

# China<sup>1</sup>

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N.B. There are 31 provincial administrative regions in mainland China (including provinces, municipalities directly under the central government, and autonomous regions). These provinces are subordinate to the leadership, authority, and direction of the central government. The central government formulates national policies, which are nationally binding. Provincial local governments, in line with these central policies, can independently develop their own policies based on their respective conditions.

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 (产假) (responsibility of State Council at a national level and Local People's Congresses at a provincial level)

*Length of leave (before and after birth)*

- 98 calendar days: 15 days before the birth and 83 days after the birth.
- Taking leave is not obligatory.
- To give a brief historical overview, Maternity leave in China began in 1951, when the Labour Insurance Regulations of the People's Republic of China stipulated that female employees must be given a total of 56 days of pre-natal and post-natal leave, with full

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earnings replacement. In 1988, Regulations Governing Labour Protection for Women Staff Members and Workers extended the length of Maternity leave from 56 days to 90 days. In 1995, the Labour Law of the People's Republic of China was formally implemented, prescribing that female staff must receive no less than 90 days of Maternity leave after the day of delivery, which legally guaranteed women the right to take Maternity leave. In 2012, Special Rules on the Labour Protection of Female Employees was implemented, which is now in place.

#### *Payment and funding*

- 100 per cent of earnings.
- Funded by the Maternity Insurance Fund for employees included in maternity insurance; and/or by work units (work units cover the balance if the maternity allowance is higher than the female worker's salary; and they pay the full benefit if the female worker did not participate in paying maternity insurance).

#### *Flexibility in use*

- None.

#### *Regional or local variations in leave policy*

- National laws and regulations set the basic provisions for Maternity leave, such as the length of leave, its payment, and funding. However, provinces may develop their own regulations, in relation to their local conditions. On this basis, 31 provinces in mainland China have extended the duration of Maternity leave to employees who comply with fertility laws and regulations (see below). This varies from extending leave from the national entitlement of 98 days to 128 days (in Beijing, Shanghai, Jiangsu, Zhejiang, Hubei, Chongqing, and Tianjin) to extending leave for up to one year (in Tibet). The most common extension is to 158 days (in Hebei, Shanxi, Inner Mongolia, Liaoning, Jilin, Anhui, Jiangxi, Shandong, Hunan, Sichuan, Guizhou, Yunnan, Qinghai, Ningxia, Shaanxi, and Xinjiang).
- In Shanghai, there are two additional provisions. Female employees who are 28 weeks pregnant or more should receive an hour's break per day (paid at 80 per cent of their earnings) and should not work nightshifts. Women who need to be exempted from work to protect their foetus can, upon presentation of a medical certificate, take a 'foetus protection leave.'

## *Eligibility*

- All female employees are entitled to 98 days of paid Maternity leave, whether they meet the requirements of fertility policies or not (see Section 3). Female staff who conform to fertility policies can (in most parts of the country) get a reward of extended paid Maternity leave or other additional social benefits in addition to the 98 days of Maternity leave (see 'regional or local variations' above).
- Women who are unemployed, flexibly employed, or agricultural workers are not eligible for Maternity leave. Self-employed workers are also not eligible.
- Since 2010, China's 'one child' fertility policy has been adjusted; along with this, Maternity leave policy has also been adjusted. At the end of 2011, the 'two-child policy for couples where both husband and wife are from a single-child family' (i.e. a policy of two children where both parents are only children) was implemented. At the end of 2013, the policy of 'two-child policy for couples where either the husband or the wife is from a single-child family' (i.e. a policy of two children where one parent is an only child) was implemented. Finally, in October 2015, the universal two-child policy was implemented,<sup>2</sup> following which the Chinese government made changes to Maternity leave and Paternity leave policies (December 2015). The Population and Family Planning Law of the People's Republic of China was amended by stipulating that 'the couples who bear children in line with the laws and regulations can get rewards of extended birth leave or other social benefits.' Consequently, late marriage and late childbirth among citizens are no longer encouraged and rewarded with additional entitlements. Maternity leave and Paternity leave policies apply to all Chinese people no matter where they reside. Mothers of single children, mothers of two children, and other families that conform to the policy are all now entitled to extended Maternity leave and other social benefits. As a result, a range of measures has been enacted by provinces since 2016, with the length of Maternity leave often being extended beyond 98 days (ranging from 128 days to one year). Paternity leave has also been introduced in different areas, ranging from seven to 30 days.

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<sup>2</sup> In certain circumstances, couples can have more than two children: e.g. remarried couples, couples who have one or two children with disabilities, couples from ethnic minorities, or couples who legally adopt children.

*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*

- Female employees who suffer from dystocia can have an additional 15 days of leave.
- Female employees who have multiple births are entitled to an additional 15 days of leave for each additional birth.
- In four provinces, female employees who still cannot work after the end of Maternity leave, due to physical problems or other difficulties, can (with the approval of their work units) obtain additional leave. In Zhejiang, Jilin, and Chongqing, leave can be extended to one year after birth (including statutory Maternity leave), with the salary continuing to be fully paid (Zhejiang) or paid at 75 per cent or above (Jilin and Chongqing).

**b. Paternity leave (陪□假) (responsibility of State Council at a national level and Local People's Congresses at a provincial level)**

*Length of leave*

- No statutory entitlement nationally.
- However, in all provinces, Paternity leave is provided ranging from seven days (Shandong and Tianjin) to 30 days/one month (Yunnan, Gansu, Henan, and Tibet): however, 15 days is the standard in most areas. In Anhui and Shaanxi, five and 15 days respectively can be added to Paternity leave if the husband and wife live in different places. Where Paternity leave is provided, fathers taking leave receive full earnings. All male employees who conform with fertility policies are eligible. There is no legal requirement as to when the Paternity leave should be taken.

