
3 Parental leave in Australia today

Key points

- In 2007, around 2 168 400 female employees (54 per cent) and 2 157 700 male employees (50 per cent) had some form of paid parental leave available to them. Several factors influence eligibility to paid parental leave:
 - eligibility for paid parental leave is higher for full-time workers than for part-time workers, and differs by type of industry and occupation
 - paid parental leave becomes more common for both men and women as gross wages increase, reaching a plateau around \$1400–1500 per week.
- While all employees are covered by unpaid parental leave legislation, not all employees meet the eligibility criteria. Around 17 per cent of employee mothers and 15 per cent of employee fathers were ineligible for unpaid parental leave.
- Around 72 per cent of mothers in paid work take leave around childbirth. The vast majority of women not taking leave resign from work. Around 75 per cent of fathers in paid work take leave around childbirth.
- On average, mothers taking leave from paid work remain on leave for 37 weeks. Mothers' leave is usually a combination of different types of leave — the use of leave largely reflective of the availability of leave. Unpaid maternity leave making up the majority of leave taken (average 34 weeks). Fathers take an average of two weeks leave, the vast majority using paid leave (usually annual leave).
- Of mothers in paid work prior to childbirth, 11 per cent return to paid work within three months of childbirth, 26 per cent within six months, 57 per cent within 12 months, and 74 per cent within 18 months.
- Casual employees rely heavily on unpaid parental leave and other unspecified types of unpaid leave. Casual employees are marginally more likely to return to work early and are considerably less likely to return in the longer run.
- Mothers with more children are more likely to be outside the workforce prior to childbirth. However, if they are in the workforce prior to childbirth, mothers with more children are more likely to return to work after childbirth.
- An early return to work becomes more likely for mothers earning gross wages above \$1400 per week or below \$700 per week. Mothers earning high incomes are likely to return to work early for different reasons to those earning low incomes.
- Self-employed mothers take the shortest amount of leave on average (23 weeks) and are much more likely to return to work early.

Table 3.1 Summary of leave eligibility, leave usage and return to work

<i>Sample group</i>	<i>Mothers returning to paid work after childbirth</i>			
	3 months	6 months	12 months	18 months
	%	%	%	%
All mothers in paid work prior to childbirth	11	26	57	74
Permanent	6	19	58	75
Casual	13	30	50	68
Fixed term	7	20	48	65
Full-time	8	23	57	74
Part-time	15	30	57	74
Self-employed	42	61	70	85
Same employer for 12 months	8	22	57	74
Changed employers within 12 months	9	34	65	82
Worked less than 12 months	8	19	45	63
1 child	7	23	56	72
2 children	12	25	60	78
3 children	17	31	55	78
<i>Sample group</i>	<i>Eligibility for paid maternity/ paternity leave (adjusted figures)^a</i>			
	% Female employees		% Male employees	
Total	54		50	
Full-time employees	74		58	
Part-time employees	32		12	
Public sector	82		75	
Private sector	44		44	
<i>Leave type</i>	<i>Types of leave taken by parents who took some leave</i>			
	Mothers		Fathers	
	% Taking leave	Av. weeks	% Taking leave	Av. days
Paid parental leave	46	11	27	7
Unpaid parental leave	71	34	9	14
Annual leave	41	5	60	15
Sick leave	6	3	4	13
Long service leave	7	12	2	23
Other paid leave	2	12	7	6
Other unpaid leave	17	29	11	8
Total types of leave	—	37	—	14

^a The Commission has based these estimates on survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2).

Source: Estimates based on ABS, (*Employee Earnings, Benefits and Trade Union Membership, Australia*, Cat. no. 6310); ABS, unpublished data; LSAC Wave 1.5.

3.1 Introduction

This chapter outlines the current situation regarding paid and unpaid parental leave in Australia. The parental leave landscape may be usefully described by:

- the rules governing parental leave
- the number of employees eligible to take parental leave
- how parents use leave around childbirth
- when mothers return to employment.

This chapter outlines some important features of the Australian system of parental leave as it stands currently — in the absence of any paid parental leave legislation. It briefly examines how different groups of Australians are affected by parental leave, although the aim is not to discover causal relationships regarding policy instruments, worker characteristics or job characteristics.

This chapter is divided into sections, each section containing a short summary at the end. A collection of some important statistics from this chapter is contained in table 3.1. Section 3.2 outlines the current rules regulating parental leave in Australia. Section 3.3 examines how eligibility for paid parental leave varies across the workforce, while section 3.4 looks at how parents use leave around childbirth. Section 3.5 provides a summary of findings for this chapter.

3.2 What are the rules governing parental leave now?

All forms of leave, including parental leave, are related directly to the realm of paid work. This is because ‘leave’ is different to simply being outside the paid workforce — it is a state of being away from work but remaining employed in a paying job. The rules governing parental leave are contained in workplace legislation, workplace agreements and employer policies.

Unpaid parental leave policy

Parental leave has been a feature of Australia’s legislative landscape since the 1970s. The first major piece of legislation in this area was the *Maternity Leave Act 1973*, which introduced 12 weeks of paid maternity leave and 40 weeks of unpaid maternity leave for Commonwealth public servants. In 1979, a Conciliation and Arbitration Commission test case provided for 52 weeks of unpaid maternity leave. A further test case in the Australian Industrial Relations Commission in 1990-91 introduced the concept of parental leave, which covered

maternity, paternity and adoptive leave. Unpaid parental leave provides parents with time to care for a new child and a right to return to work afterwards.

Entitlements to unpaid parental leave are now contained in the *Workplace Relations Act 1996* (Cwlth) and in state-based industrial relations systems. According to estimates from the Department of Education, Employment and Workplace Relations (DEEWR), the Workplace Relations Act covers approximately 80 per cent of Australian employees. Unincorporated businesses are subject to state industrial relations laws, which provide similar legislation to the federal system regarding unpaid parental leave.

The eligibility requirements for unpaid parental leave are based on workplace attachment. To qualify for unpaid parental leave under the Workplace Relations Act, employees must have had at least 12 months continuous service with their employer before the expected date of the child's birth or placement. Casual employees must be employed on a regular and systematic basis for at least 12 months with the same employer, and have a reasonable expectation of continuing engagement.

Currently, unpaid parental leave consists of a maximum of 52 weeks that can be shared between parents. This 52 week period is inclusive of other paid or unpaid authorised leave taken by the parents after childbirth. Also included is a period of prenatal maternity leave that mothers may take due to illness. While parents may negotiate their own leave beyond a 52 week period, they would not be covered by the terms of the legislation.

Both parents may only take unpaid parental leave concurrently during the first week after the child's birth. Fathers may only take a second block of unpaid paternity leave if they are the child's primary care giver for that period (for example, if the mother returns to work). At any time, however, fathers may take privately authorised leave (such as annual leave) concurrently with any form of leave taken by the mother.

Further, eligible mothers have the right to a safe working environment while pregnant. If a job is deemed unsafe for them, employers are required to provide a safe alternative job or to provide leave at full pay (see chapter 2).

