



Paid Parental Leave Amendment (Improvements for Families and Gender Equality) Act 2023

No. 4, 2023

**An Act to amend the law relating to paid parental
leave, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

1	Short title.....	1
2	Commencement.....	2
3	Schedules.....	2
Schedule 1—Main amendments		3
	<i>Paid Parental Leave Act 2010</i>	3
Schedule 2—Consequential amendments		52
	<i>A New Tax System (Family Assistance) Act 1999</i>	52
	<i>A New Tax System (Family Assistance) (Administration) Act 1999</i>	53
	<i>Data-matching Program (Assistance and Tax) Act 1990</i>	54
	<i>Fair Work Act 2009</i>	54
	<i>Income Tax Assessment Act 1997</i>	54
	<i>Social Security Act 1991</i>	54
	<i>Taxation Administration Act 1953</i>	55
	<i>Veterans' Entitlements Act 1986</i>	56
Schedule 3—Application, savings and transitional provisions		57



Paid Parental Leave Amendment (Improvements for Families and Gender Equality) Act 2023

No. 4, 2023

**An Act to amend the law relating to paid parental
leave, and for related purposes**

[Assented to 10 March 2023]

The Parliament of Australia enacts:

1 Short title

*This Act is the Paid Parental Leave Amendment (Improvements for
Families and Gender Equality) Act 2023.*

No. 4, 2023

*Paid Parental Leave Amendment (Improvements for Families and
Gender Equality) Act 2023*

1

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	26 March 2023.	26 March 2023

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Main amendments

Paid Parental Leave Act 2010

1 Section 3A

Repeal the section, substitute:

3A Objects of this Act

- (1) This Act establishes a paid parental leave scheme for the payment of parental leave pay.
- (2) The objects of the paid parental leave scheme are to:
 - (a) signal that taking time out of the paid workforce to care for a child is part of the usual course of life and work for both parents; and
 - (b) promote equality between men and women and balance between work and family life; and
 - (c) provide financial support to parents caring for children, in order to:
 - (i) allow those parents to take time off work to care for the child after the child's birth or adoption; and
 - (ii) enhance the health and development of birth mothers and children; and
 - (iii) encourage women to continue to participate in the workforce; and
 - (iv) provide those parents with flexibility to balance work and family life; and
 - (v) increase the time that fathers and partners take off work around the time of birth or adoption; and
 - (vi) create further opportunities for fathers and partners to bond with their child; and
 - (vii) allow fathers and partners to take a greater share of caring responsibilities and to support mothers and partners from the beginning.

- (3) The financial support provided by this Act is intended to complement and supplement existing entitlements to paid or unpaid leave in connection with the birth or adoption of a child.

2 Section 4

Repeal the section, substitute:

4 Guide to this Act

Overview

This Act provides for the payment of parental leave pay following the birth of a child or, for adoption, the placement of a child.

Parental leave pay is payable to a person for a child for a flexible PPL day for the child. The number of flexible PPL days for the child for which parental leave pay can be paid generally cannot exceed 100.

Parental leave pay is paid in instalments at the daily national minimum wage amount for a day that is a flexible PPL day for the child and for which parental leave pay is payable to the person.

Parental leave pay is paid by either the person's employer (if it is for at least 40 consecutive flexible PPL days for a child that are week days) or the Secretary.

Chapter 2—When parental leave pay is payable to a person

Chapter 2 sets out when parental leave pay is payable to a person. The key provisions for the Chapter are found in Part 2-1.

A person can only be paid parental leave pay if the Secretary makes a determination that parental leave pay is payable to the person. Part 2-2 has the rules about when the Secretary can make that determination.

The Secretary cannot make that determination if the person is not eligible for parental leave pay. Part 2-3 has the rules about eligibility.

The Secretary also cannot make that determination if the person has not made a claim for parental leave pay. Part 2-4 has the rules about claims.

There are 2 types of claims: PPL claims and special PPL claims. These claims relate to each other, although PPL claims are the main type of claim. PPL claims will often be the only claims that are made.

Chapter 3—Payment of parental leave pay

Chapter 3 sets out how parental leave pay is paid to a person.

Part 3-1 is about instalments of parental leave pay. It deals with when instalments must be paid, whether the person's employer or the Secretary must pay them and the amount of the instalments.

Part 3-2 sets out when a person's employer must pay instalments to the person. An employer is required to pay an instalment to a person in relation to a child if:

- (a) an employer determination has come into force for the employer and the person; and
- (b) the instalment is payable in relation to a flexible PPL day for the child that falls within the person's continuous flexible period for the child (which consists of at least 40 consecutive flexible PPL days for the child that are week days); and
- (c) the employer has been paid enough by the Secretary to fund the instalment.

Part 3-3 sets out when the Secretary must pay instalments directly to the person. For instance, the Secretary is required to do that if an employer determination is never made for the person (e.g. the person is a contractor and so does not have an employer). There are some other circumstances in which the Secretary is also required to pay instalments directly to the person (such as when an employer determination is being reviewed or has been revoked).

Part 3-4 has general rules about the payment of instalments (such as what happens when an instalment cannot be paid on the day specified in this Act).

Part 3-5 is about employer determinations. If an employer determination is in force for an employer and a person, the employer must pay instalments to the person. The Secretary must be satisfied that certain conditions have been met before the Secretary can make an employer determination.

Chapter 4—Compliance and enforcement

Chapter 4 deals with compliance and enforcement.

Part 4-1 allows the Secretary to gather information for the purposes of checking compliance with this Act. It also deals with the confidentiality of personal and protected information.

Part 4-2 deals with other compliance matters. It allows the Secretary to refer matters to the Fair Work Ombudsman for investigation if the Secretary has reason to believe that an employer has not complied with certain obligations under this Act. It also deals with civil penalty provisions, compliance notices and infringement notices.

Part 4-3 provides for debts in relation to the paid parental leave scheme, and for the recovery of debts owing to the Commonwealth.

Chapter 5—Administrative review of decisions

Chapter 5 is about administrative review of decisions made under this Act.

Part 5-1 allows the Secretary, on the Secretary's own initiative, to conduct an internal review of decisions made under this Act. It also allows a person whose interests are affected by certain types of decisions to seek internal review of those decisions, and an employer to seek internal review of certain types of decisions that affect employers.

Part 5-2 allows a person to apply to the Administrative Appeals Tribunal (AAT) for review of certain decisions made under this Act. This review is called AAT first review.

Part 5-3 allows a person to apply to the AAT for review of certain decisions made by the AAT on AAT first review. This review is called AAT second review.

Part 5-4 has miscellaneous provisions relating to reviews of decisions made under this Act.

Chapter 6—Miscellaneous

Chapter 6 has miscellaneous provisions.

Part 6-1 has rules that modify this Act so that it applies correctly in 3 limited kinds of cases—adoption, claims made in exceptional circumstances etc. and Commonwealth employment.

Part 6-2 is about payment nominees (who are people who can receive payments of instalments of parental leave pay on behalf of other people for the purposes of this Act) and correspondence nominees (who are people who can receive notices on behalf of other people for the purposes of this Act).

Part 6-3 deals with other miscellaneous matters, such as the PPL rules, delegations and regulations.

3 Section 6 (definition of *caring*)

Omit “subsections 115CL(1) and (4)”, substitute “section 47”.

4 Section 6 (definition of *claim*)

Repeal the definition, substitute:

claim means a PPL claim or special PPL claim for parental leave pay for a child.

5 Section 6 (definition of *claimant*)

Repeal the definition, substitute:

claimant means a person who is a PPL claimant or special PPL claimant.

6 Section 6 (definition of *conditional eligibility determination*)

Omit “13(4)(b), 14(4)(b), 14(7)(b), 15(2)(b), 15(6)(b), 16(5)(b), 17A(4)(b) or 17B(5)(b)”, substitute “13(6)(b) or 14(4)(b)”.

7 Section 6 (definition of *continuous flexible period*)

Omit “subsections 6A(2) and (4)”, substitute “section 71A”.

8 Section 6 (definition of *COVID-19 affected claimant*)

Omit “, or dad and partner pay,”.

9 Section 6 (paragraph (b) of the definition of *COVID-19 affected claimant*)

Omit “or dad and partner pay (as the case may be)”.

10 Section 6 (paragraph (d) of the definition of *COVID-19 affected claimant*)

Repeal the paragraph, substitute:

- (d) as a result of that circumstance applying in relation to the person, the person would not satisfy the work test if the person’s work test period were the period under section 33.

11 Section 6

Repeal the following definitions:

- (a) definition of *dad and partner pay*;
- (b) definition of *DAPP claimant*;
- (c) definition of *DAPP period*.

