

BIS | Department for Business
Innovation & Skills

**EMPLOYMENT RELATIONS
RESEARCH SERIES 115**

International Review of Leave Policies
and Related Research 2010

SEPTEMBER 2010

EMPLOYMENT RELATIONS RESEARCH SERIES NO. 115

International Review of Leave Policies and Related Research 2010

EDITED BY PETER MOSS, INSTITUTE OF EDUCATION UNIVERSITY
OF LONDON

About EMAR

Employment Market Analysis and Research (EMAR) is a multi-disciplinary team of economists, social researchers and statisticians based in the Employment Relations Directorate of the Department for Business, Innovation and Skills.

Our role is to provide the evidence base for good policy-making in employment relations, labour market and equality and discrimination at work. We do this through:

- conducting periodic socio-economic benchmark surveys
- commissioning external research reports
- conducting in-house research and analysis
- assessing the regulatory impact of new employment laws
- monitoring and evaluating the impact of government policies

We publicly disseminate the results of this research through the BIS Employment Relations Research Series and other publications. For further details of EMAR's work and to download electronic copies please see our web pages at:

<http://www.bis.gov.uk/policies/employment-matters/research>

About this publication

The project manager for this report was Shilpa Patel, Senior Research Officer in the EMAR branch.

Published in September 2010 by the Department for Business, Innovation and Skills.

URN 10/1157 ISBN 978-0-85605-757-1

Enquiries should be addressed to emar@bis.gsi.gov.uk or to:

Employment Market Analysis and Research
Department for Business, Innovation and Skills
Level 3, Abbey 2
1 Victoria Street
London SW1H 0ET
United Kingdom

The views expressed in this report are the authors' and do not necessarily reflect those of the Department or the Government.

Contents

Executive summary	4
Section 1: Introduction	9
1.1 The international network on leave policies and research	10
1.2 Defining leave policies	12
1.3 The current review	14
Section Two:	19
Country notes on leave policies and research.....	19
2.1 Country notes 2010: overview.....	20
2.2 Australia	42
2.3 Austria	52
2.4 Belgium	59
2.5 Canada.....	65
2.6 Croatia.....	74
2.7 Czech Republic	82
2.8 Denmark.....	88
2.9 Estonia	96
2.10 Finland	101
2.11 France	112
2.12 Germany	118
2.13 Greece	125
2.14 Hungary.....	134
2.15 Iceland.....	142
2.16 Ireland	147
2.17 Italy.....	152
2.18 Luxembourg	157
2.19 The Netherlands.....	161
2.20 New Zealand	169
2.21 Norway	174
2.22 Poland	181
2.23 Portugal.....	188
2.24 Russian Federation	196
2.25 Slovenia	200
2.26 South Africa.....	206
2.27 Spain	212
2.28 Sweden	223
2.29 United Kingdom.....	230
2.30 United States.....	240
Annex 1: A formal network of experts on leave policies and research.....	244
Annex 2: Network members at April 2010.....	246

2.23 Portugal

Karin Wall and Mafalda Leitão

1. Current leave and other employment-related policies to support parents

Note on terminology: a new Labour Law came into effect in May 2009 and major changes were introduced in leave policy (see details in 2009 review). 'Maternity leave' has been replaced by the 'Initial Parental Leave'; 'Paternity leave' and 15 days optional Parental leave for fathers has been replaced by 'fathers-only Parental leave' (20 days) and a 'sharing bonus'.

a. Initial Parental leave (*licença parental inicial* – formerly 'Maternity leave', see note on terminology) (responsibility of the Ministry of Labour and Social Solidarity)

Length of leave (before and after birth)

- One hundred and twenty or 150 calendar days, depending on payment level (see 'payment and funding' below). It is obligatory for the mother to take 45 days (six weeks) following the birth; the remaining period may be divided between parents by mutual agreement. An extra 30 days ('sharing bonus') is available if both parents share the leave. See 'flexibility' below for options available to parents.

