

Australia¹

Marian Baird (University of Sydney), **Jennifer Baxter** (Australian Institute of Family Studies), and **Myra Hamilton** (University of Sydney)

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N.B. Australia is a federal state.

Note on the federal division of power and industrial relations systems: In the Australian federation, minimum employment conditions for most employees are set by national (Commonwealth) legislation: this includes the entitlement to unpaid parental leave, which is one of ten National Employment Standards under the Fair Work Act 2009 (Commonwealth). Minimum conditions for employees under other jurisdictions (e.g., the public service employees of state governments) are set within the relevant jurisdictions and may exceed those provided at the national level. In all jurisdictions, terms and conditions of employment are set through a combination of legislation and awards (prescriptive industrial instruments covering specific industries or occupations and determined by industrial tribunals). In addition, conditions may be extended in collective agreements and in employer or company policies.

For comparisons with other countries in this review on leave provision and early childhood education and care services, please see the [cross-country tables](#) at the front of the review (also available individually on the [Leave Network website](#)). To contact authors of country notes, see the [members](#) page on the Leave Network website.

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

Note on terminology:

In Australian national legislation 'Parental leave' is an overarching, gender-neutral term for leave entitlements in association with the birth or adoption of a child, rather than a separate entitlement in addition to Maternity and Paternity leave.

The terms 'primary carer', 'secondary carer' and 'tertiary carer' are also used in legislation and in some employer schemes. Primary carer usually refers to the birth

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parent (mother), secondary carer to the other parent (father or same sex partner) and tertiary carer to a grandparent or other person who has taken on the care of the infant.

a. Maternity leave

- In Australian national legislation there is no separate statutory entitlement to 'Maternity' leave². Mothers have access to unpaid Parental leave under the Fair Work Act 2009 (see 1c for details) and are regarded as the primary recipient of payment under the Paid Parental Leave Act 2010 (also covered in 1c).
- Specific entitlements to Maternity leave payments may, however, be provided by employers. Employer-paid Maternity leave, usually at wage replacement level, may be available to female employees through industrial instruments (awards and collective agreements), company policies, or legislation covering public sector employees in Australia's national, state or territory jurisdictions.
- Employer terminology varies in relation to paid leave entitlements, with labels including primary and secondary carer leave as well as Maternity, Paternity, or Parental leave. As these distinctions are not consistently captured in survey data, we do not report estimates for the prevalence of employer-paid Maternity leave here.

b. Paternity leave

- As with Maternity leave, there is no separate 'Paternity' leave entitlement in Australian national legislation. Fathers or partners have access to the unpaid Parental leave provisions of the Fair Work Act 2009 (see 1c for details).
- However, fathers or partners do have access to a reserved period of leave on a 'use or lose' basis as part of the Parental Leave Pay scheme (detailed below) which is called 'Dad and Partner Pay'. For births or adoptions after 1 January 2013, a father (or the mother's partner) may be entitled to up to two weeks' Dad and Partner Pay at a rate based on the national minimum wage: currently AUD\$21.38 [€13.09]³ per hour or AUD\$812.60 [€497.64] per 38-hour week (before tax). This payment must be taken while on unpaid leave (such as the unpaid Parental leave available under the Fair Work Act) or while not working and is not transferrable to the mother. Dad and Partner Pay is therefore effectively ring-fenced for fathers or same-sex partners. When the proposed changes outlined in section 3 come into effect on 1 July 2023, there will no longer be a separate payment designated as 'dad/partner pay'.
- Employer-paid Paternity leave may also be available to some fathers and partners through company policies, industrial instruments (awards and

² An exception is that the Fair Work Act 2009, at section 80, provides for 'unpaid special maternity leave', which is available to an employee with a pregnancy-related illness or whose pregnancy ends after 12 weeks of gestation otherwise than in the birth of a living child, although not with a 'stillbirth' as defined in the Act (other provisions apply in cases of stillbirth). For further details, see 1c, Variation in leave due to child or family reasons.

