

# Uruguay<sup>1</sup>

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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**

### **a. Maternity leave (public sector) Law 19.121 (*Licencias por maternidad y por paternidad*)**

*Length of leave (before and after birth)*

- 13 weeks: up to six weeks can be taken before the birth, one week of which must be taken at this time. Since 1 June 2017, civil servants of the Central Administration are entitled to 14 weeks of Maternity leave (as well as private sector workers).

*Payment and funding*

- 100 per cent of earnings with no upper limit on payments.
- Funded from general taxation.

*Flexibility in use*

- None, except for five weeks of leave that can be taken before or after birth.

*Eligibility*

- All female public sector employees.

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*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 or premature births or disability, the leave is extended to 18 weeks.
- In the case of premature births with less than 32 weeks of gestation and requiring hospitalisation, both parents (biological or adoptive) are entitled to leave for the duration of such hospitalisation, up to a maximum of 60 days. Upon the termination of this license, the usufruct of Maternity or Paternity leave will begin.

**a. Maternity leave (private sector) Law 19.161 (*Subsidio por maternidad*) (Instituto de Seguridad Social)**

*Length of leave (before and after birth)*

- 14 weeks: up to six weeks can be taken before the birth. It is obligatory to take the full period of 14 weeks.

*Payment and funding*

- 100 per cent of earnings with no upper limit on payments. For employees, this is based on average earnings in the six months before taking leave. For self-employed workers, this is based on average earnings over the 12 months before taking leave.
- Funded by the social security system, which is financed by contributions: for sickness and maternity benefits, three to six per cent of employee earnings and five per cent of payroll from employer, plus earmarked proceeds of certain taxes.

*Flexibility in use*

- Women may postpone the start of Maternity leave (if authorised by her doctor).
- Premature delivery: if the birth occurs earlier than 42 days before the due date of delivery, the beginning of the subsidy is modified to the actual day of the baby's birth. The start of postpartum leave is not modified, that is, the original postpartum leave period is maintained, granting more days of leave.
- Delivery delay: if the birth occurs after the due date of delivery, the postpartum rest period is extended, taking into account the number of days of the delay.

### *Eligibility*

- All female employees who contribute to the Social Security Institute (BPS).
- Self-employed workers who are covered by the Social Security Institute (BPS), with no more than one employee.
- Other self-employed workers who are covered by the Social Security Institute (BPS).

*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 illness resulting from pregnancy or childbirth, the mother is entitled to an extension of pre- or post-natal leave.

### **b. Paternity leave (public sector) Law 19.121 (*Licencia por paternidad*)**

*Length of leave (before and after birth)*

- 10 working days.

*Payment and funding*

- 100 per cent of earnings with no ceiling on payments.
- As for Maternity leave.

*Flexibility in use*

- None.

*Eligibility*

- All male public sector employees.

*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 premature births with less than 32 weeks of gestation and requiring hospitalisation, both parents (biological or adoptive) will be entitled to leave for the duration of such hospitalisation, up to a maximum of 60 days. Upon the termination of this license, the usufruct of Maternity or Paternity leave begins.

**b. Paternity leave (private sector) Law 19.161 (*Inactividad Compensada por Paternidad*) (Instituto de Seguridad Social)**

*Length of leave (before and after birth)*

- 10 calendar days
- Employed workers are entitled to a leave of absence of 13 days from the day of birth. The first three days are in the responsibility of the employer with regards to payment (Law 18.345), and the next ten are paid by the social security system (Law 19.161). In the case of self-employed workers, they are entitled to ten calendar days' leave.

*Payment and funding*

- 100 per cent of earnings with no ceiling on payments. For employees, this is based on average earnings in the six months before taking leave. For self-employed workers, this is based on average earnings over the 12 months before taking leave.
- As for Maternity leave, funded by the social security system, which is financed by contributions: for sickness and maternity benefits, three to six per cent of employee earnings and five per cent of payroll from the employer, plus earmarked proceeds of certain taxes.