Payment and funding

- One hundred and twenty days at 100 per cent of earnings or 150 days at 80 per cent of earnings, with no ceiling on payments, if parents do not meet the gender sharing criteria; or 150 days at 100 per cent of earnings or 180 days at 83 per cent of earnings, with no ceiling on payments, if parents meet the gender sharing criteria.
- Funded mainly by the Social Security system, financed by contributions to social security from employers and employees. Also from general taxation for cash benefits where there is no record of contributions or insufficient contributions, e.g. social parental benefit (see 'eligibility').

Flexibility in use

- Mothers have the option to take up to 30 days of Initial Parental leave before birth; 45 days immediately after birth are obligatory for mothers ('mother's-only Initial Parental leave', *licença parental inicial exclusiva da mãe*).
- Mothers and fathers may divide the Initial Parental leave after the obligatory six weeks for mothers; the minimum period for gender sharing of leave (30 calendar days) may be taken as 30 consecutive days or two periods of 15 consecutive days.
- Therefore the Initial Parental leave may be taken in the following ways: 1) the mother (or the father, after the mother's obligatory 45 days) may take all

120 days at 100 per cent of earnings or all 150 days at 80 per cent of earnings, i.e. there is no sharing of leave; 2) parents may divide between themselves 150 days at 100 per cent of earnings on condition of sharing the leave (e.g. the father must take at least 30 consecutive days or two periods of 15 consecutive days of leave alone, without the mother, or *vice versa*); 3) parents may divide between themselves 180 days at 83 per cent of earnings on condition of gender sharing of leave (e.g. the father must take at least 30 consecutive days or two periods of 15 consecutive days of leave alone, without the mother, or *vice versa*).

Eligibility (e.g. related to employment or family circumstances)

- All employees – female or male – with a record of six months (continuous or intermittent) of insurance contributions. Mothers and fathers who have no record of contributions or insufficient contributions are entitled to a monthly benefit ('social parental benefit'), but only if their family income is below 80 per cent of the Index of Social Support (€419.22 in 2010). The amount and duration of this benefit is €335 for 120 consecutive days and €268 for 150 consecutive days if parents do not meet the sharing criteria; if parents meet the sharing criteria, benefit is paid at €335 for 150 consecutive days and €276 for 180 consecutive days.
- Self-employed workers who contribute to social security and unemployed women/men receiving unemployment benefit.

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother

- In the case of multiple births, the leave period is extended by one month for every additional child.
- In case of death/mental illness/physical incapacity of the parent who is taking leave at the moment, the other parent is entitled to the (remaining) leave to which the other parent would otherwise be entitled (this is called: 'initial parental leave to be taken by one of the parents in case of the other parent's impossibility'). A minimum of 30 days leave is granted to the father in case of mother's death/mental/physical incapacity.
- A working grandparent is entitled to 30 days leave following the birth of a grandchild to an adolescent still living at home.
- In cases of poor health or health risks for the mother and child, the pregnant mother is entitled to receive maternity benefits before birth for as long as the period of risk lasts (this leave is called 'health risk leave during pregnancy'). This leave does not reduce the 120, 150 or 180 days of Initial Parental leave.

b. 'Father's-only Parental leave' (*licença parental exclusiva do pai* – formerly 'Paternity leave', see note on terminology) (responsibility of the Ministry of Labour and Social Solidarity)

Length of leave

- Ten obligatory working days to be taken during the first month after birth. Plus an extra optional ten working days to be taken with the mother while she is on Initial Parental leave.

Payment and funding

- One hundred per cent of earnings with no ceiling.

Flexibility in use

- Five of those ten days must be taken consecutively immediately after birth.

Eligibility (e.g. related to employment or family circumstances)

- As Initial Parental leave. Fathers who have no record of or insufficient contributions are entitled to the obligatory paid leave of ten working days as well as to the ten optional working days (daily payment corresponds to 80 per cent of 1/30 of IAS (IAS = €419.22 per month) .

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the father

- The ten obligatory days will be increased by two days for every additional child in case of multiple births; the same for the ten optional days which father can take while the mother is on initial parental leave.

c. Additional Parental leave (*licença parental complementar* – formerly ‘Parental leave’, see note on terminology) (responsibility of the Ministry of Labour and Social Solidarity)

Length of leave

- Three months per parent. The leave is an individual and non-transferable entitlement.

