

# Chile<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 (*pre y postnatal maternal*) (responsibility of Ministry of Labour and Social Security)

*Length of leave (before and after birth)*

- 18 weeks: six weeks before birth, and 12 weeks after birth. It is obligatory to take the whole period. In addition, women are entitled to a further 12 weeks of leave after obligatory Maternity leave is finished.

*Payment and funding*

- Dependent worker: During the leave, the salary is paid by the health insurance institution of the employee. In Chile each employee can choose between a private (ISAPRE) or public (Compín-FONASA) health insurance. 100 per cent of the salary is covered, with a taxable cap of UF73.20<sup>2</sup> [€2,171.14] per month.<sup>3</sup> To avoid salary fluctuations, the insurance company calculates an average income for three months from the beginning of the Maternity leave. Meanwhile the institution also pays the obligatory monthly contribution to pension insurance (ten per cent).
- Independent worker: Maternity leave is covered for independent workers who issue invoices. Health insurance provides a monthly payment of the

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<sup>2</sup> *Unidad de Fomento* (UF) is a unit of account used in Chile, adjusted in line with inflation. It was created in 1967 to maintain the value of savings against inflation. Later, its use was extended to the financial system, pensions system, health system, education, and other fields. One UF is equivalent, approximately, to €31.

<sup>3</sup> Conversion of UF currency to Euro undertaken for 21 June 2022, using: <https://cuex.com/en/>.

average income of the worker, which is calculated based on the commercial invoice issued three months before the beginning of the Maternity leave. 100 per cent of the salary is covered with a taxable limit of UF73.20 [€2,171.14].

#### *Flexibility in use*

- Women can choose to go back to work on a part-time basis for the second period of leave (after obligatory leave), in which case they may extend this leave period by six weeks to a total of 18 weeks.
- Women can choose to transfer a period of the second part of her leave to the father. This transfer can be done in one of two ways: one way is for the mother to transfer the last six weeks of full-time leave to the father and his health insurance pays 100 per cent of his earnings and pension insurance up to a taxable limit of UF73.20 [€2,171.14]; or the other way is for the mother to transfer 12 weeks of part-time leave to the father and his health insurance pays 50 per cent of his earnings and pension insurance, while the employer pays the other 50 per cent.

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

- Dependent worker: all employees with permanent job contracts are entitled to take Maternity leave. Employees on fixed-term contracts must meet the following conditions:
  - Renewal of their contract.
  - If the contract is not renewed the worker must have at least:
    - One year of contribution to the pension system through the administration of the individual pension funds (the name in Chile is AFP).
    - The last contribution to the pension system must be as a dependent worker, no matter the type of contract (permanent or fixed term).
- Independent worker: independent workers are entitled to Maternity leave if they meet the following requirements:
  - A one-year contribution to the pension system (AFP).
  - At least six contributions to the pension system during the last 12 months before stopping work before giving birth.
  - Contribute to a health insurance institution (public or private).

#### *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*

- If any health complications are detected by a doctor during pregnancy, the worker is entitled to supplementary leave before the birth: the length is specified by the doctor and a medical certificate is required.
- In the case of multiple births, the leave is extended by seven days for every child, starting with the second baby.
- In the case of a premature birth, Maternity leave is extended from 12 to 18 weeks after birth. In the case of a premature and multiple birth, the longer extension applies.

- If childbirth occurs more than six weeks after the mother started her pre-birth leave, the pre-natal leave is extended until the date of the birth.
- If the mother has any health problems because of childbirth, Maternity leave is extended according to medical judgement.
- If the mother dies during or after childbirth, all Maternity leave rights are transferred to the father or a legal guardian.
- If the child dies during or after childbirth, the mother is entitled to use Maternity leave, though it is not obligatory.

## **b. Paternity leave (Permiso pagado del padre en caso de nacimiento - postnatal paternal) (responsibility of the employer)**

### *Length of leave*

- Five working days. It is obligatory to take Paternity leave.

### *Payment and funding*

- 100 per cent of earnings, paid by the employer.

### *Flexibility in use*

- The father can choose to take leave in one continuous period immediately after childbirth or can distribute the five days over the first month after the birth.

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

- All employees are eligible if they have a contract (permanent or fixed term).
- Self-employed workers do not receive any payment.
- Fathers who are deprived of their parental rights by a court lose all their rights of Paternity leave and transferred Maternity leave.
- Same-sex couples are not recognized in Chilean law.

## **c. Parental leave**

No statutory entitlement.

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

### *Adoption leave and pay*

- Parents that adopt a child are entitled to the same leave as biological parents. If the adopted child is over six months of age, the mother is only able to use the first part of Maternity leave.