Some significant changes to the nature of unpaid parental leave are scheduled to come into effect in January 2010 with the introduction of the National Employment Standards (NES). These include:

- up to three weeks concurrent unpaid parental leave for both parents, as opposed to the current one week

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- a right for eligible employees to request up to 12 additional months of unpaid parental leave, giving a total of up to 24 months shared between eligible parents
 - a right for employees to request flexible working arrangements if they have children under school age (DEEWR sub. 164, p. 4; NES Preliminary, 2008).

Other rules regarding eligibility and duration are to be generally unchanged (see box 3.1). For instance, any parental leave beyond the period of concurrent leave remains reserved for the primary caregiver.

Box 3.1 The National Employment Standards

The treatment of unpaid parental leave under the National Employment Standards (NES) is, in many ways, unchanged from the rules contained in the Workplace Relations Act. According to the NES:

- An employee must have had at least 12 months continuous service with the employer before the expected date of birth or placement of the child.
- Casual employees must be employed on a regular and systematic basis in the 12 months prior to the child's birth or placement. Casual employees must have a reasonable expectation of continuing their placement.
- Fathers can take a short period of leave concurrent with the mother's leave. Leave beyond this period is reserved for the primary carer.
- Parents must take leave in continuous blocks, and each parent has the right to return to work following their leave.

Important changes to unpaid parental leave contained in the NES include:

- Employee parents eligible for unpaid parental leave would have the right to request up to 12 additional months of unpaid leave (division 4).
 - The request must be made in writing, and may be refused by the employer only on reasonable business grounds.
- The maximum period of concurrent unpaid parental leave is three weeks instead of one week (division 4).
- Employee parents of children under school age will have the right to request changes in working arrangements for child care purposes (division 3).
 - Employees must have 12 months continuous service with the employer, and casual employees must have been employed on a regular and systematic basis with the expectation of continuation.
 - The request must be made in writing, and may be refused in writing by the employer only on reasonable business grounds.
- Unpaid parental leave and the right to request flexible work arrangements are two of the ten National Employment Standards that must be included in all modern awards (division 1).

Paid parental leave policy

There is currently no mandated period of paid parental leave in Australia. However, a number of employers across a range of industries already provide paid parental leave to their employees. Such leave is provided according to employment agreements and employer policy, and at the employer's cost. Conditions and eligibility provisions vary substantially in terms of the type of leave provided, the length of leave allowed, and other conditions (see table 3.2 for some examples). While these arrangements typically cover paid maternity or paternity leave, some refer to 'parental leave' more broadly to cover leave used to look after a sick child throughout childhood.

Table 3.2 Examples of paid parental leave in Australia

Organisation/ Industry	Type of leave	Entitlement conditions	Length of leave	Rate of pay	When introduced
Australian Public Service	Maternity leave	12 months service	12 weeks	full pay	1973
AMP (Financial Services)	Parental leave	12 months service	14 weeks	full pay	1995
Esprit (Retail)	Maternity leave	12 months service	8 weeks maternity and 4 weeks sick leave	full pay	2001
Australian Catholic University (Education)	Paternity leave	None stated	3 weeks	full pay	2001
	Maternity leave	less than 2 years service	1 week per full month of service up to 12 weeks	full pay	2001
		2 years service; must return to work for 6 months	52 weeks	3 months at full pay, 9 months at 60 per cent pay	2001
Holden (Manufacturing)	Maternity leave	24 months service	14 weeks	full pay	2002
Finlaysons (Legal)	Parental leave	2 years service; must return to work for 12 months	4 weeks, rising to 8 weeks after 5 years service	full pay	2007
Myer (Retail)	Parental leave	18 months service (not available to casuals)	6 weeks	full pay	2008
Aldi (Retail)	Maternity leave	12 months service (not available to casuals)	14 weeks	half pay	2008

Employees covered by agreements such as those in table 3.2 may not necessarily be eligible for paid parental leave at the time of childbirth or adoption. However, it is useful to consider how many employees are covered by workplace agreements with paid parental leave provisions. DEEWR estimated that:

- paid maternity leave provisions were present in 15 per cent of workplace agreements, covering 44 per cent of the total Australian workforce
- around 28 per cent of the workforce had workplace agreements containing paid paternity leave provisions
- around 12 per cent of the workforce had workplace agreements containing adoptive leave provisions.

Workers and parents not covered by parental leave policy

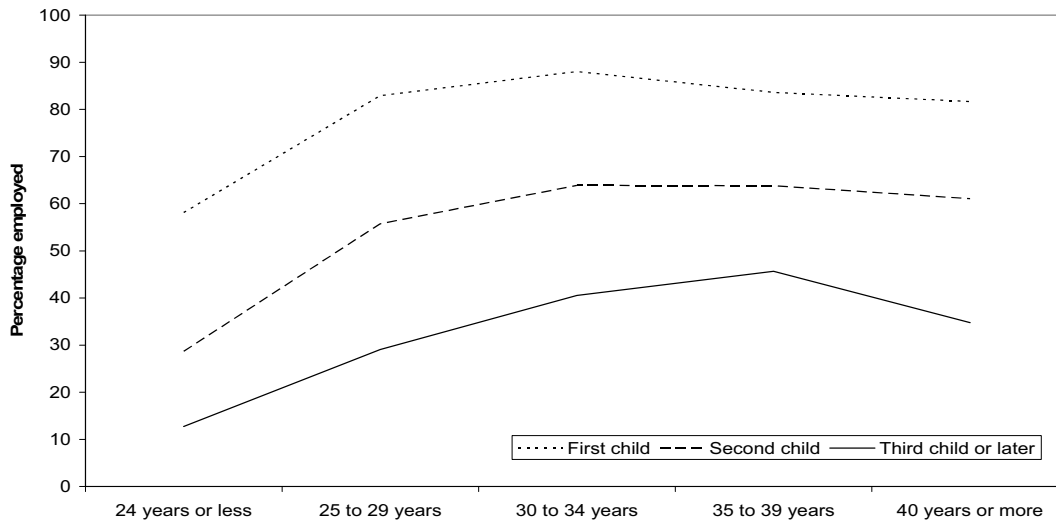
One group of workers who are not specifically covered by parental leave agreements or legislation are the self-employed. Normal concepts of paid and unpaid parental leave are difficult to apply to self-employed parents — they face the issue of parental leave from a very different perspective to other parents in terms of workplace relations, business incentives and work responsibilities. Effectively, the self-employed fully finance any period of parental leave and determine its duration. The distinction between unpaid and paid leave is meaningless for this group. Unpaid leave must be financed from savings as must any period of paid leave.

There were 674 100 self-employed people in Australia in 2007 — comprising 13 per cent of women and 23 per cent of men in the work force (ABS 2008a). LSAC data show that among parents who were in paid work before childbirth, around 7 per cent of mothers and 19 per cent of fathers were self-employed. Around 2 per cent of employee mothers switched to self-employment after childbirth.

Furthermore, it should be noted that a large number of parents are outside the paid workforce around the time of childbirth and, consequently, are not affected by parental leave policy. The Longitudinal Study of Australian Children (LSAC) wave 1.5 shows that two-thirds of mothers and 96 per cent of fathers were in paid work at some time in the 12 months before childbirth.