12 Section 6 (definition of *effective claim*)

Repeal the definition, substitute:

effective claim means a claim that is made in accordance with Part 2-4.

13 Section 6 (definition of *eligible*)

Repeal the definition, substitute:

eligible for parental leave pay: see section 31AA.

14 Section 6 (paragraphs (a) to (c) of the definition of exceptional circumstances)

Repeal the paragraphs, substitute:

- (a) paragraph 54(1)(g) (which deals with PPL claims); or
- (b) paragraph 54(2)(b) (which deals with special PPL claims).

15 Section 6 (definition of expected PPL period)

Repeal the definition.

16 Section 6

Insert:

family PPL income limit: see subsection 41(2).

17 Section 6

Repeal the following definitions:

- (a) definition of *flexible PPL period*;
- (b) definition of *has a continuous PPL period*.

18 Section 6 (definition of income test)

Repeal the definition, substitute:

income test: see section 37.

19 Section 6 (definition of indexed amount)

Omit “42(2)”, substitute “42(3)”.

20 Section 6

Insert:

individual PPL income limit: see subsection 41(1).

21 Section 6 (definition of initial eligibility determination)

Repeal the definition, substitute:

initial eligibility determination: see section 26A.

22 Section 6

Repeal the following definitions:

- (a) definition of *keeping in touch day*;
- (b) definition of *maximum DAPP period*;
- (c) definition of *maximum DAPP period end day*;
- (d) definition of *maximum DAPP period start day*;
- (e) definition of *maximum PPL period*;
- (f) definition of *maximum PPL period end day*;
- (g) definition of *maximum PPL period start day*;
- (h) definition of *nominated start date*;
- (i) definition of *not working*.

23 Section 6 (definition of *payability determination*)

Repeal the definition, substitute:

payability determination means a determination made under section 13 or 14 that parental leave pay is, or is not, payable to a person for a child.

24 Section 6 (definition of *permissible purpose*)

Repeal the definition.

25 Section 6

Insert:

PPL claim: see subsection 53(2).

PPL claimant means a person who has made an effective PPL claim for parental leave pay for a child.

26 Section 6

Repeal the following definitions:

- (a) definition of *PPL day*;
- (b) definition of *PPL income limit*;
- (c) definition of *PPL period*;
- (d) definition of *primary carer*;
- (e) definition of *primary claim*;

(f) definition of *primary claimant*.

27 Section 6 (definition of *reference income year*)

Repeal the definition, substitute:

reference income year: see section 39.

28 Section 6 (definition of *reference period*)

Repeal the definition.

29 Section 6

Insert:

relevant family PPL income limit: see subsection 40(2).

relevant individual PPL income limit: see subsection 40(1).

30 Section 6

Repeal the following definitions:

- (a) definition of *relevant PPL income limit*;
- (b) definition of *returns to work*.

31 Section 6 (definition of *saved amount*)

Repeal the definition, substitute:

saved amount: see subsection 97(2).

32 Section 6

Repeal the following definitions:

- (a) definition of *secondary claim*;
- (b) definition of *secondary claimant*.

33 Section 6

Insert:

special PPL claim: see subsection 53(3).

special PPL claimant means a person who has made an effective special PPL claim for parental leave pay for a child for which another person has made a PPL claim.

34 Section 6

Repeal the following definitions:

- (a) definition of *tertiary claim*;
- (b) definition of *tertiary claimant*.

35 Section 6 (definition of work test)

Repeal the definition, substitute:

work test: see Division 3 of Part 2-3.

36 Section 6 (definition of work test period)

Repeal the definition, substitute:

work test period: see sections 33 and 33A.

37 Section 6A

Repeal the section.

38 Section 7

Repeal the section, substitute:

7 Guide to this Part

This Part has the key provisions for this Chapter (which deals with when parental leave pay is payable to a person).

A person can only be paid parental leave pay if the Secretary makes a determination that parental leave pay is payable to the person. Part 2-2 has the rules about when the Secretary can make that determination.

The Secretary cannot make that determination if the person has not made a claim for parental leave pay. Part 2-4 has the rules about claims. There are 2 types of claims: PPL claims and special PPL claims. These claims relate to each other, although PPL claims are the main type of claim. PPL claims will often be the only claims that are made.

If the Secretary makes a determination that parental leave pay is payable to a person for one or more flexible PPL days for a child of the person, parental leave pay is payable for the particular days specified in the determination. The number of flexible PPL days for the child for which parental leave pay can be paid generally cannot exceed 100.

The Secretary may only make a determination that parental leave pay is payable to certain PPL claimants and special PPL claimants for one or more flexible PPL days if permission has been given to claim those days.

The person's employer or the Secretary will pay instalments of parental leave pay that are payable to a person (see Chapter 3 for the rules about the payment of parental leave pay).

39 Division 2 of Part 2-1

Repeal the Division.

40 Section 11A

Omit "17A, 17B or 17C", substitute "13 or 14".

41 Section 11A (note)

Omit "2A", substitute "2".

42 Sections 11B and 11C

Omit "17A, 17B or 17C", substitute "13 or 14".

43 Paragraphs 11C(a) to (c)

Repeal the paragraphs, substitute:

- (a) an effective PPL claim for parental leave pay for that day (in which case the person is a PPL claimant); or
- (b) an effective special PPL claim for parental leave pay for that day (in which case the person is a special PPL claimant).

44 Section 11D

Repeal the section, substitute:

11D Flexible PPL day

A day is a *flexible PPL day* for a child if the day occurs in the period that:

- (a) starts on the day the child is born; and
- (b) ends on the day before the child’s second birthday.

45 Section 12 (paragraph beginning “Division 2”)

Repeal the paragraph, substitute:

Division 2 has the rules that apply to the Secretary when making a payability determination in relation to whether parental leave pay is payable to a person for a flexible PPL day for a child. Different rules apply depending on whether the claim is a PPL claim or a special PPL claim. The Secretary may only make a determination that parental leave pay is payable to certain PPL claimants and special PPL claimants for one or more flexible PPL days if permission has been given to claim those days.

46 Section 12 (paragraph beginning “Division 2A”)

Repeal the paragraph.

47 Section 12 (paragraph beginning “Division 3”)

After “verified”, insert “or where the limit on the number of flexible PPL days for which parental leave pay is payable to more than one person has been exceeded”.

48 Divisions 2 and 2A of Part 2-2

Repeal the Divisions, substitute:

Division 2—Determination about whether parental leave pay for a flexible PPL day is payable to a person

13 Determination on a PPL claim

When a claim is to be determined under this section

- (1) If:

-
- (a) a PPL claimant has made an effective PPL claim for parental leave pay for a child; and
 - (b) one or more flexible PPL days for the child (the *claimed days*) have been specified in the claim;

the Secretary must make a determination on the PPL claim under this section.

When parental leave pay is payable to the PPL claimant for one or more claimed days

- (2) The Secretary must determine that parental leave pay is payable to the PPL claimant for one or more of the claimed days if, when making the determination, the Secretary is satisfied that:
 - (a) the PPL claimant was or will be eligible for parental leave pay on those days; and
 - (b) if:
 - (i) the PPL claimant is a person covered by subsection (3); and
 - (ii) the child's birth mother has not previously satisfied the work test in relation to the child;
the child's birth mother satisfies the work test on the day the determination is made; and
 - (c) if:
 - (i) the PPL claimant is the partner of an adoptive parent of the child; and
 - (ii) an adoptive parent of the child has not previously satisfied the work test in relation to the child;
the person who gave the PPL claimant the permission referred to in subparagraph (e)(i) satisfies the work test on the day the determination is made; and
 - (d) if the PPL claimant is a person covered by subsection (3) and the circumstances prescribed by the rules for the purposes of this paragraph do not apply to the PPL claimant:
 - (i) a permission has been given to the PPL claimant under paragraph 15(1)(a) in relation to the child; and
 - (ii) the permission has not been revoked; and
 - (iii) if the determination were made, the number of flexible PPL days for the child for which parental leave pay

would be payable to the person would not exceed the number of flexible PPL days specified in the permission; and

- (e) if the PPL claimant is a person covered by subsection (4) and the circumstances prescribed by the rules for the purposes of this paragraph do not apply to the PPL claimant:
 - (i) a permission has been given to the PPL claimant under paragraph 15(1)(b) or (c) in relation to the child; and
 - (ii) the permission has not been revoked; and
 - (iii) if the determination were made, the number of flexible PPL days for the child for which parental leave pay would be payable to the person would not exceed the number of flexible PPL days specified in the permission.