*Leave to care for sick children less than a year old (responsibility of Ministry of Labour and Social Security)*

- Every working mother or father is entitled to paid leave in the case of serious illness of a child under the age of one. This must be certified by a doctor who should also specify the length of the leave. Paid at 100 per cent of earnings by the parent's health insurance with a taxable cap of UF73.20 [€2,171.14].
- The father can take the leave only if the mother allows it. In case the mother dies, all her rights are transferred to the father. In the case of single mothers, these rights are transferred to the legal guardian of the child.

*Leave to care for sick children with serious illness<sup>4</sup>*

- In the case of serious illness (i.e. cancer, organ transplant, or terminal disease) or a serious accident impacting a child between one and 18 years of age, every working mother is entitled to take up to ten days' leave (or the equivalent hours). The employee chooses how to distribute the hours (e.g. as complete days, partial days, or a combination). If both parents work, the mother can transfer this leave to the father.
- 100 per cent of earnings is paid to employees on leave, but employees must return the equivalent working hours to the employer, although there is no time limit for when this must be done.
- To apply for this leave, an employee must have a job contract and have paid eight contributions to pension insurance in the 24 months preceding the start of leave.

*Sanna Law<sup>5</sup>*

- Sanna Law was approved in December 2017. Its main purpose was the creation of a compulsory insurance for working mothers and fathers, in the case they had to take care of a child under eighteen years old, with a serious illness. In this way, working parents receive a 100 per cent of their salary while they are absent, with no taxable cap.
- With this coverage parents can be absent from work for a specific period, depending on the severity of the accident or illness. As the law was on implementation, the number of situations covered by the insurance has increased since 2017. Since February 2018, if a son or daughter has cancer, parents can leave for 15 days from work; this period may be extended to 90 days full-time or 180 days part-time in a lapse of 12 months. Later, on July 2018, organ transplant coverage was added, in which parents are entitled to 15 days of leave, with possibility of extension to 90 days full-time or 180 days part-time in a lapse of 12 months. In January 2020, the coverage was extended for parents with a child diagnosed with a terminal disease, in which case the working parent is entitled to a leave until the death of the child. Finally, in February 2020, coverage was extended for parents with a child that suffered a serious accident. In this situation,

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<sup>4</sup> Biblioteca del Congreso Nacional de Chile (2016) *Recuperado el 14 de Marzo de 2019, de Ley Fácil*. Available at: <https://www.bcn.cl/leyfacil/recurso/licencia-medica-para-el-acompanamiento-de-hijos-e-hijas-enfermos-graves-o-en-estado-terminal>

<sup>5</sup> Ministerio de Trabajo y Previsión Social (2020) *Ley SANNA*. Gobierno de Chile

parents are entitled to use 15 days (which may be extended to 45 days). Since December 2020, this benefit is granted also with respect to minors who suffer serious accidents or who are left with permanent functional sequelae.

- This insurance is financed with the 0.03 per cent of the employee taxable income. Dependent workers should have at least 8 months of contributions to the pension system through AFP in the last 24 months. In the case of independent workers, they are responsible to contribute with this percentage, but also should have at least 12 months of contribution to the pension system in the last 24 months; and their health insurance payment must be up to date. Finally, laid off workers are also entitled to this benefit if they register at least 12 months of contributions to the pension system before the leave starts.

*Time off for the care of dependents (responsibility of National Disability Service and Ministry of Social Development)*

- Every worker is entitled to take a leave of up to ten days per year to care for a disabled person for whom they are responsible. The period of leave taken should be made up by working extra hours or using holidays; if this cannot be done, earnings are reduced. To use the leave, the dependent person must be enrolled in the National Disability Registration. Any carers can use the leave, however the decision for a male worker to use leave rests with his female partner (unless she has died).

*Specific provision for (breast)feeding*

- Every working mother has the right to use at least one hour daily to feed a child under the age of two. This can be taken in one of three ways: during the working day; dividing the breastfeeding hour into two half hours (at the beginning or at the end of the working day); or postponing the beginning of the working day or leaving earlier.
- The employee receives 100 per cent of her earnings.

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

The maximum period of post-natal leave is around five and a half months, paid at a high rate. There is no entitlement to Early Childhood Education and Care (ECEC).

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

The Labour Law requires that all companies that employ more than 20 female workers must either provide a day nursery or pay for this service outside of the workplace.<sup>6</sup> In practice, this law has become a 'tax' for female employment, so

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<sup>6</sup> Dirección del Trabajo (2019). *Código del Trabajo*. Santiago de Chile.

increasing the cost of labour for the employer and providing a real obstacle to women joining the labour market.