Evidence suggests that the employment rate for fathers during the pregnancy period is similar to those of other men, while women's employment has a more complex relationship with childbirth. The nature of employment among pregnant women differs significantly between those expecting their first, second or third child. Figure 3.1 shows that women with more children are more likely to be outside of paid work, and therefore less likely to be associated with formal maternity leave.

Figure 3.1 **Employment rates of mothers during pregnancy, by birth order and mother's age^a**



^a Employment refers to mothers' employment at any time during pregnancy.

Source: AIFS (sub. 138; p. 10); LSAC Wave 1.

Parental leave legislation in Australia today

The current scope of parental leave legislation is described in the following summary:

- both state and federal legislation provide a shared 52 weeks of unpaid parental leave to all employees with sufficient workplace attachment
- the NES will provide employees with the right to request up to an additional 52 weeks of unpaid parental leave, as well as flexible working arrangements
- paid parental leave is currently provided privately by many organisations
- the terms and conditions involved with paid parental leave differ considerably between organisations (for example, in the duration offered and eligibility requirements)
- around one-third of mothers and 4 per cent of fathers are not in paid employment during the pregnancy period, and are therefore not directly affected by parental leave legislation
- self-employed parents effectively self-fund any parental leave they take, and are not directly affected by current parental leave legislation.

3.3 Who is eligible for parental leave?

Not all paid employees are eligible for parental leave. As mentioned in section 3.2, the eligibility requirements for paid and unpaid parental leave are based largely around the duration of employment. Due to these requirements, many employees would not be able to use paid parental leave if they were to have a child.

The analysis in this section shows the number of people who have at least some unpaid or paid parental leave available to them. With regard to paid parental leave, schemes are likely to differ in terms of their conditions. For example, the paid parental leave available to men is usually shorter in duration than the paid maternity leave offered to women (see table 3.2).

Availability of unpaid parental leave

Since unpaid parental leave is contained in state and federal legislation, the availability of unpaid parental leave varies only according to the employment status and employment history of each parent. The Parental Leave in Australia Study, which was taken as part of LSAC Wave 1.5, provides the most direct and the widest coverage for estimating the availability of unpaid parental leave to parents at the time of childbirth.

At least 27 per cent of recent mothers and 35 per cent of recent fathers who were in paid work prior to childbirth were not eligible for unpaid parental leave. This includes parents who had not worked for the same employer for 12 continuous months (17 per cent of mothers and 15 per cent of fathers), and parents who were self-employed prior to childbirth (10 per cent of mothers and 20 per cent of fathers). Unpaid maternity leave is more likely to be available to first time mothers because mothers who have other children are much less likely to be in stable paid employment than first time mothers.

Availability of paid parental leave

The availability of paid parental leave depends on whether such leave is offered at a given workplace, as well as whether a given employee will qualify for that leave. The ABS estimates the availability of paid maternity and paternity leave for paid employees,¹ regardless of whether they are already parents or whether they plan to have children in the future. The estimates presented in this section are based on ABS data that have been adjusted by the Commission (see box 3.2). As such,

¹ In ABS (2008b), information on parental leave does not refer to owner-managers of unincorporated enterprises.

figures presented in this section show a higher level of availability of paid parental leave than previously published by the ABS (2008b, 2008c).

In August 2007, around 54 per cent of employed women and 50 per cent of employed men were eligible for paid parental leave as a condition of employment. The unadjusted figures show that 45 per cent of employed women and about 35 per cent of employed men say that they are currently eligible for paid parental leave (table 3.2). Larger differences between the adjusted and unadjusted figures reflect higher proportions of respondents who were unsure of their eligibility — male employees appear to be less aware than female employees of their parental leave entitlements.

Box 3.2 Accounting for employees who did not know whether they were eligible for paid parental leave

In 2007, roughly 16 per cent of female employees and 28 per cent of male employees reported that they 'did not know' whether they were entitled to paid parental leave ABS (2008c). If the employees who 'did not know' whether they were covered were excluded, 54 per cent of female employees and 50 per cent of male employees are estimated to be covered by privately negotiated paid parental leave schemes.

Problems can arise when making estimates from samples with extensive missing data. However, the ABS (2008c and sub. DR332, p. 2) considered that it would be 'reasonable to infer' that, for female employees, the 'did not know' group is likely to have a similar distribution to those who responded yes or no to the question.

On that basis it could be expected that 53.8 % ... of the 'did not know' responses would have entitlements to paid maternity leave. (ABS, sub. DR332, p. 2)

In its analysis of ABS data in this chapter and in appendix C, the Commission has therefore calculated the proportion of employees who are covered by paid parental leave schemes based on respondents who indicated they knew whether or not they were covered by such schemes.

Overall, the rates of availability for paid maternity and paternity leave is much higher than five years ago. These rates are at least ten percentage points higher in 2007 than in 2002 (table 3.3). The growth in availability of paid parental leave may have slowed recently (see appendix C for further discussion of trends).

The overall scope of parental leave

By applying the rates of availability for unpaid and paid parental leave to the population of recent parents, it is possible to present a basic estimate of the number of mothers and fathers who were eligible for parental leave at the time of childbirth. Figure 3.2 shows the scope of paid and unpaid parental leave compared with the

total number of births in 2007. It also illustrates the extent to which parents are not directly covered by current parental leave policies.

Table 3.3 Availability of parental leave by gender, 2002–07^a
Percentages

Year	Female employees entitled to paid maternity leave		Male employees entitled to paid paternity leave	
	Unadjusted	Adjusted ^b	Unadjusted	Adjusted ^b
	%	%	%	%
2007	45	54	36	50
2004	35	44	21	31
2002	31	41	20	31

^a While it is not shown in the data, men and women who are eligible for paid parental leave are likely to have access to different durations of leave (see table 3.2). ^b The Commission has based these estimates on survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2).