³ Conversion of currency undertaken on 07 July 2023, using:
<https://sdw.ecb.europa.eu/curConverter.do>

collective agreements), or legislation covering public sector employees in Australia's various jurisdictions. As the data limitations noted above for employer-paid Maternity leave apply also to Paternity leave, we do not report estimates for employer-paid Paternity leave here. We do know, however, that 43.8 per cent of employers with 100 or more employees provide paid parental leave for secondary carers, with an average duration of 1.7 weeks. Secondary carer leave is predominantly taken by fathers.⁴

c. Parental leave (responsibility of the Department of Social Services (for payments) and the Department of Employment and Workplace Relations (for law))

Length of leave

- A National Employment Standard in the Fair Work Act 2009 provides each working parent who meets the eligibility requirements with an entitlement to 12 months' *unpaid* job protected Parental leave. This is an individual entitlement but (apart from the exception noted below) cannot be taken by both parents simultaneously. If both parents are entitled to this leave, they could each take 12 months sequentially, with a maximum of 24 months available for a working couple per birth. If one parent takes less than their entitlement, the other parent can request to extend their leave by an equivalent amount (up to 12 months extra, if their partner takes no leave). Such an extension is only possible if the employer agrees – an employer has the right to refuse if the additional leave does not fit with the operational requirements of the business. Any agreement for an additional period of leave beyond the first 12 months will reduce the other parent or partner's entitlement by an equivalent amount. All leave must be taken within 24 months of the child's birth. For the mother, the leave can start from the date of the birth or adoption of the child, or from up to six weeks before the expected date of birth of the child, or earlier if the employer agrees. When both members of a couple are entitled to unpaid Parental leave under the National Employment Standard, they can take eight weeks of this leave at the same time; this leave has to be taken within 12 months of the birth or adoption, and can be taken by the partner who is not the primary carer in separate periods, provided that each period is no shorter than two weeks (a stipulation that can be waived if the employer agrees).
- Paid leave entitlements, such as employer-provided Parental leave if available to employees through their employment conditions, and other forms of paid leave, such as annual leave, can also be used. However, for each period of paid leave used, the unpaid Parental leave entitlement is reduced by the same amount, so that the maximum time available for Parental leave per working couple is still two years.

⁴ Baird, M., Hamilton, M., & Constantin, A. (2021). Gender equality and paid parental leave in Australia: A decade of giant leaps or baby steps? *Journal of Industrial Relations*, 63(4), 546–567.

Payment and funding

- Eighteen weeks of Parental Leave Pay is available under the Paid Parental Leave Act 2010, funded through general revenue.
- Parental Leave Pay is paid to eligible mothers at a rate based on the national minimum wage (currently AUD\$21.38 [€21.38] per hour or AUD\$812.60 [€497.64] per week⁵) for up to 18 weeks following the birth or adoption of a child. In circumstances where the father or another primary carer provides the majority of daily care for the baby, the payment can be transferred from the birth mother to the other parent. The weekly payment rate was equivalent to 44.9 per cent of average weekly full-time, adult, ordinary-time female earnings (and 42.6 per cent of average weekly full-time, adult, ordinary-time *male* earnings) in November 2022⁶. Parental Leave Pay can be received during unpaid leave or while on paid leave, such as employer-paid Parental leave or annual leave. The majority of mothers (or designated primary carers) receive the government Parental Leave Pay via their employer⁷, while others receive it directly from the government. Employers can opt to top up an employee's statutory parental leave pay to their full wage, but few employers do.⁸
- Dad and Partner Pay is paid to eligible fathers/partners at the same rate as Parental Leave Pay (i.e. based on the national minimum wage). Unlike Parental Leave Pay, the two weeks' Dad and Partner Pay cannot be taken concurrently with other paid leave; as noted in 1b, it must be taken while on unpaid leave (such as the national statutory entitlement to unpaid Parental leave) or while not working. Employers can supplement Dad and Partner Pay (for example, topping it up to the employees' normal wage) and this does not affect eligibility for the payment.
- As noted in 1a and 1b, some employees also have access to employer-provided paid leave. The Australian Workplace Gender Equality Agency (WGEA), which records provision of 'Primary Carer' and 'Secondary Carer' paid Parental leave by private sector organisations with 100 or more employees, reported that 61.8 per cent of these organisations provided paid primary carer's leave to both women and men for an average duration of 11.2 weeks in 2022⁹. The majority (84 per cent) offered full pay in addition to the government scheme.¹⁰ The same survey showed that 55 per cent of these organisations provided secondary carer's leave for both women and men, for an average duration of 2.4 weeks.¹¹ The incidence of paid primary carer's leave is highest in large organisations with 5000 staff or more (at 86