*Flexibility in use*

- None.

*Eligibility*

- All male employees who contribute to the Social Security Institute (BPS).
- Self-employed workers who are covered by the Social Security Institute (BPS), with no more than one employee.
- Other self-employed workers who are covered by the Social Security Institute (BPS).

*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*

- None.

### **c. Parental leave**

- Law 19.161 establishes a Parental Care Allowance<sup>2</sup> for the newborn of private employees or self-employed workers who contribute to the Social Security Institute (BPS). It is a part-time leave for care that may be used interchangeably and alternately by both parents after the Maternity leave. It lasts from the end of the Maternity leave until the baby is six months old. The Parental Care Allowance is based on previous income and is funded by the social security system. The payment is 100 per cent of previous income without a maximum limit. For employees, this is based on their average income in the six months before taking the leave (and twelve months for self-employed workers).
- Eligibility is the same as for the maternity and paternity subsidy in the private sector (Law 19.161). Therefore, female workers in the private sector who contribute to the Social Security Institute (BPS), both employed and self-employed, are eligible. Also eligible are male workers from the private sector who contribute to the Social Security System (BPS), both employed and self-employed. But, in the case of men, it is a requirement that the mother of the baby has been eligible for private sector Maternity leave.
- The use of part-time leave is voluntary. Flexibility in use is arranged so that parents can alternate their use in days, weeks, or months at any time during the period between the end of Maternity leave and the first six months of the baby's life.

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

- No statutory entitlement.

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

#### *Adoption leave and pay*

- In the case of adoption (Laws 17,292 and 18,436), workers in both the public and private sector are entitled to a continuous six-week leave and a reduction of the working day (up to 50 per cent) for six months. These subsidies may be used by one of the two parents from the time the child is integrated into the family, while the other parent is then granted ten working days of leave.

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

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<sup>2</sup> In previous notes, we included the Parental Care Allowance in the 'flexible work' section. We think it is better to consider it as Parental leave because it shares its main characteristics mentioned by specialised literature. It is a part-time leave taken after Maternity leave, the fathers can take it, and it allows them to devote time to care.

- No statutory entitlement.

#### *Flexible working*

- Mothers in the public sector may work part-time, but only if they are breastfeeding. This lasts according to the baby's needs, but usually continues until the baby is 12 months old. The worker must present a medical certificate that proves that she is breastfeeding, in order to continue using the reduction of working hours. Since 1 June 2017, civil servants of the Central Administration have been able to make use of a reduction in working hours, meeting a minimum of four hours per day, when the baby is between six and 12 months old. It must be used by one of the parents. This measure was established in the labour agreement signed in December 2016 by the Confederation of Organisations of State Officials (COFE), the Ministry of Economy and Finance, and the Ministry of Labor and Social Security. Before this agreement, only mothers were eligible.

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

- If the worker breastfeeds her child, she is authorised to interrupt her daily work for that purpose, and has a choice between two periods of half an hour each or a period of one hour. This time is computed as effective work. Her doctor is responsible for setting the duration of the breastfeeding period (Decree N°234/018). The certificates issued will be renewed in each control of the child; will be valid for no longer than three months; and may be extended for up to two years. The workers are required to present the certificate to their employer with whom they need to agree on how and when they will use the one-hour reduction during the working day.

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

The maximum period of post-natal leave is around three months, paid at a high earnings-related level. There is an entitlement to ECEC once children are four years old and attendance becomes obligatory at that age.

56.2 per cent of children from 0 to 4 years attend ECEC, but attendance is very different according to age. Attendance is 13.3 per cent for children under the age of one year, 38.7 per cent for one-year-olds, 57

per cent for two-year-olds, 77.7 per cent for three-year-olds, and 93 per cent for four-year-olds.<sup>3</sup>

However, if we consider those children who attend 20 hours a week or more, which is equivalent to at least a part-time workday, these figures drop to 2.5 per cent for children under the age of one, 13.8 per cent for one-year-olds, 42 per cent for two-year-olds, 70.4 per cent for three-year-olds and 86.9 per cent for four-year-olds.