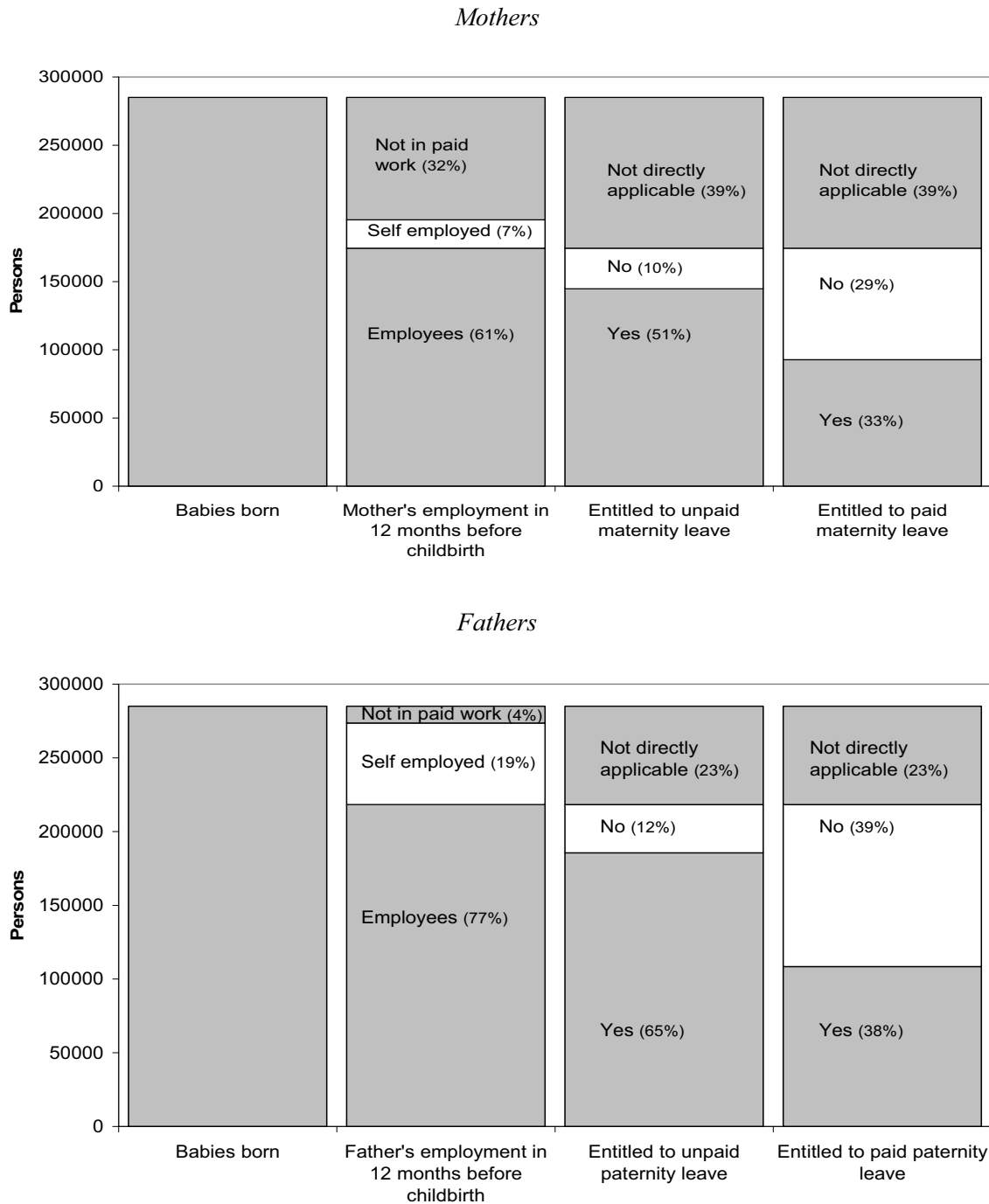
Source: Estimates based on: ABS (*Employee Earnings, Benefits and Trade Union Membership, Australia, August 2007*, Cat. no. 6310); ABS (*Australian Labour Market Statistics, Australia, July 2008*, Cat. no. 6105.0); ABS, unpublished data.

Availability of parental leave by parents' characteristics

While it is useful to know how many employees have parental leave across the entire workforce, it is also important to consider how this availability is distributed across different sections of the workforce. By again adjusting ABS data as described in box 3.2, it is possible to consider how the availability of paid parental leave differs according to job and worker characteristics. The purpose of this analysis is not to determine causality, rather it is to ascertain how the availability of parental leave varies between different groups of employees.

One example is that the availability of both paid maternity and paternity leave changes, on average, according to the age of employee. Both men and women are less likely to have paid parental leave available to them at ages over 59 years or under 25 years, with the lowest likelihood being at ages 15–19 years. For younger workers, these lower rates may be due to employment duration and stability, employee priorities or workplace bargaining power. It is worth noting that women between the ages of 20–45 years account for around 96 per cent of births (ABS 2007).

Figure 3.2 Parents' employment status and availability of parental leave in Australia^a

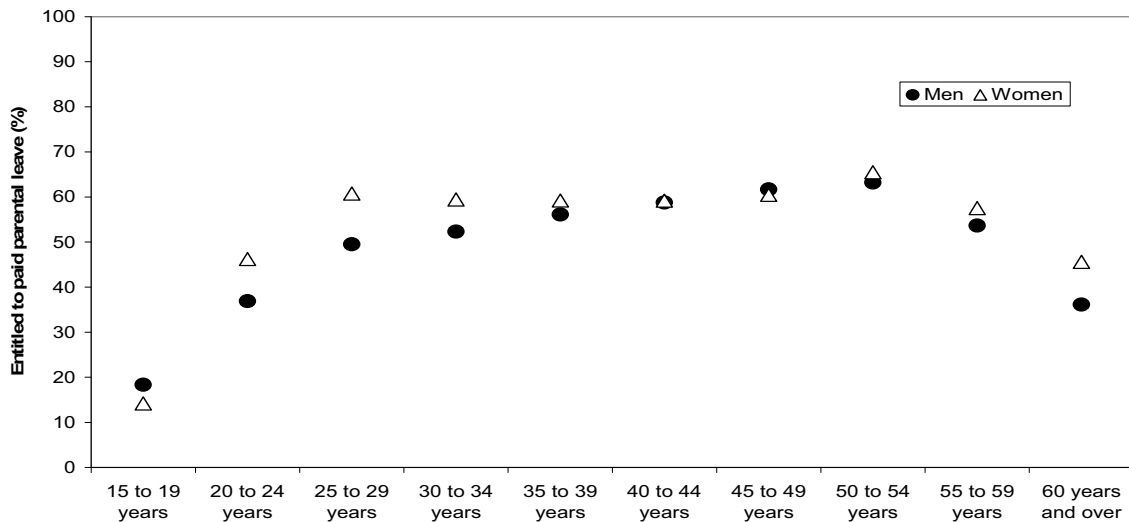


^a The Commission has based its estimates of availability of paid parental leave on ABS survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2). While it is not shown in the data, men and women who are eligible for paid parental leave are likely to have access to different durations of leave (see table 3.2). Access to leave does not imply use of leave. Percentages may not add to 100 per cent due to rounding.

Data source: Estimates based on: ABS (*Employee Earnings, Benefits and Trade Union Membership, Australia, August 2007*, Cat. no. 6310); ABS (*Births, Australia, 2007*, Cat. no. 3301); ABS, unpublished data; LSAC Wave 1.5.

Figure 3.3 Availability of paid parental leave for employees by age and gender^a

Percentage of the group eligible for paid parental leave



^a The Commission has based these estimates on survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2). While it is not shown in the data, men and women who are eligible for paid parental leave are likely to have access to different durations of leave (see table 3.2).

Data source: Estimates based on: ABS (*Employee Earnings, Benefits and Trade Union Membership, Australia, August 2007*, Cat. no. 6310); ABS (*Australian Labour Market Statistics, Australia, July 2008*, Cat. no. 6105.0); ABS, unpublished data.