Note: The Secretary is prevented from making a determination under this subsection in certain circumstances: see Division 3.

- (3) The following persons are covered by this subsection:
 - (a) a person who:
 - (i) is a parent (other than an adoptive parent) of the child; and
 - (ii) is not the child's birth mother;
 - (b) the partner of the child's birth mother;
 - (c) the partner of a person covered by paragraph (a).
- (4) The following persons are covered by this subsection:
 - (a) an adoptive parent of the child, if a payability determination under this section that parental leave pay for the child is payable is in force in relation to another adoptive parent of the child;
 - (b) the partner of an adoptive parent of the child.
- (5) The Secretary must specify in a determination made under subsection (2) the claimed days for which parental leave pay is payable to the PPL claimant.

When parental leave pay is not payable to the PPL claimant for one or more claimed days

- (6) If the Secretary is not satisfied of the matters in subsection (2) for one or more of the claimed days, the Secretary must:
- (a) determine that parental leave pay is not payable to the PPL claimant for those days; and
 - (b) if:
 - (i) the PPL claimant has not previously satisfied the work and income tests in relation to the child; and
 - (ii) the Secretary is satisfied that the PPL claimant satisfies the work test and income test on the day the determination is made;
- determine that the PPL claimant is conditionally eligible for parental leave pay for other flexible PPL days for the child.
- (7) The Secretary must specify in the determination made under subsection (6) the claimed days for which parental leave pay is not payable to the PPL claimant.

14 Determination on a special PPL claim

When a claim is to be determined under this section

- (1) If:
- (a) a special PPL claimant has made an effective special PPL claim for parental leave pay for a child; and
 - (b) one or more flexible PPL days for the child (the ***claimed days***) have been specified in the claim;
- the Secretary must make a determination on the special PPL claim under this section.

When parental leave pay is payable to special PPL claimant for the claimed days

- (2) The Secretary must determine that parental leave pay is payable to the special PPL claimant for one or more of the claimed days if, when making the determination, the Secretary is satisfied that:

- (a) a payability determination under section 13 that parental leave pay for the child is payable to a PPL claimant is in force; and
- (b) the special PPL claimant was or will be eligible for parental leave pay on those days; and
- (c) if the special PPL claimant is the partner of a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made—a permission has been given to the special PPL claimant under subsection 15(2) in relation to the child; and
- (d) the permission has not been revoked; and
- (e) if the determination were made, the number of flexible PPL days for the child for which parental leave pay would be payable to the person would not exceed the number of flexible PPL days specified in the permission.

Note: The Secretary is prevented from making a determination under this subsection in certain circumstances: see Division 3.

- (3) The Secretary must specify in the determination made under subsection (2) the claimed days for which parental leave pay is payable to the special PPL claimant.

When parental leave pay is not payable to the special PPL claimant for the claimed days

- (4) If the Secretary is not satisfied of the matters in subsection (2) for one or more of the claimed days, the Secretary must:
 - (a) determine that parental leave pay is not payable to the special PPL claimant for those days; and
 - (b) if:
 - (i) the special PPL claimant is the partner of a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made; and
 - (ii) the special PPL claimant has not previously satisfied the work and income tests in relation to the child; and
 - (iii) the Secretary is satisfied that the special PPL claimant satisfies the work test and income test on the day the determination is made;

determine that the special PPL claimant is conditionally eligible for parental leave pay for other flexible PPL days for the child.

- (5) The Secretary must specify in the determination made under subsection (4) the claimed days for which parental leave pay is not payable to the special PPL claimant.

15 Permission to claim flexible PPL days for a child

Certain claimants may give permission

- (1) Permission for PPL claimants to claim parental leave pay for one or more flexible PPL days for a child may be given by the following persons:
- (a) the child's birth mother;
 - (b) a person:
 - (i) who is an adoptive parent of the child; and
 - (ii) in respect of whom a payability determination under section 13 that parental leave pay for the child is payable is in force; and
 - (iii) who is the first adoptive parent of the child in respect of whom a payability determination under section 13 that parental leave pay for the child is payable has been made;
 - (c) an adoptive parent of the child who is nominated by the partner of an adoptive parent of the child to give permission to that partner.
- (2) Permission for special PPL claimants to claim parental leave pay for flexible PPL days for a child may be given by a person:
- (a) who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made; and
 - (b) in respect of whom a payability determination under section 13 that parental leave pay for the child is payable is in force.
- (3) The permission must:
- (a) be given to the Secretary in the form approved by the Secretary; and

- (b) specify the number of flexible PPL days for the child to whom the permission relates that may be claimed; and
- (c) specify the person to whom the permission is given.

Note 1: Subsection 31AB(2) provides for the maximum number of flexible PPL days for a child that are payable.

Note 2: The permission does not preclude the person giving the permission from claiming parental leave pay for some or all of the specified number of flexible PPL days for the child.

Variation and revocation of permission

- (4) If a person has given a permission under subsection (1) or (2), the person may:
 - (a) vary the number of flexible PPL days for the child specified in the permission; or
 - (b) revoke the permission.
- (5) The variation or revocation must be given to the Secretary in the form approved by the Secretary.
- (6) If:
 - (a) a payability determination that parental leave pay is payable to a person for one or more flexible PPL days for a child is in force in relation to a claim; and
 - (b) permission was given in relation to that claim under subsection (1) or (2); and
 - (c) that permission is varied under paragraph (4)(a);then:
 - (d) the variation of the permission does not affect the operation of the payability determination in relation to the days specified in the payability determination that, at the time the permission is varied, have already occurred; and
 - (e) the Secretary must vary the payability determination to remove the days specified in the payability determination that, at the time the permission is varied:
 - (i) have not yet occurred; and
 - (ii) exceed the number of days specified in the permission, as varied; and

- (f) the Secretary must determine that parental leave pay is not payable to the person for the days referred to in paragraph (e).

Note: Subsections 13(5) and (7) (for PPL claims) and 14(3) and (5) (for special PPL claims) provide that determinations must specify the claimed days for which parental leave pay is payable and not payable to a claimant.

(7) If:

- (a) a payability determination is in force in relation to a claim made by a person; and
- (b) permission was given in relation to that claim under subsection (1) or (2); and
- (c) that permission is revoked in relation to the person under paragraph (4)(b);

then:

- (d) the revocation of the permission does not affect the operation of the payability determination in relation to the days specified in the payability determination that, at the time the permission is revoked, have already occurred; and
- (e) the Secretary must vary the payability determination to remove the days specified in the payability determination that, at the time the permission is revoked, have not yet occurred; and
- (f) the Secretary must determine that parental leave pay is not payable to the person for the days referred to in paragraph (e).

Note: Subsections 13(5) and (7) (for PPL claims) and 14(3) and (5) (for special PPL claims) provide that determinations must specify the claimed days for which parental leave pay is payable and not payable to a claimant.

49 Subsection 18(1)

Omit “the primary claimant”, substitute “a PPL claimant”.

50 Sections 19 and 19A

Repeal the sections.

51 Section 21

Repeal the subsection, substitute:

21 Limit on number of flexible PPL days for which parental leave pay is payable to more than one person

- (1) The Secretary must not make a payability determination that parental leave pay is payable to a person for a flexible PPL day (the *relevant day*) for a child if:
 - (a) the effect of one or more payability determinations made by the Secretary under section 13 or 14 is that parental leave pay is payable to more than one person for the same flexible PPL day for the child on a total of 10 flexible PPL days; and
 - (b) the effect of a payability determination made by the Secretary under section 13 or 14 is that parental leave pay is payable to another person for the relevant day.
- (2) However, the PPL rules may prescribe circumstances in which a flexible PPL day does not count towards the total of 10 flexible PPL days referred to in paragraph (1)(a).

52 Paragraph 24(b)

Repeal the paragraph.

53 Paragraphs 25(1)(a) to (c)

Repeal the paragraphs, substitute:

- (a) a payability determination is made that parental leave pay is payable to a person for a flexible PPL day for a child; and
- (b) the person requests the Secretary to revoke the determination; and
- (c) the request is made before the last day of the instalment period for the instalment that relates to the flexible PPL day for the child; and

54 Section 26

Repeal the section.

55 Paragraph 26A(a)

Omit “effective primary claim or effective secondary claim”, substitute “effective PPL claim or effective special PPL claim”.

56 Paragraph 26A(b)

Omit “or section 26”.

57 Paragraph 26A(c)

Omit “if the person is a primary claimant—”.

58 Section 30

Repeal the section, substitute:

30 Guide to this Part

This Part sets out when a person is eligible for parental leave pay. The Secretary cannot make a payability determination that parental leave pay is payable if the person is not eligible for it.

