

# Brazil<sup>1</sup>

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NB. Brazil is a federal state

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 coverage of leave entitlements:** Leave entitlements in Brazil are primarily governed by the Labour Law (*Consolidação das Leis do Trabalho – CLT*), which applies to the whole country, but only to employees with regular work contracts or those that contribute to the Social Security Institute (INSS). Only half of the Brazilian labour force works in formal jobs and are thus entitled to such benefits. The conventions and collective agreements negotiated by trade unions may eventually extend such rights.

### a. Maternity leave (*licença-maternidade*) (responsibility of the National Institute of Social Security/INSS, Ministry of Social Security)

*Length of leave (before and after birth)*

- One hundred and twenty (120) calendar days in the private sector, which can be extended to six months if the employer voluntarily adheres to the Company-Citizen Programme (*Programa Empresa Cidadã*). It may be taken from the eighth month of pregnancy.
- Six months in the federal public sector. At state and municipal levels, entitlement to the additional months depends on the approval of the authorities; most state authorities approve this extended leave, but only a minority of municipalities.
- In the event of the death of the mother, the spouse is entitled to Maternity leave. The payment duration of the benefit is then calculated according to the period to which the woman would still be entitled.
- Single adoptive fathers are entitled to Maternity leave.
- In homosexual couples, only one partner (man or woman) is entitled to Maternity leave.

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### *Payment and funding*

- 100 per cent of earnings, with no ceiling. In the case of a variable salary (i.e. because of commission, gratuity, overtime, bonus pay), the payment is equivalent to the average of the last six months of work.
- If leave in the private sector is extended to six months, the benefit during those extra 60 days is paid by the employer with the costs covered by fiscal deductions.
- In case of miscarriage or legal abortion (on the grounds of rape, risk to the mother's life or a foetus with anencephaly), the Maternity benefit payment is paid for two weeks.
- Funded for employees from contributions into a social security fund paid by employers and employees: employers pay 20 per cent of their salary bill (Domestic employers pay 8 per cent of the domestic employee's salary as contribution); and employees pay on a sliding scale according to salary: eight per cent if under BRL1,693.72 [€403.31]<sup>2</sup>; nine per cent between BRL1,693.73 [€403.31] and BRL2,822.90 [€672.20]; and 11 per cent between BRL2,822.91 [€672.29] and BRL5,645.80 [€1,344.40] which is the upper limit for social security payments. Funded entirely by own contributions for self-employed workers and business owners.
- Leave does not affect pensions, as contributions are paid by the state.

### *Flexibility in use*

- Women may continue with paid work until birth if they explicitly declare that it is their personal decision to do so.

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

- All women who work and contribute to Social Security, whether this be through employment with a signed work card, as a temporary employee or self-employed.
- Housewives or students who do not earn a salary, but who pay monthly optional Social Security contributions to retain coverage, can enjoy the same benefit after contributing for at least ten months. In this case, the amount of the Maternity benefit is that of the reference salary contribution (e.g. if she contributes on the basis of one minimum salary, she receives a minimum salary per month while on 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 mother*

- The mother has the right to another 15 days in some specific situations, such as when her or the baby's life is at risk.
- If the mother dies during childbirth or during maternity leave, the father can apply for the benefit and complete the remaining period of the leave.

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<sup>2</sup> Conversion of currency undertaken on 13 June 2018, using: <http://finance.yahoo.com/currency-converter>

## **b. Paternity leave (*licença-paternidade*)**

### *Length of leave (before and after birth)*

- Five consecutive calendar days in the private sector for birth or adoption of a child. Twenty calendar days in the Federal public sector. At state and municipal levels, entitlement to the additional period depends on the approval of the local authorities. In the private sector it can be extended to 20 days if the employer voluntarily adheres to the Company-Citizen Programme (*Programa Empresa Cidadã*). In this Programme, the benefit during those extra 15 days is paid by the employer with the costs covered by fiscal deductions.

### *Payment and funding*

- Full earnings are paid by the employer under the provisions of labour legislation.
- It does not affect pensions.

## **c. Parental leave**

- No statutory entitlement.

## **d. Childcare leave or career breaks**

- No statutory entitlement.

## **e. Other employment-related measures**

### *Adoption leave and pay*

- Mothers in the private sector who adopt a child are entitled to Maternity leave of 120 consecutive days and full salary, equating the rule valid for biological mothers. Mothers in the public sector who adopt children are entitled to 180 consecutive days of leave and full salary, equating the rule valid for biological mothers.
- If the adoptive mother dies, the spouse can use the leave for the remaining time. This is also the case for homosexual couples.
- When the adoptive mother does not pay Social Security contributions, all the benefits of Maternity leave go to the adoptive father (on the condition that he pays Social Security contributions).

### *Time off for the care of dependants*

- Paid leave up to two consecutive days is granted in the case of the death of a spouse, ascendant, descendant, sibling or a person declared in his/her work card and for the purposes of Social Security as financially dependent.
- In the public sector, leave is granted to care for a sick spouse or companion, parent, child, stepfather/stepmother, stepchild or dependent, subject to approval by an official medical board which must decide that the employee's direct assistance to the sick person is essential and must be during working hours.

- In the public sector, leave may be granted for up to 60 days at 100 per cent of earnings; after which a further 90 days of leave is possible, but with no payment. For the private sector, leave to care for a sick dependent can be part of a collective agreement, but not a labour law or regulation.
- Public servants who accompany their relatives with disabilities in health-related activities are entitled to special working time, without having to compensate the hours spend in caring; they receive full salary during this period.

#### *Flexible working*

- See section below.

#### *Specific provision for (breast-)feeding*

- The Labour Law provides for two 30-minute breaks for breast-feeding during the working day, until a child reaches six months.