Payment and funding

- Twenty-five per cent of average earnings for three months for each parent, but only if taken immediately after the Initial Parental leave.

Flexibility in use

- The three months leave may be taken up to the child’s sixth birthday. It can be taken in the following ways: a) on a full-time basis for three months; b) on a half-time basis for a period of 12 months per parent; or c) on an alternating basis, i.e. working half-time and full-time up to a maximum of three months full-time per parent.

Eligibility (e.g. related to employment or family circumstances)

- As Initial Parental leave.

Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the parents

- When there is a severely handicapped or chronically ill child, including adopted children and living-in stepchildren, one of the parents is entitled to six months leave (*licença para assistência a filho com deficiência ou doença crónica – leave to care for a handicapped or chronically ill child*), which may be extended to four years. This leave can only be taken by one of the parents and it is paid at 65 per cent of earnings, with a maximum payment per month equivalent to two times the amount of IAS (see 1b).

Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone)

- The three months unpaid parental leave can be taken by both parents at same time. However, when both parents work for the same employer, the employer has a right to postpone the leave of one of the parents.

d. Childcare leave or career breaks

- After Additional Parental leave, and only if this leave has been taken, one of the parents may take up to two years of 'childcare leave' (*licença para assistência a filho – formerly 'Special Parental leave'*) on a full-time basis, extended to three years when there is a third or subsequent child. The leave is unpaid. However, unlike 'Additional Parental leave', which is an individual entitlement, this special leave can only be taken by one parent who must prove that the other partner is employed or incapable of working. Moreover, while parents on 'Additional Parental leave' continue to be considered as employees with full rights and guarantees as if they were working (for example, they continue to be entitled to holidays which they can take at the end of the leave period), in the case of 'childcare leave' (and of leave to care for handicapped or chronically ill children), there is a suspension of the work contract: all rights and guarantees are suspended but the worker's right to return to his/her job is safeguarded. The period of childcare leave is also taken into account in the calculation of old age and invalidity pensions.

e. Other employment-related measures

Adoption leave and pay

- In cases of adoption of a child less than 15 years old, the adopting parent is entitled to leave on the same conditions (length and payment) as for Initial Parental leave. If there are two adopting parents, the leave may be divided between them. In case of multiple adoptions leave will be extended by 30 days for every subsequent child adopted. In case of death of the adopting parent, leave may be transferred to the spouse, who can take as an alternative a minimum of 14 days leave.

Time off for the care of dependants

- Up to 30 days per year can be taken to care for sick children under the age of 12 years, with no age limit in the case of a child who is chronically ill or disabled; plus 15 days per year to care for a sick child above age 12 (if older than age 18 the child must belong to same household). This is a family entitlement to be divided between parents as they choose. Paid at 65 per cent of earnings. Both entitlements are increased by one day for every

second and subsequent child. If the child under the age of 12 years is in hospital care, this entitlement lasts for as long as the child is in hospital.

- Up to 15 days unpaid leave per year to care for a spouse, or a close relative (parents, grandparents, siblings, even if not living in the same household). Workers in the public sector are entitled to nearly full payment (they lose one-sixth of their earnings).
- An extra 15 days unpaid leave per year to care for a severely handicapped or chronically ill spouse.
- Grandparents are also entitled to take leave from work in order to substitute parents in caring for sick children; they may take the same number of days parents are entitled to or take the remaining days that parents have not taken from their leave entitlement.