Division 2 sets out when a person is eligible for parental leave pay. Section 31AA sets out when a person is eligible for parental leave pay on a flexible PPL day for a child. Section 31AB sets out the maximum number of flexible PPL days for a child for which parental leave pay can be paid. This includes, subject to certain exceptions, the 10 flexible PPL days that are reserved for other claimants where a claimant has a partner at the time of their first effective claim.

Division 3 has the work test. To satisfy the work test, a person must have performed enough paid work or taken enough paid leave in a particular period. A flexible PPL day for a previous child for which parental leave pay was payable to the person may be taken into account in working out whether the person satisfies the work test for a subsequent child. Any jobkeeper payment period or COVID-19 Australian Government payment period for the person may also be taken into account. Special rules apply in the case of premature birth or complications or illness related to the pregnancy (see section 36A) or in special circumstances (see section 36AA).

Division 4 has the income test. To satisfy the income test, the person's income for a particular income year must not be more than either the individual PPL income limit (which is \$150,000 until 30 June 2021 and then indexed) or the family PPL income limit (which is \$350,000 until 30 June 2024 and then indexed). If the person has a partner, their partner's income is also counted towards the family PPL income limit.

Division 5 has the Australian residency test. To satisfy this test, the person must be an Australian resident or be in a special class of visa holder.

Division 6 sets out when a person is caring for a child.

59 Section 31

Repeal the section.

60 Paragraph 31AA(2)(b)

Omit "the primary carer of", substitute "caring for".

61 Paragraph 31AA(2)(c)

Repeal the paragraph, substitute:

(c) on that day the person is performing no more than one hour of paid work; and

62 Paragraph 31AA(2)(e)

Omit "if the person is the primary claimant—".

63 Paragraph 31AA(3)(c)

Omit "the child's primary carer", substitute "caring for the child".

64 Paragraph 31AA(4)(a)

Repeal the paragraph.

65 Paragraph 31AA(5)(a)

Omit "secondary claimant or tertiary claimant", substitute "PPL claimant or special PPL claimant".

66 Subsections 31AB(2) to (5)

Repeal the subsections, substitute:

When flexible PPL days exceed maximum amounts—general rule

- (2) The relevant claimant is not eligible for parental leave pay on a flexible PPL day for the child if:
 - (a) the relevant claimant is not a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made; and
 - (b) on that day, either subsection (3) or (4) applies to the relevant claimant.
- (3) This subsection applies to the relevant claimant if:
 - (a) the following conditions are satisfied:
 - (i) the relevant claimant has a partner at the time the relevant claimant makes their first effective claim in relation to the child;
 - (ii) one or more determinations under section 13 or 14 that parental leave pay is payable to the relevant claimant are in force in relation to 90 flexible PPL days for the child;
 - (iii) the relevant claimant does not satisfy the circumstances prescribed by the PPL rules for the purposes of this subparagraph; or
 - (b) the relevant claimant satisfies the circumstances prescribed by the PPL rules for the purposes of this paragraph.
- (4) This subsection applies to the relevant claimant if one or more determinations under section 13 or 14 that parental leave pay is payable to a person (other than a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made) are in force in relation to 100 flexible PPL days for the child.

When flexible PPL days exceed maximum amounts—exceptional circumstances rule

- (5) The relevant claimant is not eligible for parental leave pay on a flexible PPL day for the child if:
- (a) the relevant claimant is a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made; and
 - (b) on that day, one or more determinations under section 13 or 14 that parental leave pay is payable to the relevant claimant and the relevant claimant's partner (if any) are in force in relation to 100 flexible PPL days for the child.

67 Subsections 31A(5) and (6)

Repeal the subsections.

68 At the end of subparagraph 31A(6A)(b)(iv)

Add “and”.

69 Subparagraph 31A(6A)(b)(v)

Repeal the subparagraph.

70 Paragraph 31A(6A)(c)

Repeal the paragraph, substitute:

- (c) the person was also receiving any of the things mentioned in subparagraphs (b)(i) to (iv) on the day the child was born;

71 Paragraphs 31A(6B)(a) to (c)

Repeal the paragraphs, substitute:

- (b) a person has made an effective claim for parental leave pay for a period of at least 10 flexible PPL days for a child; and
- (c) that period consists only of consecutive flexible PPL days for the child that are week days; and

72 Paragraph 31A(6B)(d)

Omit “the person’s PPL period for the child”, substitute “that period”.

73 Paragraph 31A(6B)(e)

Omit “if the person is the primary claimant—”.

74 Subsections 31A(7) and (7A)

Omit “Subsections 31(6) and 31AB(7) do”, substitute “Subsection 31AB(7) does”.

75 Section 32 (method statement, step 1, note)

Omit “primary claimants and secondary claimants and in section 115CD for DAPP claimants”, substitute “PPL claimants and special PPL claimants”.

76 Section 32 (note 1)

Omit “See sections 36A (for claimants for parental leave pay) and 115CE (for DAPP claimants).”, substitute “See section 36A.”.

77 Section 32 (note 2)

Repeal the note.

78 Subsection 33(1A)

Repeal the subsection (not including the note), substitute:

Application of section

- (1A) This section applies in relation to a PPL claimant or special PPL claimant who is not a COVID-19 affected claimant in relation to a claim for parental leave pay for a child.
- (1B) If a provision of this Act or the PPL rules requires a person (the **first person**) to satisfy the work test on a day for the purposes of a PPL claim or special PPL claim made by another person, this section applies as if a reference to a PPL claimant or special PPL claimant were a reference to the first person.

79 Subsection 33(1) (heading)

Repeal the heading, substitute:

Work test period

80 Subsection 33(1)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

81 Subparagraphs 33(1)(a)(i) and (ii) and (b)(i) and (ii)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

82 Subsection 33(2)

Omit “primary claim”, substitute “PPL claim or special PPL claim”.

83 Subsection 33(2)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

84 Subparagraphs 33(2)(a)(i) and (ii)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

85 Subsection 33(2A)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

86 Paragraphs 33(2A)(a) to (c)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

87 Subsection 33(3)

Repeal the subsection.

88 Subsection 33A(1)

Omit “(1)”.

89 Subsection 33A(1)

Omit “primary claimant”, substitute “PPL claimant or special PPL claimant”.

90 Subsection 33A(2)

Repeal the subsection.

91 Paragraphs 34(1)(c) and (d)

Repeal the paragraphs.

92 Section 35A (heading)

Omit “day in a PPL or DAPP period”, substitute “flexible PPL day”.

93 Subsection 35A(1)

Repeal the subsection, substitute:

If person does not perform paid work or take paid leave on previous flexible PPL day

- (1) For the purposes of step 5 of the method statement in section 32, if a person performs qualifying work on a day only because the day is a flexible PPL day for a previous child, the person is taken to have performed 7.6 hours of work on that day.

94 Subsection 35A(2) (heading)

Omit “in previous PPL or DAPP period”, substitute “on previous flexible PPL day”.

95 Paragraph 35A(2)(b)

Omit “in the person’s PPL period or DAPP period”, substitute “a flexible PPL day for which parental leave pay is payable to the person”.

96 Subsection 35A(2) (note)

Repeal the note.

97 Subsection 35A(3) (heading)

Omit “in previous PPL or DAPP period”, substitute “on previous flexible PPL day”.

98 Paragraph 35A(3)(b)

Omit “in the person’s PPL period or DAPP period”, substitute “a flexible PPL day for which parental leave pay is payable to the person”.

99 Paragraph 35B(2)(a)

Omit “, (c) or (d)”, substitute “or (ca)”.

100 Paragraph 35C(2)(a)

Omit “, (c), (ca) or (d)”, substitute “or (ca)”.

101 Section 36B

Repeal the section.

102 Section 37

Repeal the section, substitute:

37 When a person satisfies the *income test*

- (1) A person satisfies the *income test* on a day:
 - (a) that is a flexible PPL day for a child of the person; or
 - (b) on which a conditional eligibility determination or initial eligibility determination is made in relation to the person;if the person’s adjusted taxable income for the reference income year is not more than the relevant individual PPL income limit.
- (2) A person satisfies the *income test* on a day:
 - (a) that is a flexible PPL day for a child of the person; or
 - (b) on which a conditional eligibility determination or initial eligibility determination is made in relation to the person;if:
 - (c) the person does not have a partner at the time the person makes the claim to which that flexible PPL day or determination relates; and
 - (d) the person’s adjusted taxable income for the reference income year is not more than the relevant family PPL income limit.
- (3) A person satisfies the *income test* on a day:
 - (a) that is a flexible PPL day for a child of the person; or
 - (b) on which a conditional eligibility determination or initial eligibility determination is made in relation to the person;if:

-
- (c) the person has a partner at the time the person makes the claim to which that flexible PPL day or determination relates; and
 - (d) the total of the following amounts is not more than the relevant family PPL income limit:
 - (i) the person's adjusted taxable income for the reference income year;
 - (ii) the adjusted taxable income of the person's partner for the reference income year.