**c. Parental leave**

No statutory entitlement.

**d. Childcare leave or career breaks**

No statutory entitlement.

**e. Other employment-related measures**

*Time off for the care of dependants*

- China does not legally recognise same-sex marriage, so all family policies refer to heterosexual couples.

- Currently, 13 provinces entitle an only child to leave in order to care for their parents (referred to as 'nursing leave for only child') and this leave applies if the parents have reached the age of 60 and are being treated in hospital. Nursing leave is provided ranging from ten days (Fujian and Chongqing) to 20 days (Henan, Heilongjiang, Inner Mongolia, Yunnan, and Shaanxi), with 15 days being the standard in Hainan, Guangxi, Hubei, Shanxi, Sichuan and Ningxia. Of the 13 provinces, six allow children with a sibling/s to receive nursing leave: Hubei (ten days), Heilongjiang (ten days), Yuannan (ten days), Shaanxi(ten days), Sichuan (seven days), and Ningxia (seven days).
- In 5 provinces, including Hebei, Shandong, Liaoning, Gansu, and Beijing, employees can use the nursing leave when their elderly parents are ill in hospital, but the number of days of leave is not clearly defined. Employees should discuss with their employers when they want to take nursing leave as there are no regulations as to how many days the employers should limit this type of leave.
- Employees taking leave receive full earnings.

#### *Flexible working*

- See below.

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

- During the period of breastfeeding (including bottle-feeding) for infants under one year of age, work units should not extend mothers' working hours or arrange night shifts for them. They should also arrange at least one paid hour of breastfeeding time during the working day for mothers during this period. Female employees who have had multiple births are entitled to another paid hour of breastfeeding time per day.
- In three provinces, additional breastfeeding leave can be applied for after the end of Maternity leave. In Shaanxi, if work units are unable to guarantee breastfeeding time and provide breastfeeding conditions due to special circumstances, three to six months of paid breastfeeding leave can be granted. In Hainan, after Maternity leave, work units can agree to breastfeeding leave until the child's first birthday, paid at no less than 80 per cent of the employee's basic wage. In Guangxi, employees who have difficulty with nurturing infants after the Maternity leave ends can be granted six to twelve months of breastfeeding leave, paid at 80 per cent of earnings.

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

The maximum period of post-natal leave available is 12 weeks, as laid out by national regulations, but the period is extended in nearly all provinces, most frequently to 4.7 months; leave is paid at a high rate. There is an entitlement to Early Childhood Education and Care (ECEC) from three years of age. There is a gap, therefore, of more than two and a half years between the end of well-paid leave and an entitlement to ECEC.

China is not included in the comparative table on ECEC enrolment produced for the OECD Family Database. National statistics report that only four per cent of children under the age of three years were in formal ECEC services in 2015<sup>3</sup>, with informal care dominant for this age group. Participation of children aged three years or older in ECEC was 79.6 per cent in 2017.<sup>4</sup>

## **3. Changes in policy since April 2020 (including proposals currently under discussion)**

In April 2019, the general office of the State Council issued the Guidance on Promoting the Development of Care Services for children under 3 years old. The policy is mainly aimed at care services rather than families, and its main purpose is to promote the establishment of care services and to establish standards for them. By April 2021, Shanghai, Sichuan, Hubei, Zhejiang, Guangxi, Inner Mongolia, Gansu, Jilin, Fujian, Anhui and Henan provinces have responded to the national policy. Consistent with the national policy, the main objective of the policies of the 11 provinces is to promote the development of care services for children under 3 years old.

### **Policy response to the Covid-19 pandemic up to end April 2021**

During the epidemic period from January to the end of April in China, only two provinces (Beijing, Tianjin) and a few city level governments

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<sup>3</sup> National Health Commission of the People's Republic of China (2017) *Transcript of special press conference of the progress of the universal two-child policy held on January 2017*. Available at: <http://www.nhc.gov.cn/xcs/s3574/201701/7ea4318bf0f7450aaf91d184e02e5dcf.shtml>

<sup>4</sup> Ministry of Education of the People's Republic of China (2018) *The Statistical Bulletin of National Education Development in 2017*. Available at: [http://www.moe.gov.cn/jyb\\_sjzl/sjzl\\_fztjgb/201807/t20180719\\_343508.html](http://www.moe.gov.cn/jyb_sjzl/sjzl_fztjgb/201807/t20180719_343508.html)

(Hangzhou, Ningbo, Wenzhou) issued temporary care policies. The main contents of these policies are that for families with two employees (parents) who return to work, each family can have one employee stay home to take care of their children, and the salary should be paid by the enterprise where the employees work. Since May 2020, China's COVID-19 has been controlled, people's life and work are back to normal. After two months of summer holiday from July to August, students at all stages also return to school. All temporary care policies will no longer be implemented.

## **4. Uptake of leave**

### **a. Maternity leave**

According to the statistics of the Third Survey of Chinese Women's Social Status, in 2010 almost all mothers had taken Maternity leave; mothers with no Maternity leave accounted for only 1.9 per cent.

### **b. Paternity leave**

According to the Third Survey of Chinese Women's Social Status, nearly half (49.3 per cent) of fathers who had a child in 2010 did not have paid Paternity leave; nearly a third (31.9 per cent) had paid Paternity leave of one to seven days; 13.4 per cent had eight to 15 days; and 5.4 per cent had paid Paternity leave of more than 15 days.

### **c. Parental leave**

No statutory leave entitlement.