Until the age of two years, most of the children attend a private ECEC (financed by families) with very low participation of the state. This is especially the case for children under the age of one. For children aged three and older, this trend is reversed, with the state provision becoming more important<sup>4</sup>.

Levels of attendance at formal services for children under the age of three (38 per cent) are around the average both for the countries included in this review and for OECD countries; but well below the average for children over the age of three. For attendance levels, see 'relationship between leave and ECEC entitlements' on the [cross-country comparisons](#) page.

### **3. Changes in policy since April 2019 (including proposals currently under discussion)**

None reported.

#### **Policy response to the Covid-19 pandemic up to end June 2020**

##### *Childcare and schools*

- Since 13 March 2020, all ECEC centres were closed, without exceptions.
- Starting on 15 June, all ECEC for children under 36 months opened across the country but in only partial mode. Each institution defines the number of hours, which cannot exceed 4 hours per day, and the number of days per week.

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3 Own elaboration based on micro data from the Nutrition, Child Development and Health Survey, INE, MIDES, 2018.  
<http://www.ine.gub.uy/web/guest/encuesta-de-nutricion-desarrollo-infantil-y-salud-endis-2018->

4 Own elaboration based on micro data from the Nutrition, Child Development and Health Survey, INE, MIDES, 2018.  
<http://www.ine.gub.uy/web/guest/encuesta-de-nutricion-desarrollo-infantil-y-salud-endis-2018->

- Since 13 March 2020, all schools were closed (children between 4 and 12 years old). Starting 22 April, some rural schools opened for children between 4 and 12 years old. Attendance is voluntary and there are classes three days a week for three and a half hours. On 1 June, all the schools across the country (children from 4 to 12 years old) opened except for those in Montevideo and the Metropolitan Area (which opened 29 June). However, the maximum hours cannot exceed 4 hours a day and each institution defines the days of the week with classes.

#### *Parental leave*

- There were no modifications to Parental leave.

#### *Other measures for parents and other carers*

- The return to on-site work in the public sector occurred from May 2020. The protocol of return to employment in the public sector established that workers with children under the age of 3 years can continue teleworking and are not obliged to be physically present. In some cases, it was extended to children up to 12 years old. The Presidency urged the private sector to take similar measures, but no regulation required it.
- Cash transfers to the most vulnerable sectors doubled and emergency food baskets were delivered to informal workers who had no support from social security.
- No support measures were specifically implemented for parents.

## **4. Uptake of leave**

### **a. Maternity leave**

Data on Maternity leave show a steady increase in the period 2011-2016, from 14,264 users in 2011 to 16,108 users in 2016. However, no significant impact can be observed since the new law, Nr.19161. From 2013, there has been a stability in the number of users (around 16,000): this means that when it comes to the first years of implementation, the new legislation has not involved a significantly important increase, in comparison to previous years. The new law, with the inclusion of new groups, did not imply substantive variations in the use of Maternity leave – probably because the non-dependent mothers who can use this license represent a very small proportion. In any case, it is interesting to



investigate the state's capacities to disseminate and guarantee the rights of these groups.<sup>5</sup>

The evolution of the users of Maternity leave presents a continuous decline from 2016 until 2019. While in 2016 there were 16,911 users, this number fell to 13,461 in 2019<sup>6</sup>. It is important to consider that births in Uruguay have decreased in recent years. In 2016 there were 47,058 births while in 2019 there were 37,448, 2,691 less than in 2018. The reduction of births in 2019 occurred in all age groups, but the greatest contribution to the decrease was made by the group of women under 24 years old. There has been a decrease in the adolescent fertility rate (number of births of women between 15 and 19 years old) in recent years.

