tribunal***.

Where an employer and the employee in receipt of PPL are in dispute SA has a role to seek resolution of the matter. However, if SA is unable to reach a resolution, the matter will be referred to the Fair Work Ombudsman for investigation.

An example of a dispute is that the employer is making unauthorised deductions from the PPL payment (within the meaning of Part 3-1 of the Act), or the employer has received a payment from SA and has not provided it to the employee.

## **PREPARING FOR PPL IN YOUR WORKPLACE**

The QHA recommends that employers familiarise themselves with the PPL scheme:

- Review current payroll software to ensure it is appropriate for the circumstance of providing, and reporting, PPL payments;
- Assess internal workplace policies as they relate to parental leave. Update those policies to include PPL scheme information and employee requirements ie. while the employee does not have to advise the employer of their application for PPL (as distinct from the notice requirements under the NES), it may be valuable to encourage employees to advise their employer so that the employer can make the necessary arrangements for the 'paymaster' requirement;
- Ensure policies are implemented for Flexible Work Requests (which may be made under the NES), and other return to work support requirements;
- Update any existing Leave Application form to incorporate notation of whether an employee intends to apply to SA – this will allow the employer advance notice of PPL to make the necessary arrangements;
- Educate key persons in the workplace who will be implementing and complying with PPL requirements and employer obligations. Such persons will include HR and other persons with staffing responsibilities;
- Consider pre-registering your business details with SA.

Please note this is not an exhaustive list.

## **MORE INFORMATION**

For more information on PPL:

- Visit: <https://www.servicessaustralia.gov.au/organisations/business/services/centrelink/paid-parental-leave-scheme-employers>
- Call: National Business Gateway on 131 158
- Mail your enquiry to:  
PPL Employer Processing Team  
PO Box 2400  
Hobart TAS 7001

For more information about employer-provided schemes:

- Visit: <https://www.wgea.gov.au/parental-leave>

### **Further Assistance**

Financial QHA members are encouraged to contact the QHA's Employment Relations Department (refer the contact details at the bottom of this page) for a confidential discussion about the information in this Fact Sheet, or to discuss any queries relating to specific workplace matters.

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