103 Paragraph 39(a)

Omit "if the person is a primary claimant—".

104 Subparagraph 39(a)(ii)

Omit "born; and", substitute "born.".

105 Paragraph 39(b)

Repeal the paragraph.

106 Section 39 (note)

Repeal the note.

107 Section 40

Repeal the section, substitute:

40 The *relevant individual PPL income limit* and *relevant family PPL income limit*

- (1) The *relevant individual PPL income limit* for a PPL claimant or special PPL claimant is the individual PPL income limit that applies on the earlier of the following days:
 - (a) the day the person made the claim;
 - (b) the day the child was born.
- (2) The *relevant family PPL income limit* for a PPL claimant or special PPL claimant is the family PPL income limit that applies on the earlier of the following days:
 - (a) the day the person made the claim;

(b) the day the child was born.

108 Section 41 (heading)

Repeal the heading, substitute:

41 The *individual PPL income limit* and *family PPL income limit*

109 Section 41

Omit “The *PPL income limit*”, substitute “(1) The *individual PPL income limit*”.

110 At the end of section 41

Add:

- (2) The *family PPL income limit* that applies on a day is:
- (a) if the day is on or after 1 July 2023 but before 1 July 2024—\$350,000; and
 - (b) if the day is on or after an indexation day (the *relevant indexation day*) but before the next indexation day—the indexed amount on the relevant indexation day worked out under Subdivision B.

111 Subdivision B of Division 4 of Part 2-3 (heading)

Omit “the *PPL income limit*”, substitute “*individual and family PPL income limits*”.

112 Section 42 (heading)

Omit “the *PPL income limit*”, substitute “*individual and family PPL income limits*”.

113 Subsections 42(1) and (2)

Repeal the subsections (not including the method statement), substitute:

Indexation day

- (1) Subject to subsection (2), the amount of the individual PPL income limit and the amount of the family PPL income limit are to be indexed under this Subdivision on 1 July each year (the *indexation day*).

- (2) The first indexation day for an amount of the individual PPL income limit is 1 July 2021 and the first indexation day for an amount of the family PPL income limit is 1 July 2024.

Working out the indexed amount for the individual and family PPL income limits

- (3) This is how to work out the **indexed amount** for the individual and family PPL income limits on the indexation day:

114 Subsection 42(2) (method statement, step 1)

Omit “PPL income limit”, substitute “relevant income limit”.

115 Division 6 of Part 2-3

Repeal the Division, substitute:

Division 6—Caring for a child

47 When a person is *caring* for a child

- (1) A person is ***caring*** for a child on a day if the child is in the person’s care on that day.

Note: More than one person may be caring for the same child on any particular day.

- (2) Despite subsection (1), a person is not ***caring*** for a child on a day if, before that day, the child has died.

116 Division 7 of Part 2-3

Repeal the Division.

117 Section 51 (paragraph beginning “Division 2”)

Repeal the paragraph, substitute:

Division 2 sets out the rules about claims. There are 2 types of claims: PPL claims and special PPL claims. These claims relate to each other, although PPL claims are the main type of claim. PPL claims will often be the only claims that are made. Section 54 sets out who can make each type of claim.

118 Sections 53 and 54

Repeal the sections, substitute:

53 Types of claims

- (1) There are 2 types of claims for parental leave pay:
 - (a) a PPL claim; and
 - (b) a special PPL claim.
- (2) A **PPL claim** is a claim in the form approved by the Secretary for PPL claims.
- (3) A **special PPL claim** is a claim in the form approved by the Secretary for special PPL claims.
- (4) For the purposes of subsections (2) and (3), the Secretary may approve:
 - (a) different forms for different types of claims; and
 - (b) different forms for the same type of claim.

54 Who can make a PPL claim or special PPL claim

PPL claim

- (1) Only the following people can make a PPL claim for a child:
 - (a) the child's birth mother;
 - (b) an adoptive parent of the child;
 - (c) a person who:
 - (i) is a parent of the child; and
 - (ii) is not the child's birth mother;
 - (d) the partner of the child's birth mother;
 - (e) the partner of an adoptive parent of the child;
 - (f) the partner of a person covered by paragraph (c);
 - (g) a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made.

Special PPL claim

- (2) Only the following people can make a special PPL claim for a child:
- (a) the partner of a person covered by paragraph (1)(g);
 - (b) a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a special PPL claim can be made.

119 Paragraph 55(1)(b)

Repeal the paragraph.

120 After paragraph 55(1)(d)

Insert:

- (da) section 59A (which deals with permission to make claims for flexible PPL days for a child);

121 Section 57

Repeal the section.

122 Subsection 57A(1) (note)

Repeal the note.

123 Subsection 57A(2)

Omit “42 days”, substitute “100 days”.

124 Subsection 57A(2A)

Repeal the subsection, substitute:

- (2A) Subsection (2) does not apply to the claim if:
- (a) the claimant is a COVID-19 affected claimant in relation to the claim; or
 - (b) the claimant is a PPL claimant who satisfies the work test in relation to the claim by reason of at least one day in the claimant’s work test period being a day in a COVID-19 Australian Government payment period for the claimant.

125 Section 58

Repeal the section, substitute:

58 Expected date of birth

If the claim is a PPL claim and it is made before the child's birth, the claim must specify the child's expected date of birth.

126 After section 59

Insert:

59A Permission to make claims for flexible PPL days for a child

When permission is required for an effective claim

- (1) A PPL claim for parental leave pay for one or more flexible PPL days for a child that is made by the following persons is not an effective claim unless permission to make a claim in relation to the child is given, and has not been revoked, by the child's birth mother:
 - (a) a person who:
 - (i) is a parent (other than an adoptive parent) of the child; and
 - (ii) is not the child's birth mother;
 - (b) the partner of the child's birth mother;
 - (c) the partner of a person covered by paragraph (a).
- (2) However, subsection (1) does not apply to a person who makes a PPL claim in the circumstances prescribed by the PPL rules.
- (3) A PPL claim for parental leave pay for one or more flexible PPL days for a child that is made by the partner of an adoptive parent of the child is not an effective claim unless permission to make the claim in relation to the child is given, and has not been revoked, by:
 - (a) if:
 - (i) a payability determination under section 13 that parental leave pay for the child is payable has been made in relation to an adoptive parent of the child; and

-
- (ii) that determination is the first payability determination under section 13 that parental leave pay for the child is payable that has been made in relation to an adoptive parent of the child;
that adoptive parent; or
- (b) otherwise—an adoptive parent of the child who is nominated by the partner to give permission.
- (4) A special PPL claim for parental leave pay for one or more flexible PPL days for a child that is made by the partner of a person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made is not an effective claim unless:
- (a) permission to make a claim in relation to the child is given, and has not been revoked, by the person who satisfies the circumstances prescribed by the PPL rules as being exceptional circumstances in which a PPL claim can be made; and
- (b) a payability determination under section 13 that parental leave pay for the child is payable is in force in relation to that person.
- (5) The permission must:
- (a) be given to the Secretary in the form approved by the Secretary; and
- (b) specify the person to whom the permission is given.
- Note: The permission does not need to specify the number of flexible PPL days for the child in relation to which a claim to which the permission relates may be made.
- Revocation of permission*
- (6) If a person has given permission under subsection (1), (3) or (4), the person may revoke the permission.
- (7) The revocation must be given to the Secretary in the form approved by the Secretary.

127 Subsection 60(1)

Repeal the subsection.

128 Subsection 60(2)

Omit “(2)”.

129 Paragraph 60(2)(b)(i)

Omit “primary claimant”, substitute “PPL claimant”.

130 Section 62 (paragraph beginning “Parental leave”)

Repeal the paragraph, substitute:

Parental leave pay is payable in instalments for regular periods called instalment periods. An instalment is payable to a person if one or more flexible PPL days for a child of the person fall within an instalment period for the person and parental leave pay is payable to the person for those days.

131 Subsection 63(3)

Repeal the subsection, substitute:

When an instalment is payable

- (3) An instalment is payable to a person if one or more flexible PPL days for a child of the person:
 - (a) fall within an instalment period for the person; and
 - (b) are days for which parental leave pay is payable to the person.