⁵ As of 1 July 2022. The rate is adjusted annually. See <https://www.fairwork.gov.au/pay-and-wages/minimum-wages#national>

⁶ Australian Bureau of Statistics. (2022, November). Average Weekly Earnings, Australia. ABS. <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/average-weekly-earnings-australia/latest-release>.

⁷ Employers are required to deliver the payment when it is for Australia-based employees who have worked with them for 12 months before the expected date of birth or adoption, who will be with them for their Parental Leave Pay period and who are expected to receive at least eight weeks of Parental Leave Pay.

⁸ Baird, M., Hamilton, M., & Constantin, A. (2021). Gender equality and paid parental leave in Australia: A decade of giant leaps or baby steps? *Journal of Industrial Relations*, 63(4), 546–567

⁹ Workplace Gender Equality Agency (WGEA), Data Explorer. Available at: http://data.wgea.gov.au/industries/1#carers_content

¹⁰ Ibid.

¹¹ Ibid.

per cent in 2021-2022). However, between 2013-14 and 2021-22, the provision of primary carer leave has increased across all sized employers, with the largest increase (17 percentage points) in organisations with 500-999 employees¹². There are no current or trend data available for organisations with fewer than 100 employees.

- All forms of paid parenting leave (Parental Leave Pay, Dad and Partner Pay and employer-funded entitlements) are taxed.
- In Australia, retirement benefits are based on superannuation (contributions to an individual account paid by a mix of employee and employer contributions) and a publicly-funded Age Pension that is means-tested and not linked to paid workforce participation. It is compulsory for employers to make contributions to eligible employees' superannuation funds and additional voluntary contributions by employees are encouraged through tax concessions. These contributions continue when employees take most forms of paid leave. However, no superannuation contributions are made by the government while parents are on unpaid Parental leave or in receipt of Parental Leave Pay. These arrangements disproportionately disadvantage women, the main recipients of Parental leave and pay entitlements. In contrast, a majority (73 per cent) of employer-funded primary carer leave providers pay their employees' superannuation while they are on employer-funded leave, with an additional 9 percent paying superannuation both while employees are on employer-funded leave and while they are receiving Parental Leave Pay¹³.

Flexibility in use

- Unpaid Parental leave under the National Employment Standard in the Fair Work Act must be taken in one continuous period, except as noted in the following.
- Where both parents are eligible for the 12-months unpaid Parental leave entitlement, they cannot access leave at the same time except for a period of up to eight weeks, when the parent who is not the primary carer can take leave concurrently with the primary carer. These eight weeks may be taken in separate periods any time during the first 12 months.
- From November 2020, changes to the Fair Work Act 2009 meant that eligible employees can use up to 30 days of their unpaid parental leave *flexibly* at any time within 24 months commencing on the date of the child's birth or adoption. This leave can be taken in a single continuous block or in separate periods of one or more days each. However, the total duration of unpaid Parental leave for an individual employee remains 12 months – the difference is that up to six weeks of that 12 months period of leave can now be taken flexibly in the second year following the birth of the child.
- From 1 July 2020 recipients of Parental Leave Pay have been able to split the 18-week entitlement into one block of 12 weeks (the Paid Parental Leave period to be taken in the first 12 months after the birth or adoption), with the remaining 6 weeks (30 Flexible Paid Parental Leave days) available for use at any time within the first two years. Flexible Paid Parental Leave days can be used singly or in blocks of the recipient's choosing. They can also be transferred to another eligible carer, with more than one transfer permitted.