### **b. Paternity leave**

A substantive increase occurred in the case of Paternity leave until 2016, as take-up rose from 8,799 in 2014 to 15,862 in 2016 (an increase of 80 per cent). Undoubtedly, this increase represents a significant advance for male parents' right to care, at least during the first days of the baby's life.<sup>7</sup>

However, a decrease has been observed from 2017. While in 2017 there were 15,372 users, they were 13,403 in 2019. Again, this needs to be considered together with the decreased number of births.

### **c. Parental leave**

Part-time leave (Parental Care Allowance) is voluntary. In 2016, 59.1 per cent of the users of Maternity leave in the private sector used part-time leave (Parental Care Allowance). This means that a significant group of women did not take it, despite having the right to do so.

Regarding the evolution in the use of Parental leave, it increased from 6,258 users in 2014 to 9,525 in 2016, signifying an increase of 52 per cent.<sup>8</sup> However, a decrease in users is observed in 2017 and 2018 and a slight increase in 2019<sup>9</sup>.

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5 Batthyány, K., Genta, N. and Perrotta, V. (2018) *Uso de licencias parentales y roles de género en el cuidado*. Departamento de Sociología, FCS-UDELAR, MTSS, SNIC, OIT, ONUMJERES.

6 Own elaboration based on BPS, Social Security Indicators, 2020.

7 Batthyány, K., Genta, N. and Perrotta, V. (2018) *Uso de licencias parentales y roles de género en el cuidado*. Departamento de Sociología, FCS-UDELAR, MTSS, SNIC, OIT, ONUMJERES.

8 Ibid.

9 Own elaboration based on BPS, Social Security Indicators, 2020.

Among the users of part-time leave (Parental Care Allowance), men represent two per cent, a proportion that has remained stable in recent years. The reasons why the use of part-time leave is fundamentally by women are of a design nature. Couples must choose if it is the father or mother who takes part-time leave. Societal gendered norms associate mothers with being the best caregivers, especially in the first six months of babies' lives.

As observed in international precedents, when either parent is eligible for the benefit, it is normally used by women. In Uruguay, use reflects a rigid gender contract in social representations around childcare. The impact of social representations around childcare is reinforced by the state's strong promotion of exclusive breastfeeding in the first six months. National regulations adopted in 2009 (Ministry of Public Health Ordinance 217/09) establish the importance of exclusive nursing in the first six months, and supplementary breastfeeding up to the age of two, while defining the obligations of health services in that regard. Such recommendations form part of campaigns conducted by the state and health provider institutions. In other words, the shared use of part-time leave is discouraged by an apparent contradiction: on the one hand, women are advised to breastfeed their children during the first six months and, on the other, they are afforded the opportunity to transfer their right to part-time leave to their partners in the same six months (Batthyány and Perrotta, 2018<sup>10</sup>).

Results of the *National Parental Leave Survey*, implemented in 2017, showed that men's major reason (72.1 per cent) for not using part-time leave was its overlap with the nursing period. The next most frequent reason given by fathers (six out of ten) was that they believed the baby is better cared for by mothers. One-third of the men replied that caring for babies in the first year of life is the task of mothers (Batthyány and Perrotta, 2018<sup>11</sup>).

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

No statutory leave entitlement.

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

No information available.

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<sup>10</sup> Batthyány, K. and Perrotta, V. (2018) 'Maternity/paternity and paid employment: progress in and obstacles to the exercise of the right to care in Uruguay', *Journal of the Ministry of Employment and Social Security Economics and Sociology*, Vol. 136. Available at: [https://www.academia.edu/37432019/Revista\\_del\\_Ministerio\\_de\\_Empleo\\_y\\_Seguridad\\_Social](https://www.academia.edu/37432019/Revista_del_Ministerio_de_Empleo_y_Seguridad_Social).

<sup>11</sup> Ibidem.