Flexible working

- Parents are entitled to two hours 'nursing' leave per day during the first year after birth, with no reduction of earnings (*dispensa para amamentação e aleitação* – leave to breastfeed or to feed). These two hours of nursing leave can be a family entitlement if mothers do not breastfeed their child. In this case, leave may be taken by one parent, either the mother or the father, usually in two different periods: one hour in the morning and one hour in the afternoon (unless negotiated otherwise with the employer). Parents may also share the nursing leave by taking one hour each per day. In cases of multiple births, leave is increased by 30 minutes for every child. Where mothers are actually breastfeeding, the two hours reduction can last for as long as the child is breastfed.
- If there is a handicapped or chronically ill child below one year of age, one of the parents (as long as the other is employed) may also apply for a five-hour reduction in the working week.
- Parents are entitled to four hours leave per school term to go to their children's school until children reach 18 years of age, with no reduction of earnings.
- Adopting parents are entitled to miss work (up to three times) in order to be present at meetings related to the adoption.
- Fathers are entitled to miss work (up to three times) to accompany their spouses in pre-natal appointments.
- Parents with children below 12 years (no age limit in the case of a child who is chronically ill or disabled living in the same household) are entitled to 'flexible working' which means that the employee may choose, within certain limits, when to start and finish daily work. Employees may work up to six consecutive hours and up to ten hours daily as long as the normal weekly hours of work are fulfilled. Both parents are entitled to this 'flexible working schedule for an employee with family responsibilities'.
- Also where there are children below 12 years (no age limit in case of a child who is chronically ill or disabled living in the same household), one of the parents (or both for alternative periods of time) is entitled to part-time work after taking Additional Parental leave ('part-time work for an employee with family responsibilities'). Part-time work can be taken on the following basis: working half-time during five days a week or working three full days per week. Employers and employees can agree on another basis. Part-time work may be extended up to two years (three years in the case of third and subsequent child, four years in the case of chronically ill or disabled child).

2. Changes in policy since 2009 review (including proposals currently under discussion)

None reported. Major changes reported in 2009 review were implemented in May 2009.

3. Take-up of leave

a. Maternity leave

Due to the introduction of the Social Maternity benefit in 2008 for mothers with no record or insufficient record of social contributions (see 1a for maternity benefit eligibility), the number of eligible mothers has increased covering about 78.7 per cent of mothers in 2008 (70 per cent in 2007). The total number of women on paid Maternity leave in 2008 (82,380), including women that claimed Maternity benefit (75,123) and women that claimed Social Maternity benefit (7,257), has increased substantially since 2007 (75,297) due to the number of women that became entitled to the new Social Maternity benefit.

The percentage of mothers taking the longer leave period introduced in 2005 (i.e. five months at 80 per cent of earnings instead of four months at 100 per cent) has been increasing since 2005. While in 2005, 21 per cent of mothers on Maternity leave decided to choose the 150 days leave period, in 2007 and 2008 34 and 41 per cent of women (eligible for maternity benefit) chose the longer option.

Parental sharing of the four or five months of Maternity leave has remained at extremely low levels, though it has increased slightly over the last four years. In 2003 only 351 fathers shared some of the leave, rising to 529 in 2007 and 582 in 2008. In practice, therefore, the four or five months of leave after childbirth still seem to be considered as 'Maternity' leave rather than as 'shared' leave.

Reliable data on take up of the Initial Parental leave, which came into effect in May 2009, will only be available at the end of 2010. However, preliminary estimates point to a high take-up rate of the sharing bonus by parents.

b. Paternity leave

Since 2002 there has been a steady increase in the take-up of Paternity leave. The five-day Paternity leave (introduced in 1999 and made obligatory in 2004) was used in 2000 by 11 per cent of fathers, increasing to 27 per cent in 2002 and to 36 per cent in 2003. Since then, the proportion of fathers who take the five days Paternity leave has increased about 2 per cent per year: 37 per cent in 2004, 39 per cent in 2005, 41 per cent in 2006, 45 per cent in 2007 and 2008. These percentages are based on the number of fathers who take leave in relation to the number of births; but in relation to the number of women eligible for Maternity leave, the proportion of fathers taking five days Paternity leave had increased to 62 per cent in 2008. It should be noted that take-up is underestimated as these statistics exclude employees with special social protection regimes, e.g. civil servants, bank workers.