¹² WGEA (2023) Australia's gender equality scorecard, 25. Available at: https://www.wgea.gov.au/sites/default/files/documents/2020-21_WGEA_SCORECARD.pdf

¹³ WGEA (2023) Australia's gender equality scorecard, 29.

- Parental Leave Pay can be transferred from one parent to the other where the primary carer for the child (i.e. the parent on leave) also changes and the recipient meets the eligibility criteria. This includes, in the case of separated parents, being able to transfer an unused portion of the Parental Leave Pay to the child's other legal parent or the partner of that other parent, should they also meet the eligibility criteria.
- Flexibility is sometimes available with employer-paid Parental leave: while this is usually paid at the employee's normal pay rate, in some cases there are provisions to double the duration of their leave by taking the leave at half pay.

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

- Employees in permanent positions and on fixed-term contracts (full- or part-time) are eligible for the unpaid statutory leave provisions under the Fair Work Act 2009 and to return to that same job, provided they have 12 months' continuous service with the same employer immediately before the date or expected date of birth, or the date of placement in the case of adoption. However, workers on fixed-term contracts are not entitled to return to the same job if their contract ends while they are on leave – that is, the employer is not required to extend the contract period by the amount of leave taken.
- Casual (hourly paid) employees are also eligible for the above entitlements if they have been employed on a regular and systematic basis for at least 12 months and have a reasonable expectation of continuing regular employment.
- Self-employed workers (not classified as employees) and the unemployed are not covered by the provisions of the Fair Work Act 2009 and therefore do not receive unpaid Parental leave under the act.
- Unpaid leave can be accessed for up to 24 months by an employed couple in a spousal or de-facto relationship¹⁴: same sex relationships are recognised for unpaid Parental leave entitlements under the Fair Work Act 2009.
- To be eligible for the government-funded 18-week Parental Leave Pay, the primary carer (usually the mother) must be an Australian resident and meet the requirements of a work test. The work test requires engagement in work continuously, with no more than a 12-week gap between any two consecutive working days, for at least ten of the 13 months prior to the expected birth or adoption of the child, with at least 330 hours of paid work undertaken in the ten-month period. This work can be in permanent, fixed-term or casual positions. Self-employed workers also have access to Parental Leave Pay under the national scheme.
- Fathers' or partners' eligibility for the government-funded two weeks' Dad and Partner Pay is based on the same requirements as Parental Leave Pay and is similarly available to those in self-employment.
- For children born or adopted after 1 March 2014, claimants can count any Paid Parental Leave or Dad and Partner Pay periods taken in the 13 months prior to the birth or adoption towards the work test.

¹⁴ Co-residency is not specified as a requirement in the legislation. However, as leave cannot be taken simultaneously and must be taken in a continuous block (apart from the exceptions noted earlier) it would be difficult for a non-co-resident couple to share the leave.

- Government-funded Parental Leave Pay is restricted to individuals with a taxable income of AUD\$156,647 [€95,931.78] or less per year¹⁵, equivalent to 1.82 times average yearly full-time, adult, ordinary-time female earnings, and 1.58 times average yearly full-time, adult ordinary-time male earnings, in November 2021¹⁶.
- The government-funded Parental Leave Pay can be taken in addition to other forms of paid leave to which the employee may be eligible (annual leave, long service leave, or employer-funded Parental leave).
- Any unused portion of the Parental Leave Pay can be transferred to another primary caregiver (usually the father, but potentially a partner who is not a biological parent, including a same-sex partner) if they also meet the eligibility criteria; or in exceptional circumstances (such as a sole parent mother being unable to care for a child) the payment could be transferred to another primary carer, such as a grandparent. The unused portion can also be transferred to the child's other parent or their partner, if they meet eligibility requirements, in the case of separated families.
- Parents who are not in work are not eligible for Parental Leave Pay or Dad and Partner Pay, but may be eligible for the Newborn Upfront Payment (currently AUD\$595 [€364.38]) and a Newborn supplement paid for up to 13 weeks (dependent on family income and number of children, with a current maximum payment of AUD\$1,785.42 [€1,093.40] over 13 weeks for a first child).