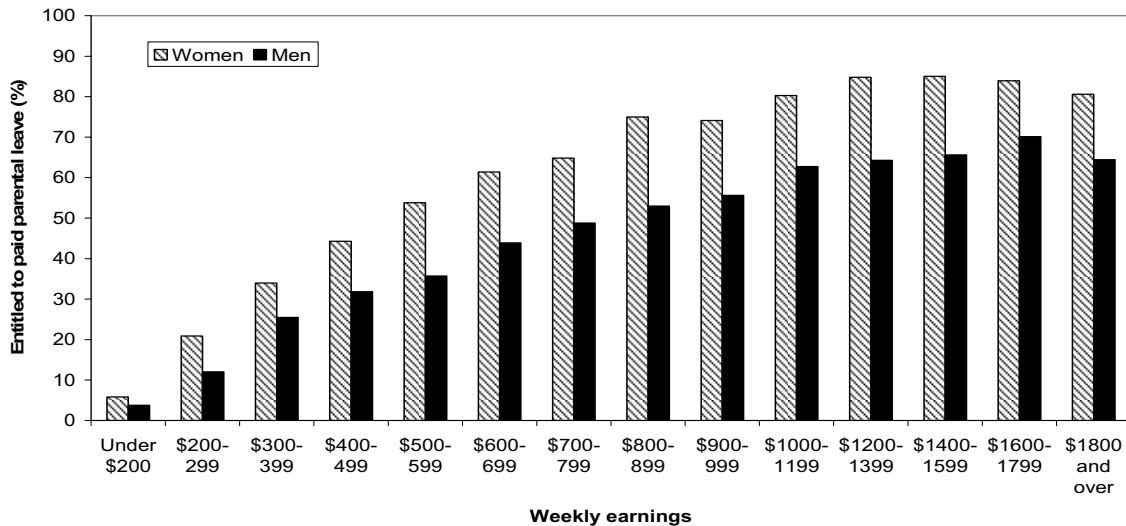
Full-time employees are more likely to be eligible for paid parental leave. In 2007, 74 per cent of female full-time employees had access to paid parental leave compared with only 32 per cent of part-time employees. Paid paternity leave was available to 12 per cent of male part-time workers, compared with 58 per cent of male full-time workers.

Employees on higher weekly earnings are more likely to have access to paid parental leave. Figure 3.4 shows that the proportion of workers with access to paid parental leave rises with gross income, reaching a plateau at around \$1400 to \$1600 per week before tax. This suggests that paid parental leave is a benefit that is more likely to be included as part of larger remuneration packages.

The positive relationship between access to paid parental leave and gross income may not only reflect differences in skills and experience — it may also reflect the disparity between full-time and part-time hours. Further, the type of occupation held also influences both pay rates and access to paid leave, with managers, professionals, and clerical staff more likely than other workers to have paid parental leave available to them (figure 3.5).

Figure 3.4 Availability of paid parental leave for employees by weekly earnings and gender^a

Percentage of the group with access to paid parental leave



^a The Commission has based these estimates on survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2). While it is not shown in the data, men and women who are eligible for paid parental leave are likely to have access to different durations of leave (see table 3.2).

Data source: Estimates based on: ABS (*Employee Earnings, Benefits and Trade Union Membership, Australia, August 2007*, Cat. no. 6310); ABS (*Australian Labour Market Statistics, Australia, July 2008*, Cat. no. 6105.0); ABS, unpublished data.

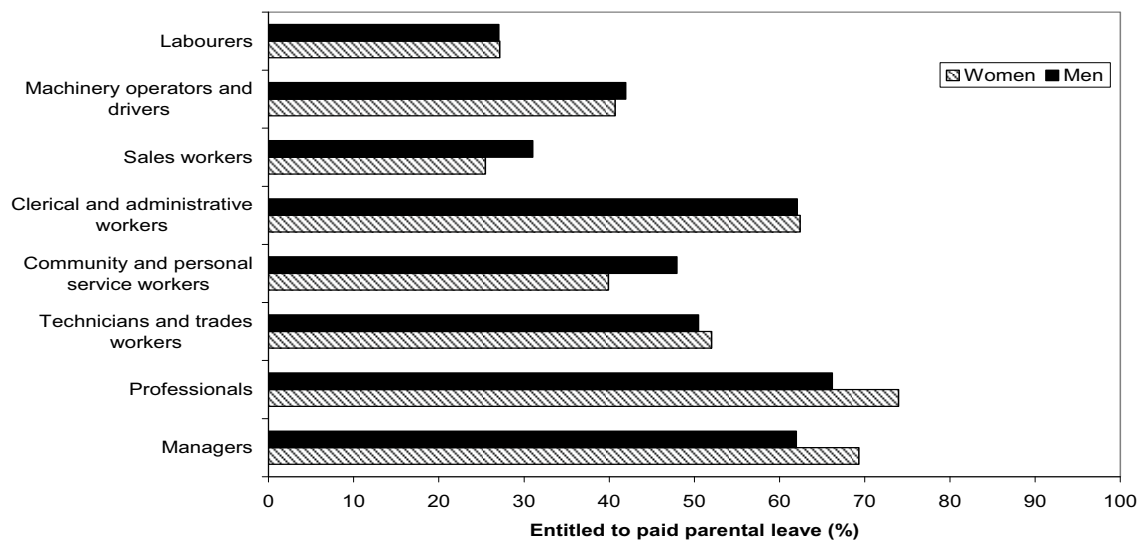
Paid parental leave is also more likely to be available in some industries than in others. Industries with the highest rates of availability of paid maternity and paternity leave are:

- public administration
- electricity, gas and water
- education and training
- financial and insurance services.

At least 70 per cent of female employees and over 60 per cent of male employees working in this group of industries had paid parental leave available to them (table 3.4). In contrast, less than 20 per cent of female employees working in agriculture, forestry and fisheries and in the accommodation and food services sector had access to paid parental leave. The availability of parental leave is not necessarily higher in industries with a larger or smaller percentage of female workers.

Figure 3.5 Proportion of employees in each occupation group with availability to some paid parental leave^a

Percentage of the group with access to paid parental leave



^a The Commission has based these estimates on survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2). While it is not shown in the data, men and women who are eligible for paid parental leave are likely to have access to different durations of leave (see table 3.2).

Data source: Estimates based on: ABS (*Employee Earnings, Benefits and Trade Union Membership, Australia, August 2007*, Cat. no. 6310); ABS (*Australian Labour Market Statistics, Australia, July 2008*, Cat. no. 6105.0); ABS, unpublished data.

Beyond formal eligibility

Several submissions to this inquiry indicated that issues regarding parental leave are often determined informally. Such issues may include the duration, conditions and eligibility of parental leave. It is not clear whether the net effect of informal practices would raise or lower the overall rate of availability for parental leave.

A survey of employer attitudes towards parental leave carried out by Australian Human Resources Institute (AHRI 2008) showed that 22 per cent of employers offered employees more leave than they are officially entitled to. In this way, the availability of paid or unpaid leave may extend beyond what is shown in the data, although it is not clear how many employees are offered such terms.

In contrast, there is also evidence that some employees experience difficulty in obtaining the parental leave to which they are entitled. Community legal centres, (for example, sub. 27), indicated that parental leave and the right to return to work

are among their most recurring issues. Case examples include women who are dismissed or demoted during pregnancy or during parental leave.

