

Legal Answers for Permanent Care Families

Fact Sheet 7: Am I eligible to claim Paid Parental Leave as a permanent care parent?

Every decision relating to the child is to be made consistently with the objects, provisions and principles provided for in the *Children Youth and Families Act 2005 (Vic)* (CYFA), and where appropriate, the *United Nations Convention on the Rights of the Child 1989* (CROC). Australia is a signatory to CROC and many of the principles within the Convention are embedded within child protection legislation.

The *Paid Parental Leave Act 2010* (Cth) (**PPL Act**) establishes a federal government-funded paid parental leave scheme. Under the scheme, eligible persons are entitled to receive parental leave pay. To be eligible, a person must be the primary carer of a newborn or recently adopted child, amongst satisfying other criteria.

Although permanent care parents may meet the eligibility criteria set out in the PPL Act, including being a child's primary carer, unfortunately as permanent care parent you are not eligible to receive parental leave pay for a child that has joined your family through the Permanent Care Program, despite the requirement to remain at home for 12 months once the child is placed in your care under a permanent care order. This is because the 'exceptional circumstances' provisions of the *Paid Parental Leave Rules 2010* (**PPL Rules**) specifically exclude carers who take on the care of a child where that child was 'entrusted to the care of the person, or to the care of the person's partner, under a decision by a State or Territory child protection agency under legislation dealing with child protection in the State or Territory' (rule 2.292(b) for primary claimants, rule 2.331(b) for secondary claimants, and rule 2.361(b) for tertiary claimants, of the PPL Rules).

About this fact sheet

This fact sheet was produced by Permanent Care and Adoptive Families VIC Inc. and verified by Landers & Rogers Lawyers, Project Worker – Arianne Broadbent. January 2016. For further information, please contact Permanent Care and Adoptive Families on (03) 9020 1833.

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