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

- From November 2020, changes to the Fair Work Act 2009 have extended the entitlement to 12 months' unpaid Parental leave to allow employees who would have been eligible in the case of a live birth to retain the entitlement in the case of a stillbirth. The definition of a stillborn child in the Act includes a period of gestation of at least 20 weeks.
- Special unpaid Maternity leave may be taken in cases of pregnancy-related illness or if the pregnancy ends after a period of gestation of at least 12 weeks other than by the birth of a live child, but is not stillborn (as defined in the Act). Mothers who use special Maternity leave (for example, due to a pregnancy-related illness) are still entitled to the full 12 months' unpaid Parental leave under the Fair Work Act.

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

- Employer-paid Parental leave, sometimes specified as paid Maternity, Paternity or Primary and Secondary Carer leave, is available in some industrial instruments (awards or collective agreements) and company policies. As explained earlier, these provisions are usually at full replacement salary and on this measure exceed national statutory entitlements.

¹⁵ This cap was set at AUD\$150,000 from the commencement of the scheme in 2011; it remained unchanged until it was raised to AUD\$151,350 for the 2020-21 financial year.

¹⁶ Australian Bureau of Statistics (2022) *Average Weekly Earnings, Australia, November 2021*, Cat. No. 6302.0. Available at: <https://www.abs.gov.au/statistics/labour/earnings-and-working-conditions/average-weekly-earnings-australia/nov-2021>

d. Statutory childcare leave or career breaks

- No statutory entitlement.

e. Other types of leave and flexible working

Adoption leave and pay

- The same statutory rights to unpaid Parental leave and Parental Leave Pay apply when a child under 16 years old is adopted, however Parental Leave Pay may not be available in cases where a child has been living with the adoptive parents prior to the adoption (for example, with the formal adoption of a step-child).

Time off for the care of dependants

- Under the National Employment Standards of the Fair Work Act 2009 all employees (except casuals) have access to up to ten days of paid personal/carer's leave per year of service, reduced for employees with fractional appointments on a pro rata basis. Paid personal/carer's leave includes 'sick' leave and may be taken because of a personal illness, or to provide care or support to a member of the employee's immediate family or household who is ill or injured, or in the case of an unexpected family emergency.
- In addition, all employees (including casuals) can access up to two working days' unpaid carer's leave for each 'permissible occasion,' provided paid personal leave has been exhausted. Unpaid carer's leave may be taken to provide care for an immediate family or household member due to illness, injury, or an emergency.

Specific provision for (breast)feeding

- Neither national nor state/territory laws provide an explicit right to paid breaks for breastfeeding or to express milk at work. However, the right not to be discriminated against on the basis of sex exists in all Australian jurisdictions, explicitly or implicitly covering breastfeeding¹⁷.
- A survey of private organisations with 100 or more employees indicated that 68.8 per cent reported providing breastfeeding facilities in 2021 but did not provide details on the nature of the facilities¹⁸. The proportion increased significantly from 2013-14, when only 45 per cent of organisations reported such arrangements¹⁹.
- The Commonwealth Sex Discrimination Act 1984 (s7AA) expressly prohibits employers from treating women less favourably because of their

¹⁷ Australian Human Rights Commission (2014) 'Supporting Working: Pregnancy and Return to Work,' *National Review - Report*: 116. Available at: https://www.humanrights.gov.au/sites/default/files/document/publication/SWP_Report_2_014.pdf

¹⁸WGEA, Data Explorer: http://data.wgea.gov.au/industries/1#carers_content

¹⁹ WGEA (2022) Australia's gender equality scorecard, 29.

breastfeeding or expressing of milk, and from imposing a condition or practice likely to have the effect of disadvantaging such women.