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

The maximum period of post-natal leave available in Brazil (for federal public sector workers) is six months, paid at full earnings replacement. There is no entitlement to ECEC. However, Labour Law (CLT) states that every company with a workplace employing at least 30 women aged over 16 years must maintain a suitable place, in which, up to the sixth month of the breastfeeding phase, female employees can leave their babies under supervision and with adequate care. As a substitute for this requirement, the company can adopt the system of crèche assistance, an amount the company passes on directly to female employees so as not to be obliged to maintain a crèche. In this case, the benefits must be granted to every employee with a young child, regardless of the number of female employees in the establishment, and they must be the object of collective negotiation. Levels of attendance at formal services for children under three are around the average for the countries included in this review and for OECD countries; but well below average for children over three years. For attendance levels, see 'relationship between leave and ECEC entitlements' on [cross-country comparisons](#) page.

## **3. Changes in policy since April 2017 (including proposals currently under discussion)**

There have been no significant changes to leave policies in the past year. A labour reform was approved in Brazil in 2017, but it did not change leave policies. The most recent change was the Project Legal Framework for Early Childhood approved in 2016 (Law 13.257/2016). It determines a set of actions for the beginning of life, between zero and six years old. One of the innovations is the increase of Paternity leave from five to 20 days for employees of companies that adhere to the Company-Citizen Programme (Programa Empresa-Cidadã). The values of these 15 days more are paid by the company – and not by the Social Security Institute (INSS) as with mandatory Paternity leave – and then are returned in the form of discount on income tax to be paid the following year.

## 4. Take-up of leave

### a. Maternity leave

There is no information available, but close to 100 per cent take-up is likely as leave is a legal entitlement and payment is made from the social security fund and not by the employer.

### b. Paternity leave

There is no information available (we can suppose that the take-up is very high).

### c. Parental leave

No statutory leave entitlement.

## 5. Research and publications on leave and other employment-related policies since April 2017

Please be aware that this is not intended to be a comprehensive list of all publications or research in this area for this country. If you are aware of a publication or research that could be listed in this section, please contact the country note author(s) so that they can include it for the following year.

### a. General overview

There is little research in this area because the issue of reconciling work and family has not been properly recognized as a social problem. The support provided by members of extended families (notably grandmothers), by networks of solidarity and by a large contingent of domestic workers (15 per cent of the female labour force) shape the social understanding that the reconciliation of work and family responsibilities is a private issue. However, some recent changes in the labour market (e.g. a significant increase in labour force participation by mothers with dependent children) and family structure (e.g. an increase in female lone-parent families) indicate that this question should gain importance as a social policy issue in the coming years.

### b. Selected recent publications

Fraga, A.B. (2016) 'O serviço doméstico sob os holofotes públicos: alterações na articulação entre trabalho produtivo e reprodutivo no Brasil (Estado, mercado e família)' ['The domestic service under the public spotlight: changes in the articulation between productive and reproductive work in Brazil (state, market and family)'], Tese de Doutorado em Sociologia. Rio de Janeiro: UFRJ. Available at: [https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id\\_trabalho=3749037#](https://sucupira.capes.gov.br/sucupira/public/consultas/coleta/trabalhoConclusao/viewTrabalhoConclusao.jsf?popup=true&id_trabalho=3749037#)

In the bibliography on domestic service, one question remains open: what explains the variation in the proportion of workers inserted in this occupation? The answer defended in this research is that there is a strong relationship between the configuration and the volume of domestic service and the manner in which it was resolved socially in different countries, the articulation between the productive and reproductive sphere: by the state, market or family. In each country, the interrelations between these three actors produced different production-reproduction mediation

arrangements. In Brazil, although with a familialist regime, the possibility of delegating to the housemaids a large part of household chores and care was established as a viable strategy for the middle and upper classes. However, in 2013, with the approval in National Congress of the “Proposed Constitutional Amendment of Domestic”, which extended to these professionals the rights already guaranteed to other workers, there was a realignment of these societal actors and a modification of the previous arrangement. Thus, the aim of this thesis is to investigate why the state has changed, specifically at this moment, the relationship established with the domestic service and how the market and the family have rearranged themselves on this new scenario.

Bianconi, G. (2017) ‘Licença Paternidade no Brasil: Onde Estamos?’ [‘Paternity Leave in Brazil: Where are we?’], *Gênero & Número*, maio de 2017. Available at: <http://www.generonumero.media/licenca-paternidade-no-brasil-onde-estamos/>  
This paper examines Paternity leave in Brazil, its costs and its impact on the market, affection relationships and the baby's health.

Sorj, B., Daflon, V.T. and Grillo, B.R.S. (2017) “Estar presente”: a extensão da licença paternidade e a ideologia do “novo pai” [“To be present”: the extension of Paternity leave and the ideology of the “new father”], *Anais do 41º Encontro Anual da ANPOCS*. Available at: <https://www.anpocs.com/index.php/papers-40-encontro-2/gt-30/gt13-17/10715-estar-presente-a-extensao-da-licenca-paternidade-e-a-ideologia-do-novo-pai/file>

The paper studies the representations and practices of paternity and masculinity in the family sphere through the analysis of ten interviews with fathers who had children recently and received 20 or 30 days of Paternity leave with maturities. As a general objective, the work focuses on ideals and also on the division of tasks within the family with respect to the care with the children. As a specific objective, the research aims to identify the impacts of the recent extension of Paternity leave in the division of tasks within the family, seeking to recognise in what way the extension of the leave affects the gender relations in the family. The aim is to conduct a sociological investigation of male practices in the family, to indicate patterns of the sexual division of labour in the productive and family spheres, to recognise ways of exercising paternity, and to identify the perceptions and uses of Paternity leave.

### **c. Ongoing research**

None reported.