132 Subsection 65(1)

Repeal the subsection, substitute:

- (1) The amount of an instalment payable to a person is the sum of the daily national minimum wage amounts for each day, during the instalment period to which the instalment relates, that is:
 - (a) a flexible PPL day for a child of the person; and
 - (b) a day for which parental leave pay is payable to the person.

133 Subsection 67(2)

Omit “secondary claimant”, substitute “PPL claimant or special PPL claimant”.

134 Paragraph 67(2)(a)

Omit “a primary claimant”, substitute “another PPL claimant or special PPL claimant”.

135 Paragraph 67(2)(a)

Omit “the primary claimant”, substitute “that other PPL claimant or special PPL claimant”.

136 Paragraph 67(2)(b)

Omit “secondary claimant”, substitute “first PPL claimant or special PPL claimant”.

137 Section 71 (after the paragraph beginning “This Part”)

Insert:

Division 1A sets out when a person has a continuous flexible period.
--

138 Section 71 (paragraph (b) of the paragraph beginning “Under Division 2”)

Omit “either a day that falls within the person’s PPL period for the child or”.

139 After section 71

Insert:

Division 1A—Continuous flexible periods**71A When a person has a *continuous flexible period***

If:

(a) either:

- (i) one or more payability determinations that parental leave pay is payable to a person for a period (the ***relevant period***) of one or more flexible PPL days for a child are in force under section 13 or 14; or

- (ii) one or more initial eligibility determinations for a person for a period (the *relevant period*) of one or more flexible PPL days for a child are in force under section 26A; and
 - (b) the relevant period only consists of consecutive flexible PPL days for the child that are week days; and
 - (c) the relevant period consists of at least 40 consecutive flexible PPL days for the child that are week days;
- then the person's *continuous flexible period* for the child is the period that:
- (d) starts on the first day in the relevant period; and
 - (e) ends on the earlier of the following days:
 - (i) the last day in the relevant period;
 - (ii) the day before the child's first birthday.

140 Subsection 72(1A)

Repeal the subsection (not including the notes), substitute:

- (1A) If an employer is required under subsection (1) to pay an instalment to a person in relation to a child of the person, the requirement only applies to the extent that the instalment is payable in relation to a flexible PPL day for the child that falls within the continuous flexible period mentioned in the employer notice relating to the employer determination.

141 Subsection 72(1A) (note 2)

Omit "PPL period, or continuous flexible period," substitute "continuous flexible period".

142 Subsection 72(1A) (note 2)

Omit ", 92".

143 Paragraphs 72(2)(a) and (b)

Omit "PPL period", substitute "continuous flexible period".

144 Paragraphs 77(2)(c) and (d)

Repeal the paragraphs.

145 Paragraphs 82(1)(f) and (g)

Repeal the paragraphs, substitute:

- (f) the person performs more than one hour of paid work for the employer at any time during the person's continuous flexible period for the child;
- (g) the person ceases to be employed by the employer before the end of the person's continuous flexible period for the child;

146 Subparagraph 82(3)(b)(i)

Omit "the day after the person's PPL period for the child ends or, if the person has a continuous PPL period for the child,".

147 Subsection 84(2A)

Repeal the subsection (not including the note), substitute:

Instalments relating to certain flexible PPL days

- (2A) The Secretary must pay an instalment that is payable to a person to the extent that the instalment is payable in relation to a day that does not fall within the person's continuous flexible period for the child that is mentioned in an employer notice relating to an employer determination made for the person and the person's employer.

148 Paragraph 84(3)(b)

Omit "PPL period", substitute "continuous flexible period".

149 Paragraph 84(5)(b)

Repeal the paragraph, substitute:

- (b) the instalment relates to an instalment period that starts on or after the day (the *transfer day*) after the last flexible PPL day for the child that falls within the person's continuous flexible period for the child and for which the Secretary has paid the employer a PPL funding amount for the person; and

150 Subsection 85(2)

Omit "PPL period", substitute "continuous flexible period".

151 Section 87 (heading)

Omit “PPL period or”.

152 Subsection 87(1)

Omit “92 or”.

153 Section 90 (paragraph beginning “Some of”)

Omit “an employer or the Secretary becomes required to pay instalments to a person after the person’s PPL period for a child has already started”, substitute “a person’s continuous flexible period is extended after review”.

154 Section 91 (heading)

Omit “PPL period”, substitute “continuous flexible period”.

155 Paragraphs 91(a) and (c)

Omit “PPL period”, substitute “continuous flexible period”.

156 Section 92

Repeal the section.

157 Subparagraph 101(1)(a)(i)

Omit “, 14, 15, 16 or 17”, substitute “or 14”.

158 Subparagraph 101(1)(a)(ii)

Omit “26”, substitute “26A”.

159 Paragraph 101(1)(b)

After “consecutive”, insert “flexible PPL”.

160 Paragraphs 101(1)(d) and (da)

Repeal the paragraphs, substitute:

- (d) the person has a continuous flexible period for the child and is likely to be an Australian-based employee of the employer during that period; and
- (da) there are no other flexible PPL days prior to the person’s continuous flexible period in respect of which:

-
- (i) parental leave pay is payable to the person for the child;
or
 - (ii) the person is initially eligible for parental leave pay for the child; and

161 Subsection 101(1) (note)

Repeal the note.

162 Paragraphs 101(4)(a) and (b)

Repeal the paragraphs, substitute:

- (a) the person's continuous flexible period for the child has ended;
- (b) the person is a special PPL claimant;

163 Subparagraphs 101(4)(d)(i) and (ii)

Repeal the subparagraphs, substitute:

- (i) the person is a PPL claimant or special PPL claimant for parental leave pay for a child;
- (ii) another PPL claimant or special PPL claimant for parental leave pay for the same child owes a debt to the Commonwealth in relation to amounts paid to, or in relation to, that other PPL claimant or special PPL claimant by way of instalments for that child;

164 Paragraphs 102(3)(b) to (da)

Repeal the paragraphs, substitute:

- (b) whether the Secretary has made a payability determination under section 13 or 14 that parental leave pay is payable to the person for the child;
- (c) the person's continuous flexible period for the child;

165 Subsection 104(3)

Repeal the subsection, substitute:

Pay cycle information

- (3) The acceptance notice must contain the following information (***pay cycle information***) for the person:

- (a) the person's instalment period;
- (b) the first day of the first instalment period for the person that overlaps with the person's continuous flexible period for the child;
- (c) the payday and the payroll cut-off for an instalment that would be payable for the first instalment period for the person.

166 Paragraph 105(1)(c)

Repeal the paragraph, substitute:

- (c) the person's continuous flexible period for the child has not ended;

167 Paragraph 107(3)(b)

Repeal the paragraph, substitute:

- (b) the person's continuous flexible period for the child has not ended by the day the Secretary receives the notice;

168 Subsections 108(1A) and (1B)

Repeal the subsections, substitute:

- (1A) The Secretary must revoke an employer determination made for a person and the person's employer in relation to a child of the person if the Secretary is satisfied that a decision (whether or not the decision is a payability determination) has been made that has the effect that parental leave pay is not payable to the person for one or more flexible PPL days for the child that fall within the person's continuous flexible period for the child that is mentioned in the employer notice relating to the employer determination.

169 Paragraph 108(1C)(a)

Repeal the paragraph.

170 Paragraph 108(1C)(b)

Omit "17A, 17B or 17C", substitute "13 or 14".

171 Subsection 108(1D)

Omit ", (1B)".

172 Paragraph 112(a)

Repeal the paragraph, substitute:

- (a) if paragraph 109(3)(a) applies—the specified employee’s continuous flexible period for the child ends;

173 Paragraph 113(1)(b)

Omit “, 14, 15, 16 or 17”, substitute “or 14”.

174 Paragraph 113(2)(b)

Repeal the paragraph, substitute:

- (b) if parental leave pay is payable—the person’s continuous flexible period for the child; and

175 Subsection 113(2) (note)

Omit “subsections 108(1A) and (1B)”, substitute “subsection 108(1A)”.

176 Paragraph 114(2)(b)

Repeal the paragraph.

177 Chapter 3A

Repeal the Chapter.

178 Section 116 (paragraph beginning “Subdivision C”)

Omit “, or to whom dad and partner pay is payable,”.

179 Paragraph 117(1)(a)

Omit “who has made an effective claim for parental leave pay”, substitute “has made an effective claim for parental leave pay, and, if so, whether the person”.

180 Subsection 117(2)

Repeal the subsection.

181 Subsection 117(3)

Omit “or (2)”.

182 Paragraph 122(1)(a)

Omit “or (2)(c) (which deal with information about bank accounts)”, substitute “(which deals with information about bank accounts)”.