Flexible work arrangements

- One of the ten National Employment Standards contained in the Fair Work Act 2009 provides a statutory right to request flexible working arrangements, in relation to hours of work, location of work (i.e. a closer business location or working from home) and pattern of work (i.e. job sharing, working split shifts, etc).
- The range of employees entitled to request such arrangements includes employees with caring responsibilities, that is parents or guardians of children who are school age or younger, as well as employees with a family member with a disability or chronic illness, employees aged 55 years or over, and employees experiencing family violence or caring for a family or household member who is experiencing family violence.
- An employer must respond to a request within 21 days and may refuse the request only on 'reasonable business grounds.' While examples of 'reasonable business grounds' are provided in the legislation, these do not limit what might be included. The request is ultimately not enforceable by any third-party body. These provisions will change when new legislation comes into effect in June 2023 (see 'Changes in Policy' below).
- Awards and collective agreements are required to include provisions for employers to consult with employees over any proposed changes to rosters and ordinary working hours, and to consult genuinely with employees about the impact of changes on their family and caring responsibilities.

Transfer to safe job

- All pregnant employees, regardless of period of service, have the entitlement to be transferred to a safe job. If no safe job is available, an entitlement to 'paid no safe job leave' is available for those eligible for unpaid Parental leave, while those not eligible for unpaid Parental leave are entitled to 'unpaid no safe job leave'.
- From 1 January 2020, a Dangerous Jobs provision has been introduced for women working in areas such as mining or heavy manufacturing, so that the date they stop work is no longer calculated as the expected date of birth, but as the date at which work stopped due to safety reasons. Parental Leave Pay recipients still have to meet the work requirements prior to the date of stopping work.

2. Relationship between leave policy and early childhood education and care policy

There is no formal or legislated relationship between leave policy and ECEC policy in Australia. Parental leaves are legislated and implemented by both governments and employers completely independently from ECEC policy.

There is no universal entitlement for children to an ECEC place. ECEC providers operate in the private, community and government sectors, with approved

providers delivering child care that can be subsidised through the (national) Child Care Subsidy, described below. Different supports and funding concern preschool (nursery) education in the one or two years before full-time school, with arrangements varying by jurisdiction. An agreement between all Australian states and territories (the Preschool Reform Agreement, previously the Universal Access National Partnership agreements) focuses on improving access to 15 hours of quality nursery education for children in the year before compulsory schooling (i.e. from around age five).

For ECEC attendance levels, see 'relationship between leave and ECEC entitlements' on the [cross-country comparisons](#) page.

For those using an approved ECEC service, eligibility for the Child Care Subsidy (CCS) depends on family income, the activity²⁰ level of both parents, the type of service used and the number of children aged 5 years or younger. Family income determines how much of the childcare fee is subsidised, with the subsidy rate highest (85 per cent) for lower income families (family income up to AUD\$72,466 [€44,378.71]), decreasing in steps to a subsidy rate of zero for the highest income families (family income of AUD\$356,756 [€218,480] or more). These subsidy rates are changing from July 2023 (see 'Changes in Policy' below).

Using the subsidy rate, CCS is calculated as a percentage of childcare fees, up to a maximum rate cap established for each service type. With some exceptions, both parents (or a single parent) are required to meet an activity threshold of at least eight hours per fortnight in order to receive CCS. Further, the number of hours of activity beyond this threshold determines the level of subsidy; in two parent families it is the lower of the two parents' activity hours that matters. For example, a total of eight to 16 hours of approved activity per fortnight is associated with a maximum of 36 hours of care being subsidised per child per fortnight. If the approved activity total is more than 48 hours per fortnight, the child's care can be subsidised for up to 100 hours per fortnight. Parents can use more than the amount of care they are subsidised, but they will pay the full fee to the child care service for amounts beyond what is subsidised.

Being in paid work is an approved activity. Being on paid or unpaid Parental leave also counts as an approved activity. However, parents who have left work but are not on any form of leave need to meet the activity test through other means in order to access CCS, for example through study or volunteering. Other approved activities include working unpaid in a family business, being self-employed, looking for work, volunteering, or studying²¹.

There are exemptions to the activity test as part of the Child Care Safety Net. Through this, low-income families (up to AUD\$70,015 [€42,877.70] per year) can access 24 hours of subsidised care per child per fortnight, without having to meet

²⁰ The hours of subsidised care you receive depends on the number of hours you spend per week engaging in 'recognised activities' including: paid work; paid leave; unpaid work in family business or as work experience; undertaking approved education or training; actively looking for work; or volunteering.