Table 3.4 Availability of parental leave for employees and the gender balance in each industry^a

Percentage of the group entitled to paid parental leave

<i>Industry</i>	<i>Men entitled to paid paternity leave</i>	<i>Women entitled to paid maternity leave</i>	<i>Proportion of workforce that is female</i>
	%	%	%
Agriculture, forestry and fishing	27	18	26
Accommodation and food services	24	19	58
Retail trade	37	33	57
Arts and recreation services	47	38	44
Administrative and support services	36	44	58
Rental, hiring and real estate services	45	44	49
Other services	49	44	42
Construction	43	46	11
Manufacturing	52	50	26
Wholesale trade	47	54	32
Professional, scientific and technical services	56	56	51
Transport, postal and warehousing	50	58	24
Mining	57	63	14
Health care and social assistance	54	62	82
Information media and telecommunications	58	63	41
Education and training	62	70	68
Financial and insurance services	68	75	54
Electricity, gas, water and waste services	63	77	17
Public administration and safety	72	84	46

^a The Commission has based these estimates on survey respondents who indicated that they knew whether or not they were covered by paid parental leave, disregarding unsure responses (see box 3.2). While it is not shown in the data, men and women who are eligible for paid parental leave are likely to have access to different durations of leave (see table 3.2).

Source: Estimates based on: ABS (*Employee Earnings, Benefits and Trade Union Membership, Australia, August 2007*, Cat. no. 6310); ABS (*Australian Labour Market Statistics, Australia, July 2008*, Cat. no. 6105.0); ABS, unpublished data.

Eligibility of parental leave in Australia today

The following points are a summary of some important conclusions regarding the availability of parental leave:

- although all employees are covered by unpaid parental leave legislation, not all meet the eligibility criteria. Due to these criteria, around 17 per cent of employee mothers and 15 per cent of employee fathers are ineligible at the time of childbirth

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- around half of employees are eligible for paid parental leave, although this includes many who do not plan or are unable to have children
 - employees under the age of 25 are less likely to be eligible for paid parental leave
 - people earning higher incomes are more likely to have paid parental leave available to them
 - the occupations most likely to have paid parental leave available to them are managers, professionals, and clerical staff
 - industries with the highest rates of paid parental leave availability include:
 - public administration, electricity, gas and water
 - education and training
 - financial and insurance services
 - parental leave arrangements are sometimes decided informally. It is not clear whether informal arrangements would have much effect either way on the overall rate of availability.

3.4 The current usage of parental leave in Australia

The immediate outcomes of the current parental leave system are broadly illustrated by the patterns in which parents take leave around childbirth. A range of incentives and constraints influence parents' leave decisions — some studies have addressed these areas in detail (see AIFS sub. 138; Whitehouse, Baird and Charlesworth sub. 153; Baxter 2008). Similar to previous studies, this section relies on data from LSAC Wave 1.5, due to its sample size and detail of information.

Parents' leave taking behaviour can be described by the number of weeks or months parents may take in leave, and the different types of leave they use. Parental leave for mothers tends to be longer in duration than for fathers, and is more varied. Thus, some further issues concern mothers who either leave the workforce instead of taking leave or resign after taking leave.

This section focuses on the average number of weeks taken in leave, and some of the details regarding mothers' return to work. While these results are indicative of overall patterns, the cross tabulation method is not intended to determine whether causal effects exist. For this reason, the results in this section should be interpreted with care.

To take parental leave or not

Among parents who were in paid work at some time during the 12 months before childbirth, 72 per cent of mothers and 75 per cent of fathers took some form of leave around childbirth. Mothers who did not take leave were asked for the main reason why they did not take any leave around the birth of the child:

- 47 per cent said it was because they left their job
- 16 per cent were self-employed
- 9 per cent said it was because they had no access to leave
- 6 per cent said they could get by without leave because of family friendly arrangements
- 5 per cent were dismissed from their job during pregnancy.

Effectively, parents in paid work who did not take leave must have either left their job without a clear agreed period of leave (that is, resigned) or returned to work immediately (perhaps on a flexible basis). As a result, mothers who did not take any leave were more likely either to return to work early or to stay out of the workforce in the long run (Baxter 2008).

The LSAC database shows that of the mothers who do not take leave, 17 per cent return to work in the first three months. Around 27 per cent return within six months, and 63 per cent within 18 months (table 3.5). Compared with other mothers in paid work, those who did not take leave are more likely to return to work within three months of childbirth, but overall, have lower rates of return to paid work in the longer term.

How mothers use leave after childbirth

The time that mothers spent away from work after childbirth was estimated using LSAC wave 1.5 and ABS (2005d), as both datasets provide useful insights. The estimates based on ABS (2005d) have the advantage of being more specific in indicating the time that mothers take away from work after childbirth. In contrast, data from LSAC may be less precise due to the rounding of numbers for confidentiality reasons, as well as other issues.²

² LSAC documentation notes that some variables related to the length of leave taken may be inconsistent with other answers due to imperfect recollection by survey participants. Some discrepancies may be expected between the length of leave taken by mothers and their duration of time away from work. This is because some of the time taken away from the workforce may not constitute official leave (for example, after resigning), while some mothers may have

However, LSAC wave 1.5 contains a much larger sample, (3573 mothers, compared to the ABS (2005d) 1515 mothers). This is particularly useful in reliably estimating the number of mothers returning to paid work 12 months or more after childbirth, and more generally, undertaking disaggregated analysis of the return to work behaviour of parents. Other advantages of using LSAC include its longitudinal nature and its broader scope, which makes it more useful for analyses regarding other family members. Accordingly, for the bulk of the analysis on return to work behaviour in this report, estimates are based on the LSAC database.

The various methods show similar estimates of the time away from paid work taken by mothers who were in paid employment prior to childbirth (table 3.1):

- Between 11 and 17 per cent of mothers return to work before their child is 3 months old
- Between 26 and 31 per cent of mothers return to work before their child is 6 months old
- Between 57 and 62 per cent of mothers return to work before their child is 12 months old
- Between 73 and 74 per cent of mothers return to work before their child is 18 months old

Leave taken for maternity reasons generally comprises several different types of leave — some maternity-specific and some not, some paid and some unpaid. 86 per cent of mothers who took leave used at least some maternity-specific leave. Unpaid maternity leave was 34 weeks in duration on average, making up the majority of leave taken by mothers in paid work.

A significant number of mothers also take paid maternity leave — around 46 per cent of all mothers who took leave. Around 80 per cent of mothers on paid maternity leave received their full rate of pay. Around 4 per cent of mothers on paid maternity leave had some of their pay withheld until they returned from leave. The average mother with paid maternity leave took 11 weeks of paid maternity leave, as well as seven weeks of other paid leave.

indicated that they returned to work even when they did so on a one off or irregular basis during their leave.