Other ECEC policies are focused on the most vulnerable families in the country. Public services have increased their coverage, efficiency, and quality for their target population: every child between birth and five years of age in the bottom 60 per cent of households, in terms of wealth. In this context, the government has developed three programmes:

- Chile Crece Contigo: this inter-sectoral policy deals with early childhood development, covering health, education, social protection, justice, and employment, with guidelines from the Ministry of Social Development, and offering all its services at a local level. ECEC is the largest budgetary item on this programme, but there are no official statistics for coverage rates.<sup>7</sup>
- Two other programmes provide ECEC for vulnerable families:
  - Kindergartens administered by the National Council of Kindergartens (Junta Nacional de Jardines Infantiles- JUNJI).
  - Kindergartens and day nurseries administered by the Integra Foundation.

In 2018, JUNJI kindergartens and nurseries<sup>8</sup> covered 92 per cent of the target population, which is children from the bottom 60 per cent of households, in terms of wealth, enrolled in the Social Registry of Homes (*Registro Social de Hogares*). This means that the coverage of the program descended from 2017, when kindergartens received 98 per cent of the target population<sup>9</sup>. In terms of attendance, JUNJI kindergartens and nurseries presented a low increase from 77.2 per cent in 2017 to 79.0 per cent in 2018.

The situation of the Integra Foundation<sup>10</sup> for both nurseries and kindergartens is similar: the programme covered 93.4 per cent of its target population in 2018.

These numbers may suggest that the coverage of kindergarten population for vulnerable families is quite high, however, the potential population with needs of primary education is much higher. A recent evaluation made by the Ministry of Social Development, stated that JUNJI kindergartens and nurseries only cover 21.6 per cent of the population that face a gap between parental leave and elementary education in Chile.

### **3. Changes in policy since April 2021 (including proposals currently under discussion)**

No changes reported.

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<sup>7</sup> PNUD (2014) *Chile Crece Contigo: El desafío de la protección social a la infancia*. Santiago de Chile.

<sup>8</sup> Ministerio de Desarrollo Social (2018) *Informe de Seguimiento de Programas Sociales: Jardín Clásico Administrado por Junji y Vía Transferencia de Fondos*. Santiago de Chile.

<sup>9</sup> Ministerio de Desarrollo Social (2017) *Informe de Seguimiento de Programas Sociales: Jardín Clásico Administrado por Junji y Vía Transferencia de Fondos*. Santiago de Chile.

<sup>10</sup> Ministerio de Desarrollo Social (2018) *Informe de Seguimiento de Programas Sociales: Jardines Infantiles y Sala Cuna de Administración Delegada*. Santiago de Chile.

## 4. Uptake of leave<sup>11</sup>

### a. Maternity leave

Data on the use of the obligatory period of Maternity leave is available for up to 2017. According to the Ministry of Labour and Social Security, approximately 42.9 per cent of mothers took the leave six weeks before the birth of the child. Additionally, 44.6 per cent of mothers took Maternity leave after childbirth. This figure includes all mothers, but Maternity leave can only be taken by women who are employed, and the female employment rate is 48.5 per cent.<sup>12</sup> The data also does not include women working in national defense (army, air force, navy, and police).

The additional period of part-transferable Maternity leave started in 2012. That year, 37.4 per cent of mothers took the leave: this number had increased to 44.4 per cent in 2017. Approximately 99 per cent of women who took the leave did so full-time, which means taking 12 weeks of leave. This ratio has been a continuous tendency until 2019.

Leave is transferred to fathers in very few cases. Only 1,802 transfers have been made from 2011 to 2019. This means that, every year, only 0.2 per cent of leaves have been transferred to the father. The average number of days taken was 33.8: i.e., less than the six weeks allowed. According to the Ministry of Labour and Social Security, this low level of transfer is due to several reasons:

- Many women are still breastfeeding at a time when they might transfer leave.
- The decision to transfer Parental leave is with the mother.
- The legal procedure for transferring leave is complex and unknown in most human resources departments due to its low uptake.
- Fathers do not have the same maternal jurisdiction that mothers have at work. Maternal jurisdiction lasts two years, while paternal immunity only doubles the period in which they took the leave.

### b. Paternity leave

There is no information available.

### c. Parental leave

No statutory leave entitlement.

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<sup>11</sup> INE (2019) *Anuario de Estadísticas Vitales, 2017*; Ministerio del Trabajo y Previsión Social (2017) *Protección a la maternidad en Chile: Evolución del postnatal parental a cinco años de su implementación 2011-2016* Santiago de Chile; Superintendencia de Seguridad Social (2020) *Estadísticas de Seguridad Social*. Available at: <https://www.suseso.cl/608/w3-propertyvalue-10364.html>

<sup>12</sup> INE (2017) *Brechas de género en el mercado laboral chileno a nivel nacional*. Available at: [http://historico.ine.cl/genero/files/estadisticas/pdf/infografias/0\\_infografia\\_brecha\\_genero\\_mercado\\_laboral.pdf](http://historico.ine.cl/genero/files/estadisticas/pdf/infografias/0_infografia_brecha_genero_mercado_laboral.pdf)