²¹ For evaluation of the Child Care Package, including information on the introduction of the Child Care Subsidy and findings related to the activity test, see Australian Institute of Family Studies (2022) *Child Care Package Evaluation: Final Report*. Available at: <https://aifs.gov.au/publications/child-care-package-evaluation-final-report>

the activity test. There are some other exemptions to the activity test through the Child Care Safety Net that give vulnerable families access to up to 100 hours of subsidised care per fortnight²².

3. Changes in policy since April 2022 (including proposals currently under discussion)

After the change of government in May 2022, the new Labor Government announced a strong policy focus on improving gender equality and increasing women's workforce participation. A number of changes are due to take effect in relation to the unpaid parental leave provisions, the paid parental leave scheme, flexible work provisions and child care.

Parental leave

In relation to the unpaid Parental leave provision (see 1c above), from April 2023 the government will allow greater flexibility in use, of up to 100 days over 24 months. Furthermore, pregnant employees will be able to take up to six weeks of the unpaid Parental leave period before the birth and the restriction on eight weeks simultaneous leave will be removed.

In relation to Parental leave pay, changes in legislation will come into effect from 1 July 2023. As a result of the changes, the current two payments – 18 weeks' Parental Leave Pay and 2 weeks' Dad and Partner Pay – are to be merged into a single 20 week family entitlement that can be used in periods of one day at a time and accessed any time within two years after the child's birth or adoption. Under the new arrangements, which continue to be paid at the National Minimum Wage, single parents will have access to 20, rather than 18, weeks of payment. For couples (including same-sex couples) two weeks is reserved for each parent/claimant, with the remaining 16 weeks to share as they choose, but only two weeks can be taken concurrently.

From 1 July 2023, the categories of 'primary' and 'secondary' claimant will also be removed as will the requirement that the primary claimant of Parental Leave Pay must be the birth parent, so that a father or partner may claim the payment directly rather than requiring the transfer of the payment from the birth mother.

Employees will be able to access the payment at the same time they are on employer-paid leave: this is currently the case for Parental Leave Pay but not for Dad and Partner Pay, which can only be taken while on unpaid leave or not working. The current eligibility cap (an individual income of AUD\$156,647 [€95,931.78]) will remain but will be extended with a household cap of AUD\$350,000 [€214,342.58] where the birth parent earns more than AUD\$156,647 [€95,931.78]. The changes announced did not include payment of superannuation

²² Services Australia (updated December 2021) *Child Care Subsidy – Your activity level affects it*. Available at: <https://www.servicesaustralia.gov.au/your-activity-level-affects-child-care-subsidy?context=41186>

during periods of Parental Leave Pay – a proposal that was recommended in a recent Treasury review of retirement income²³.

The government has also announced a plan to extend the duration of Parental Leave Pay from 20 weeks to 26 weeks by 2026, to be legislated in July 2023.

Right to request flexible work arrangements

The government has legislated changes to the flexibility provisions that will come into effect on 6 June 2023. These changes include an expansion of the grounds under which a person has a right to request flexible work to include employees who are pregnant. The changes also introduce a clear and transparent process that employers must undertake in considering a request; and they introduce a new role of the Fair Work Commission (the national industrial relations tribunal) in dealing with a dispute between an employer and employee about a request. This will include mediating and conciliating, or mandatory arbitration if a solution cannot be found²⁴.

Early childhood education and care

From July 2023, the rates for the Childcare Subsidy are changing. The maximum subsidy rate will increase from 85 to 90 percent for families earning up to AUD\$80,000 per annum. For families on incomes greater than \$80,000, the subsidy is reduced from 90 per cent by one percent for each AUD\$5,000 of family income in excess of AUD\$80,000. Families earning AUD\$530,000 per annum and above will not receive any subsidy. The result is that all families with incomes below AUD\$530,000 will see a rise in the rate of subsidy they receive after July 2023. A higher subsidy rate is available for families with more than one child aged under five years. Further, from July 2023, families can access 36 hours of subsidised care per fortnight for each First Nations child in their care.