Table 3.5 Timing of mothers entering paid work after childbirth by characteristics prior to childbirth

Sample group	Mothers returning to work			
	Within 3 months of childbirth	Within 6 months of childbirth	Within 12 months of childbirth	Within 18 months of childbirth
	%	%	%	%
All mothers ^a	7	17	39	52
<i>Mothers in paid work prior to childbirth</i>				
LSAC1	11	26	57	74
LSAC2 ^b	14	28	58	74
ABS (2005d) ^c	17	31	62 ^d	73 ^d
<i>Number of children</i>				
First child	7	23	56	72
Second child	12	25	60	78
Third child	17	31	55	78
<i>Mothers' education</i>				
Below year 12	14	27	50	66
Year 12	11	22	51	68
Certificate	12	29	59	73
Diploma	14	29	64	76
Bachelors degree	9	23	62	81
Graduate diploma	6	20	59	76
Postgraduate degree	8	30	65	84
<i>Leave taken</i>				
Did not take leave	17	27	45	63
Took some leave	9	26	61	77
<i>Employment type</i>				
Permanent employees	6	19	58	75
Casual employees	13	30	50	68
Fixed term	7	20	48	65

(Continued next page)

Table 3.5 (continued)

Sample group	Mothers returning to work			
	Within 3 months of childbirth	Within 6 months of childbirth	Within 12 months of childbirth	Within 18 months of childbirth
	%	%	%	%
<i>Employer type</i>				
Same employer for 12 months	8	22	57	74
Changed employers within 12 months	9	34	65	82
Employed less than 12 months	8	19	45	63
Self-employed	42	61	70	85
<i>Mothers' gross weekly wage</i>				
\$1–99	16	30	43	58
\$100–299	21	33	53	69
\$300–499	10	26	56	72
\$500–699	11	26	57	71
\$700–999	7	21	57	75
\$1000–1499	5	20	60	80
\$1500–1999	13	30	63	83
\$2000 or more	24	51	76	91
<i>Business size</i>				
<5 employees	17	34	51	65
5–19 employees	16	33	58	72
20–99 employees	7	22	51	65
100–499 employees	6	20	54	73
500 or more employees	4	17	59	78
<i>Work hours</i>				
Full-time	8	23	57	74
Part-time	15	30	57	74

^a Includes all mothers regardless of whether they were in paid employment prior to childbirth. ^b Estimates assume that where return to work data is missing, those who did not take leave and had returned to work did so in the first month. In LSAC1 and all other LSAC data in this table, no assumption is made about the return to work behaviour of respondents failing to provide a date on their return to work, with the missing observations excluded from the analysis. ^c Estimates are based on unit record data from ABS (2005d) expanded CURF. ^d May not be reliable due to low sample size.

Source: LSAC Wave 1.5.

How fathers use leave after childbirth

Around 75 per cent of fathers in paid work took some leave around childbirth. On

average, these fathers took two weeks of leave. In contrast to maternity leave, the use of paternity leave is overwhelmingly based around paid leave. Of the fathers who took leave, 60 per cent took paid annual/ holiday leave, 27 per cent took paid paternity leave while around 9 per cent took unpaid paternity leave. Around 72 per cent of fathers who took leave around childbirth relied exclusively on non-parental types of leave. Given the relatively short period of parental leave taken by most fathers, one type of leave was usually sufficient.

In terms of the duration of the leave taken by fathers around childbirth, around 15 per cent took more than two weeks of leave and less than 3 per cent took more than one month of leave. Where fathers took longer periods of leave, they had also used different types of leave — around half of the fathers who took over 60 days used some paid paternity leave, while 45 per cent used some form of unpaid leave.

Use of leave for permanent and casual employees

Permanent employee mothers take an average of 39 weeks of leave, which is seven weeks more than the average for casual employee mothers. This is not surprising, given that permanent employees generally have access to more types of leave.

Casual employees generally do not have paid leave, but the types of unpaid leave also differ between casual and permanent employees. Three-quarters of permanent employee mothers indicated that they used unpaid maternity leave, compared with 46 per cent of casually employed mothers who relied heavily on other unspecified types of unpaid leave. This may be due to a lower proportion of casual employees being eligible for unpaid parental leave.

While mothers who are permanent employees take more leave after childbirth, they are less likely to drop out of the workforce altogether. That is, permanent employees are less likely to return to work before their child is 6 months old, but are more likely to return to work by the time their child is 12 or 18 months old (table 3.5). This indicates that the time spent away from work by permanent employee mothers is more likely to be a period of leave that ends with a return to paid work.

Among fathers, those who are permanent employees tend to take almost two weeks leave, while those who are casual employees took one week. The reason why fathers' leave may differ between employment types may be the availability of different types of leave. For instance, a large percentage of casually employed fathers who took leave took either an unspecified unpaid leave (46 per cent) or unpaid paternity leave (28 per cent). A further 10 per cent took annual/ holiday leave, and less than 5 per cent took paid paternity leave. This contrasts with

permanent employees, where the majority of leave taken for paternity purposes is paid leave.

Among both men and women, permanent employees are generally entitled to more types of leave than other employees. For example, long service leave can provide substantial periods of leave, although it is not widely used by parents and may not be widely available. For parents taking long service leave, it provided around 11 weeks on average for mothers and three weeks for fathers. However, this is used by only 9 per cent of the permanent employee mothers and less than 3 per cent of permanent employee fathers.

Fixed term contract employees are relatively scarce in the LSAC Wave 1.5 sample. The evidence suggests that for parents on fixed term contracts who took leave, mothers used two weeks less than their casual counterparts and fathers two days less.

Use of leave and pre-birth employment duration

Both workplace and workforce attachment are related to longer periods of leave. Mothers who have been in paid employment with the same employer in the 12 months before childbirth take an average of 38–40 weeks leave in total. This is around five weeks more than mothers who worked for less than 12 months, and 10–12 weeks more than mothers who changed employers in the last 12 months. Mothers with stable employment are likely to take longer periods of leave because the eligibility for most types of leave, both statutory and privately negotiated, are connected to work tenure.

Workforce attachment and workplace attachment appear to have different relationships with mothers' time away from work. For instance, mothers who did not work for the full year prior to childbirth have consistently lower returns to work throughout the 18 months following childbirth (table 3.5). This implies that weaker attachment to the workforce prior to birth is related to weaker attachment to the workforce after birth — eligibility for unpaid and paid maternity leave is likely to be a contributing factor.

On the other hand, mothers with at least 12 months workforce attachment are more likely to return to the paid workforce, but are still less likely to have leave available if they have less than 12 months workplace attachment. As such, these mothers have high rates of return to paid work, but also have an increased likelihood of returning to work early after childbirth.

The types of leave that mothers use differs with levels of workplace and workforce attachment. Of mothers who stayed with the same employer for 12 months and who

took leave around childbirth, 49 per cent took paid maternity leave. This compares with 14 per cent of mothers who had changed employers and 6 per cent of mothers who were employed for less than 12 months. A similar trend exists for the rates at which mothers took unpaid maternity leave — ranging from 72 per cent (same employer for 12 months), to 51 per cent (changed employers within 12 months) and 41 per cent (employed for less than 12 months).