183 Paragraph 123(a)

Omit “or dad and partner pay”.

184 Paragraph 124(2)(b)

Omit “pay;”, substitute “pay.”.

185 Paragraphs 124(2)(c) and (d)

Repeal the paragraphs.

186 Subsection 125(2)

Repeal the subsection.

187 Section 133 (heading)

Omit “, PPL funding amount or dad and partner pay”, substitute “or PPL funding amount”.

188 Subparagraph 133(1)(b)(ii)

Omit “offence; or”, substitute “offence.”.

189 Subparagraph 133(1)(b)(iii)

Repeal the subparagraph.

190 Paragraph 138(2)(a)

Omit “, a PPL funding amount or dad and partner pay”, substitute “or a PPL funding amount”.

191 Section 164 (paragraph beginning “(a)”)

Omit “or dad and partner pay”.

192 Section 164 (paragraph beginning “(c)”)

Omit “, PPL funding amounts or dad and partner pay”, substitute “or PPL funding amounts”.

193 Section 165

Omit “, a PPL funding amount or dad and partner pay”, substitute “or a PPL funding amount”.

194 Paragraphs 166(3)(a) and (aa)

Repeal the paragraphs, substitute:

- (a) if the other person has a continuous flexible period for the child—immediately after the end of that continuous flexible period; or

195 Subsection 166(3) (note 1)

Repeal the note.

196 Subsection 166(3) (note 2)

Omit “Note 2”, substitute “Note”.

197 Subsection 168(3)

Repeal the subsection (including the notes), substitute:

- (3) The debt under subsection (2) arises when subsection (1) starts to apply in relation to an amount paid to the first person.

Note: This section may apply to overpayments by way of PPL funding amounts or amounts that are mistakenly paid. For example, an overpayment or mistaken payment may arise due to administrative error or the revocation or setting aside of an employer determination.

198 Section 168A

Repeal the section.

199 Section 169 (heading)

Omit “, PPL funding amount or dad and partner pay”, substitute “or PPL funding amount”.

200 Paragraph 169(1)(a)

Omit “, a PPL funding amount or dad and partner pay”, substitute “or a PPL funding amount”.

201 Paragraph 171(a)

Omit “or by way of dad and partner pay”.

202 Subsection 191(1)

Omit “secondary claimant”, substitute “PPL claimant or special PPL claimant”.

203 Subsection 191(1)

Omit “the primary claimant”, substitute “another PPL claimant or special PPL claimant”.

204 Subsection 191(2)

Omit “the primary claimant”, substitute “that other PPL claimant or special PPL claimant”.

205 Paragraph 192(1)(a)

Omit “, a PPL funding amount or dad and partner pay”, substitute “or a PPL funding amount”.

206 Paragraph 192(2)(a)

Omit “, PPL funding amount or dad and partner pay”, substitute “or PPL funding amount”.

207 Subparagraph 215(2)(a)(ii)

Repeal the subparagraph, substitute:
(ii) paragraph 25(1)(c);

208 Subparagraphs 215(2)(a)(vii) to (viid)

Repeal the subparagraphs.

209 Subparagraph 273(1)(a)(i)

Omit “or dad and partner pay”.

210 Subparagraph 273(1)(a)(ii)

Omit “, or dad and partner pay,”.

211 Paragraph 273(1)(c)

Omit “or dad and partner pay”.

212 Section 274 (paragraph beginning “Division 3”)

Omit “circumstance,”, substitute “circumstances,”.

213 Section 277 (heading)

Omit “Primary carers”, substitute “Caring for a child”.

214 Subsection 277(1)

Omit “31,”.

215 Subsection 277(1)

Omit all the words after “as if a reference to the claimant” (not including the note), substitute “caring for the child were a reference to the claimant caring for the child had the child not been stillborn or died”.

216 Subsection 277(1) (note)

Repeal the note, substitute:

Note: Section 31AA deals with eligibility for parental leave pay and section 47 defines when a person is caring for a child.

217 Subsection 277(1A)

Repeal the subsection.

218 Subsection 277(2)

Omit “or (1A)”.

219 Division 3A of Part 6-1

Repeal the Division.

220 Division 5 of Part 6-1 (heading)

Omit “or dad and partner pay”.

221 Section 278A

Omit “or dad and partner pay”.

222 Section 278B (heading)

Omit “or dad and partner pay”.

223 Paragraphs 278B(1)(a) to (c)

Omit “or dad and partner pay”.

224 Paragraph 278B(2)

Repeal the subsection.

225 Paragraphs 278B(3)(a) and (b)

Omit “or dad and partner pay”.

226 Subsection 278B(5)

Repeal the subsection.

227 Paragraph 278C(2)(a)

Omit “or dad and partner pay”.

228 Subsection 278H(4)

Repeal the subsection.

229 Section 279 (paragraph beginning “This Part”)

Omit “, or payments of dad and partner pay,”.

230 Paragraph 280(1)(a)

Omit “or dad and partner pay, or both”.

231 Paragraphs 280(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) direct that the whole or a specified part of an instalment payable by the Secretary to the nominee’s PPL under Part 3-3 be paid to the nominee.

232 Subsection 281(1)

Omit “or dad and partner pay, or both”.

233 Section 284A

Repeal the section.

234 Subsections 285(4) to (6) and 286(1A)

Repeal the subsections.

235 Subsection 286(2)

Omit “or (1A)”.

236 Paragraphs 286(3)(a) and (4)(a)

Omit “or (1A)”.

237 Subsection 289(1)

Omit “, or a payment of dad and partner pay,”.

Schedule 2—Consequential amendments

A New Tax System (Family Assistance) Act 1999

1 Subsection 3(1)

Insert:

flexible PPL day has the same meaning as in the *Paid Parental Leave Act 2010*.

2 Subsection 3(1) (definition of *has a continuous PPL period*)

Repeal the definition.

3 Subsection 3(1)

Insert:

parental leave pay has the same meaning as in the *Paid Parental Leave Act 2010*.

4 Subsection 3(1) (definition of *PPL period*)

Repeal the definition.

5 Paragraph 61AA(7)(c)

Omit “, or dad and partner pay,”.

6 After subsection 61AA(7)

Insert:

- (7A) Subsection (1) does not apply to an individual in respect of each day in the newly arrived resident’s waiting period for the individual that occurs in a period that:
- (a) includes at least 10 consecutive week days which parental leave pay under the *Paid Parental Leave Act 2010* is payable to the individual; and
 - (b) starts and ends on the first and last of those consecutive days.

7 Paragraphs 35A(9)(a) and (b) of Schedule 1

Repeal the paragraphs, substitute:

-
- (a) parental leave pay is payable to a person (other than the individual) for a flexible PPL day for that child; and
 - (b) the person and the individual are members of a couple on that day.

A New Tax System (Family Assistance) (Administration) Act 1999

8 Subsection 3(1) (definition of *maximum PPL period*)

Repeal the definition.

9 Paragraph 39(4)(b)

Repeal the paragraph, substitute:

- (b) the claimant, or the claimant's partner, is given a notice under section 24 of that Act in relation to the claim for parental leave pay that states that parental leave pay is not payable and no determination of the kind mentioned in paragraph 13(6)(b) or 14(4)(b) of that Act has been made; and

10 Subparagraph 41(3)(c)(i)

Repeal the subparagraph.

11 Subparagraph 41(3)(c)(ii)

Omit "if the person does not have a PPL period for the child but parental leave pay is payable to the person for one or more flexible PPL days for the child specified in the claim—".

12 Paragraph 41(3)(d)

Repeal the paragraph, substitute:

- (d) the claimant, or the claimant's partner, is given a notice under section 24 of that Act in relation to the claim for parental leave pay that states that parental leave pay is not payable and no determination of the kind mentioned in paragraph 13(6)(b) or 14(4)(b) of that Act has been made;

Data-matching Program (Assistance and Tax) Act 1990

13 Subsection 3(1) (paragraph (e) of the definition of *personal assistance*)

Omit “or”.

14 Subsection 3(1) (paragraph (f) of the definition of *personal assistance*)

Repeal the paragraph.

Fair Work Act 2009

15 Subsection 79A(4) (note)

Repeal the note.

Income Tax Assessment Act 1997

16 Subsection 995-1(1) (definition of *dad and partner pay*)

Repeal the definition.

Social Security Act 1991

17 Subsection 8(1) (definition of *dad and partner pay*)

Repeal the definition.

18 Paragraph 8(1A)(h)

Omit “pay; or”, substitute “pay.”.

19 Paragraph 8(1A)(i)

Repeal the paragraph.