4. Take-up of leave

Information on take-up rates is limited in Australia. Estimates of the proportion of new parents who access the government-funded Paid Parental Leave and Dad and Partner Pay schemes are no longer published in the annual reports of the Australian Government Department of Social Services, although this publication does continue to report the number of recipients (see 4b and 4c). Take-up rates for the unpaid Parental leave entitlement under the National Employment Standard in the Fair Work Act 2009 are not regularly estimated either: the figures presented in 4c

²³ Australian Government, The Treasury (2020) *Retirement Income Review – Final Report*. Available at: <https://treasury.gov.au/sites/default/files/2021-02/p2020-100554-udcomplete-report.pdf>

²⁴ Australian Government, Department of Employment and Workplace Relations (2022) *Job security and gender equality: Right to request flexible working arrangements*. Available at: <https://www.dewr.gov.au/download/14739/right-request-flexible-work-arrangements/31681/right-request-flexible-work-arrangements/pdf>

are based on data from a 2017 Australian Bureau of Statistics survey which is not due to be repeated until 2023.

a. Maternity leave

As explained earlier (1a), the term 'Maternity leave' is not used in Australia for the national statutory entitlements to unpaid Parental leave or Parental leave payments. It is still used in some instances in employer-paid schemes (though the language of primary and secondary carer leave, rather than maternity and paternity leave, has been common but is also now changing). However, (as noted above) take-up estimates are precluded by data limitations.

b. Paternity leave

As with employer-paid Maternity leave, the take-up of employer-paid Paternity leave schemes is not reported in this country note due to data limitations. Regarding the government-funded Dad and Partner Pay scheme, the Australian Government has reported that in the financial year 1 July 2021 to 30 June 2022, 97,863 fathers or partners (compared with 89,784 in the 2020-21 financial year) received payment under this scheme, with the vast majority taking the full two weeks' payment²⁵. The increase in numbers from the previous year was reported as potentially due to a faster than expected recovery in the labour market leading to a larger number of parents being able to meet the work test governing eligibility²⁶.

c. Parental leave

Available data on take-up rates for Parental Leave Pay are also limited, although the number of claimants has been consistently tracked. Government figures indicate that in the financial year 1 July 2021 to 30 June 2022, 178,778 claimants received some Parental Leave Pay (an increase from 169,029 in the previous year), and that 99.4 per cent of claimants who completed their Parental Leave Pay in that financial year took the full 18 weeks²⁷. It is also understood that almost 100 per cent of claimants are mothers. Like in the case of fathers and partners, the increase in numbers from the previous year was reported as potentially due to a faster than

²⁵ Australian Government Department of Social Services (2022) *Annual Report, 2021-22*. Available at: https://www.dss.gov.au/sites/default/files/documents/12_2021/dss-ar-accessible-final-301121.pdf

²⁶ Ibid

²⁷ Ibid

expected recovery in the labour market leading to a larger number of parents being able to meet the work test governing eligibility²⁸.

While estimates of take-up rates for employer-paid entitlements are not available, a gender breakdown of users of primary carer's leave in private sector organisations with more than 100 employees is provided by WGEA: in 2022, 87 per cent of users were women and 13 per cent were men²⁹. The proportion of primary carer leave in such organisations that is used by men has increased since 2015-16, when the split was 95 per cent women and 5 per cent men³⁰.

d. Other employment-related measures

There are no current estimates of the take-up of other employment related measures such as flexible working arrangements.

²⁸ Ibid

²⁹ WGEA (2022) Australia's gender equality scorecard, 28. Available at: https://www.wgea.gov.au/sites/default/files/documents/2020-21_WGEA_SCORECARD.pdf

³⁰ Based on WGEA data as published in Australian Bureau of Statistics (2020) *Gender Indicators, Australia, December 2020* Cat. No. 4125.0. Available at: <https://www.abs.gov.au/statistics/people/people-and-communities/gender-indicators-australia/latest-release#data-download>