The same trends may be observed for the 15 additional Paternity leave days (the optional 'Daddy days' introduced in 1999). In 2001 only 4 per cent of fathers chose to take the 15 days and this increased to 14 per cent in 2002 and to 24 per

cent in 2003. Since then take-up rates have been increasing slowly: to 28 per cent in 2004, 30 per cent in 2005, 33 per cent in 2006, 37 per cent in 2007 and 2008. If, again, we calculate take-up in relation to mothers eligible for leave, then the proportion increases to 51 per cent in 2008.

Reliable data on take-up of leave since May 2009 will only be available at the end of 2010. However, estimates point not only to increasing take-up of the 20 days Paternity leave but also to a high take-up by parents of the sharing bonus (meaning that fathers are taking up the 30 consecutive days or two periods of 15 consecutive days of leave while the mother returns to work).

c. Parental leave

There is no information on take-up of leave. But as leave has been unpaid, until recent changes, take-up is estimated to be very low.

4. Research and publications on leave and other employment-related policies since 2009 review

a. General overview

Most research has been on the broad question of the reconciliation of work and family life rather than specifically on leave policy, though most studies include information on such policies.

b. Selected publications since 2009 review

Torres, A., et al. (2009) *Trabalho, família e bem-estar: da pesquisa às políticas públicas* [Work, Family and Welfare, from research to public policies], Sinopse dos resultados para o Seminário do projecto *Workcare/Trabalhar e Cuidar na Europa*. Lisbon: CIES, ISCTE-IUL.

This report presents a first overview of some of the findings on the impact of social policies on work and care in Europe, the effects of the competing demands of work and care on fertility decisions, and the consequences of flexibility and working times on the organisation of work, care and welfare.

Wall, K. and Escobedo, A. (2009) 'Portugal and Spain: two pathways in southern Europe', in: S. Kamerman and P. Moss (eds.) *The Politics of Parental Leave Policie*. Bristol: Policy Press, pp. 207-226.

This chapter compares the development of leave policies in the two neighbouring countries of the Iberian peninsular, and considers the reasons for the substantial differences.

Wall, K., et al. (2009) *Council of Europe Family Policy Questionnaire – Comparative Analysis Report*, in *Family Policy in Council of Europe Member States*. Strasbourg: Council of Europe. Available at:

http://www.coe.int/t/dg3/familypolicy/Database/default_en.asp

This report presents an overview of family policies in 40 member states of the Council of Europe. It focuses in particular on Parental leave in these member states.

Wall, K. (2010) 'Os Homens e a Política de Família' ('Men and Family Policy in Portugal'), in: K. Wall et al. (eds.) *Vida Familiar no Masculino*. Lisbon: CITE. This chapter analyses public policies for fathers in Portugal over the last few decades.

Wall, K. (forthcoming, 2010) 'O Estado e as Famílias' [Families and the State in Portugal], in: A. N. de Almeida (ed.) *História da Vida Privada Portuguesa*. Lisbon: Círculo de Leitores.

This chapter analyses developments in family policies in Portugal since the 1950s.

c. Ongoing research

European Family Platform (2009-2011), funded the European Union's Seventh Framework Programme.

Covering all 27 member states, the Platform is a consortium of 12 organisations aiming to collectively increase the well-being of families across Europe. It aims to do this by encouraging dialogue between stakeholders, ultimately providing input into the EU's Socio-Economic and Humanities Research Agenda on Family Research and Family Policies. The platform takes account of three relevant perspectives: the scientific community; European families, represented by members of civil society and important stakeholders such as family and children's rights associations; and policy-makers and social partners. It brings together leading European universities, EU policy-makers and representatives from the civil society to identify topics of relevance to families, such as work/life balance, gender equality, care provision, service provision to families and issues regarding immigration and social integration. In the short term, the Family Platform will compile and review the existing research into family life; identify gaps in the available research; and explore future trends for family models likely to take place in the EU in 2035. The project is coordinated by the Technische Universität in Dortmund, Germany; within the project, the ICS – Instituto for Social Sciences of the University of Lisbon (team coordinated by Karin Wall) – is the convenor of the Conference 'Research on Families and Families Policies – a Critical Review', Lisbon, 25-27 May 2010.

<http://www.familyplatform.eu/en/familyplatform>