20 Subsection 23(1) (definition of *dad and partner pay*)

Repeal the definition.

21 Paragraph 93WC(2)(ab)

Repeal the paragraph.

22 Paragraph 966(4)(c)

Omit “, or dad and partner pay,”.

23 Points 1064-F14, 1066A-G14, 1067G-H20, 1067L-D16, 1068-G7AR, 1068A-E12 and 1068B-D18 (definition of *leave payment*)

Repeal the definitions, substitute:

leave payment includes a payment in respect of sick leave, annual leave, maternity leave and long service leave, but does not include an instalment of parental leave pay.

24 Point 1071A-4 (paragraph (f) of the definition of *income*)

Omit “pay; and”, substitute “pay.”.

25 Point 1071A-4 (paragraph (g) of the definition of *income*)

Repeal the paragraph.

26 Paragraph 1228(2)(cb)

Repeal the paragraph.

Taxation Administration Act 1953**27 Paragraph 12-110(1)(cb) in Schedule 1**

Repeal the paragraph.

28 Subsection 16-155(3) in Schedule 1 (heading)

Omit “*or dad and partner pay*”.

29 Paragraphs 16-155(3)(a) and 16-160(3)(a) in Schedule 1

Omit “*or *dad and partner pay*”.

30 Subparagraphs 18-65(1)(b)(ii) and 18-70(1)(b)(ii) in Schedule 1

Omit “*or *dad and partner pay*”.

31 Subsection 389-5(1) in Schedule 1 (table item 1, column 1, paragraph (a))

Omit “or (cb)”.

Veterans’ Entitlements Act 1986

32 Subsections 5H(1) and 5Q(1) (definition of *dad and partner pay*)

Repeal the definitions.

33 Paragraph 45UUC(2)(ab)

Repeal the paragraph.

34 Paragraph 46AB(1)(h)

Omit “pay; or”, substitute “pay.”.

35 Paragraph 46AB(1)(i)

Repeal the paragraph.

36 Paragraph 205(1)(cc)

Repeal the paragraph.

37 Paragraph 205(2)(a)

Omit “, (cc)”.

38 Subsection 205(8) (paragraph (ba) of the definition of *excluded amount*)

Omit “, (cc)”.

39 Subsection 205(8) (paragraph (a) of the definition of *recoverable amount*)

Omit “, (cc)”.

Schedule 3—Application, savings and transitional provisions

1 Definitions

In this Schedule:

commencement day means 26 March 2023.

new law means the PPL Act, as amended by Schedule 1 to this Act.

old law means all of the following, as in force immediately before the commencement day:

- (a) the PPL Act;
- (b) instruments (whether legislative or administrative) made under the PPL Act;
- (c) the Acts amended by Schedule 2 to this Act.

PPL Act means the *Paid Parental Leave Act 2010*.

transition period means the period that starts on 26 March 2023 and ends on 30 June 2023.

2 Application of amendments to claims

Pre-commencement claim—child born before commencement

- (1) Despite the amendments made by this Act, the old law continues to apply on and after the commencement day in relation to a claim for parental leave pay or dad and partner pay for a child if:
 - (a) the claim was made before the commencement day; and
 - (b) the child was born before that day.

Pre-commencement claim—unborn child with expected date of birth before 1 July 2023

- (2) Despite the amendments made by this Act, the old law continues to apply on and after the commencement day in relation to a claim for parental leave pay or dad and partner pay for a child if:
 - (a) the claim was made before the commencement day; and
 - (b) the child was not born at the time of the claim; and
 - (c) the expected date of birth of the child is before 1 July 2023.

- (3) However, if on 1 July 2023 a child in respect of whom a claim referred to in subitem (2) has been made has not been born, then on and after that day the claim is taken to be a claim for parental leave pay under the new law, and the new law applies in relation to the claim on and after that day.

Transition period claim—child born before claim is made

- (4) Despite the amendments made by this Act, a claim for parental leave pay or dad and partner pay for a child may be made during the transition period in relation to a child born before 1 July 2023, and the old law continues to apply to the claim as if those amendments had not been made.

Transition period claim—unborn child with expected date of birth before 1 July 2023

- (5) Despite the amendments made by this Act, a claim for parental leave pay or dad and partner pay for a child may be made during the transition period, and the old law continues to apply to the claim as if those amendments had not been made, if:
- (a) the child has not been born at the time of the claim; and
 - (b) the expected date of birth of the child is before 1 July 2023.

- (6) However, if on 1 July 2023 a child in respect of whom a claim referred to in subitem (5) has been made has not been born, then on and after that day the claim is taken to be a claim for parental leave pay under the new law, and the new law applies in relation to the claim on and after that day.

Transition period claim—unborn child with expected date of birth on or after 1 July 2023

- (7) The new law applies in relation to a claim for parental leave pay made during the transition period for a child if:
- (a) the child has not been born at the time of the claim; and
 - (b) the expected date of birth of the child is on or after 1 July 2023.

- (8) Despite section 54 of the PPL Act, as amended by Schedule 1 to this Act, until the earlier of the date of birth of the child and 1 July 2023, a

claim referred to in subitem (7) may be made only by the following persons:

- (a) the birth mother of the child;
- (b) an adoptive parent of the child, if no payability determination that parental leave pay for the child is payable has previously been made in respect of another person.

- (9) However, if a child in respect of whom a claim referred to in subitem (7) has been made is born before 1 July 2023, then on and after that day the claim is taken to be a claim for parental leave pay under the old law, and the old law applies in relation to the claim on and after that day.

Post 1 July 2023 claim—child born before 1 July 2023

- (10) Despite the amendments made by this Act, a claim for parental leave pay or dad and partner pay may be made on or after 1 July 2023 in relation to a child born before 1 July 2023, and the old law continues to apply to the claim as if those amendments had not been made.

Post 1 July 2023 claim—child born on or after 1 July 2023

- (11) The new law applies in relation to a claim for parental leave pay made on or after 1 July 2023 for a child if:
- (a) the child is born at the time of the claim; and
 - (b) the child was born on or after 1 July 2023.

Post 1 July 2023 claim—unborn child

- (12) The new law applies in relation to a claim for parental leave pay made on or after 1 July 2023 for a child if the child has not been born at the time the claim is made.

3 Continuing application of provisions relating to qualifying work

Sections 34 and 35A to 35C of the PPL Act, as in force immediately before the commencement day, continue to apply in relation to a claim for parental leave pay for a child born on or after 1 July 2023.

4 Continuing application of other Acts

- (1) The following Acts and provisions, as in force immediately before the commencement day, continue to apply in relation to payments of dad and partner pay made before, on or after the commencement day:
 - (a) paragraph 61AA(7)(c) of the *A New Tax System (Family Assistance) Act 1999*;
 - (b) the *Data-matching Program (Assistance and Tax) Act 1990*;
 - (c) the *Social Security Act 1991*;
 - (d) the *Taxation Administration Act 1953*;
 - (e) the *Veterans' Entitlements Act 1986*.
- (2) Paragraphs 35A(9)(a) and (b) of Schedule 1 of the *A New Tax System (Family Assistance) Act 1999*, as in force immediately before the commencement day, continue to apply in relation to PPL periods occurring wholly or partly before, on or after the commencement day.

5 Adopted children and exceptional circumstances

The following provisions of the PPL Act, as in force on the commencement day, apply in relation to this Schedule as if it were a provision of that Act:

- (a) section 275 (which deals with how that Act applies to an adopted child);
- (b) section 276 (which deals with how that Act applies to claims made in exceptional circumstances).

6 Power to request information

- (1) If a person makes a claim to which this Schedule applies, the Secretary may request the person to give information or produce a document for the purposes of administering this Schedule, the PPL Act or the PPL rules.
- (2) If a person refuses or fails to comply with the request, the Secretary may determine that the claim to which the request relates is taken to not be an effective claim for the purposes of Part 2-4 or 3A-4 of the PPL Act.
- (3) Subsection 303(1) of the PPL Act (which deals with delegation) has effect as if this item were a provision of that Act.

7 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.
- (2) Without limiting subitem (1), rules made under this item before 1 July 2024 may provide that provisions of any of the following have effect with any modifications prescribed by the rules:
 - (a) this Act;
 - (b) the PPL Act;
 - (c) the Acts amended by Schedule 2 to this Act;
 - (d) the PPL rules.Those provisions then have effect as if they were so modified.
- (3) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (4) This Schedule (other than subitem (3)) does not limit the rules that may be made for the purposes of subitems (1) and (2).

*[Minister's second reading speech made in—
House of Representatives on 30 November 2022
Senate on 9 February 2023]*

(139/22)