The duration of fathers' leave was generally not affected to the same degree by their employment type. Total leave was 3–5 days longer if the father remained with the same employer for the 12 months prior to childbirth.

The types of leave used by fathers also differed according to workforce and workplace attachment. The uptake of holiday pay varied considerably, ranging from 68 per cent (same employer for 12 months) to 54 per cent (changed employers within 12 months) to 36 per cent (employed for less than 12 months). However, the take up of paid and unpaid paternity leave was similarly low for all men.

Use of leave and employment hours

Around 76 per cent of mothers in full-time work took leave around childbirth compared with 59 per cent of part-time employed mothers — the majority of those not taking leave had resigned. This reflects the fact that mothers in full-time work are less likely than mothers in part-time work to leave the workforce when having a child. Mothers in full-time and part-time work who do take leave have similar durations.

Full-time employees are more likely to be entitled to paid parental leave (section 3.3). This is reflected somewhat in the usage of leave, with 48 per cent of full-time employee mothers using paid maternity leave compared with 34 per cent of part-time employee mothers.

The return to work for mothers is marginally different for those in full-time and part-time employment. Mothers in full-time jobs are less likely to return early and more likely to return overall, although the difference is relatively small. It seems job characteristics such as permanent/ casual status and employment duration are more strongly linked to differences in the timing of a mother's return to work than part-time/ full-time status.

Use of leave by education and wage levels

The level of parents' income prior to childbirth may affect their ability to take leave as well as their decisions regarding duration. The average duration of mothers'

leave is longest in the \$1000–1499 per week gross income range — the average duration of leave is shorter for both highest and lowest income groups. Therefore, the relationship between income and the length of a mother’s leave has somewhat of an inverted-U shape. Fathers’ leave has a similar relationship with income, peaking in the \$700–999 range.

For the most part, mothers at lower gross wages prior to childbirth are more likely to stay out of the workforce in the longer term. This is implied by lower rates of return to work at 18 months after childbirth for women at lower pre-birth wage levels (see table 3.5). However, a relatively early return to work becomes more likely at both the high and low extremes of the wage range. The reasons that mothers have for returning to work are likely to differ between these groups — financial constraints are almost certainly more influential for low wage earners.

In terms of the wage level that parents received upon returning to work (after childbirth), higher wages tended to coincide with shorter leave. Mothers who reported gross incomes of \$2000 per week after childbirth took an average of 21 weeks leave, and those earning less than \$500 per week took an average of 41 weeks. In a similar trend for fathers, those earning less than \$500 per week took 18 days while those earning above \$2000 per week took 10 days.

There was some relationship between mothers’ education and the duration of leave. At 18 months after childbirth, mothers with higher levels of education have a clear tendency towards greater workforce attachment. Returning to work early after childbirth was more common for mothers with diplomas, certificates, and for mothers who had not completed Year 12.

The average leave taken by mothers was 39–40 weeks for those with bachelors degrees or higher, and 36–38 weeks for those with certificates and advanced diplomas. However, mothers who did not finish high school tended to have slightly longer leave from work, averaging 42 weeks.

Less difference was found between fathers of differing education levels — the average length of leave being between 13 and 15 days for all educational levels. Higher educational attainment was linked with higher take-up of paid maternity leave. This ranged from 55–62 per cent for university graduates, 48 per cent for those with an advanced diploma, and 32 per cent for those with a certificate qualification.

Use of leave and number of children

Women with more children are less involved in paid work than women who have fewer or no children (AIFS sub. 138). However, by looking at the rates at which

employed mothers return to paid work, having more children is associated with earlier returns to work, and more returns to work overall after childbirth. These findings are not necessarily contradictory.

It is important to note that a large proportion of mothers with more than one child had opted out of the workforce *before* the birth of their child. Those remaining in the workforce during pregnancy would have an innately higher attachment to the workforce, and this is seen in their higher rates of return to work. In other words, the reason we observe rates of higher return to work for women with more children is that many of these women were not employed prior to childbirth, and therefore are not considered in the sample of women returning to work — and only those with particularly high workforce attachment remain in the sample.

Thus, with regard to women who are in paid work before childbirth, those with more children are more likely to return to work within 18 months. But with regard to all mothers (both inside and outside the workforce before childbirth), having more children is still associated with lower attachment to the workforce after childbirth.

Women who were pregnant with their first, second or third child had similar probabilities of taking paid or unpaid maternity leave. The duration of specific maternity leave and the total leave used for maternity purposes were also similar.

There was little change in the types of leave used by fathers for their first, second and third children. Fathers having a third child were less likely to use unpaid paternity leave and more likely to use long service leave. This is likely to be because fathers having a third child would have longer employment histories than first time fathers, and would therefore be able to accrue more paid leave.

Use of leave and business size

The average duration of leave for mothers increased with the sizes of the businesses employing them, ranging from 29 weeks for businesses with fewer than five employees to 42 weeks for businesses with over 500 employees. Mothers employed in larger businesses were more likely to take unpaid leave.

Paid maternity leave is most often taken in larger businesses. For women taking leave in businesses with fewer than 20 employees, 12–13 per cent took paid maternity leave. This compares to businesses with 20–100 employees (33 per cent), those with 100–500 employees (43 per cent), and those with more than 500 employees (66 per cent). These findings are consistent with the idea that larger businesses may be better equipped to cope with longer periods of leave, and that they are more able to afford paid leave.

Use of parental leave in Australia today

Some important conclusions regarding the use of leave for parental purposes are summarised in the following points:

- mothers taking leave use an average of 37 weeks
- almost one fifth of mothers in paid work resign instead of taking leave around childbirth
- three-quarters of fathers who are in paid work before childbirth take leave, usually for a period of two weeks
- casual employees are unlikely to use any paid leave around childbirth, as they are generally not entitled to it. They rely on unpaid maternity leave and other unspecified unpaid leave
- part-time employee mothers are more likely than full-time employee mothers to leave the workforce at childbirth
- self-employed mothers take the shortest leave and, overall, are considerably more likely than other mothers to return to work
- longer duration of employment with a particular employer is associated with more paid parental leave and longer leave generally
- mothers on lower wages prior to childbirth are less likely to return to work within 18 months of childbirth
- mothers on the highest and lowest pre-birth wages are more likely to return to work early after childbirth than are other employed mothers. Their reasons for returning to paid work early are likely to differ
- mothers with more children are generally less likely to be in paid work
- parents who are employed by larger businesses take longer leave and more paid parental leave.

3.5 Summary

Parental leave legislation has grown in scope since the 1970s — today it consists of 52 weeks unpaid maternity, paternity and adoptive leave for all eligible workers. In 2010, legislative changes will provide employees with the right to request up to 52 additional weeks of unpaid parental leave, as well as flexible work arrangements. In contrast, paid parental leave has remained outside of any legislative instruments, existing only through privately negotiated employer provisions. Nevertheless, the availability of paid parental leave has also grown, so that roughly half of the workforce is estimated to have some level of paid parental leave available, though

the growth rate appears to have slowed recently.

Underlying the wide prevalence of paid parental leave are three important qualifications:

- many employees are unsure of whether they are entitled to paid parental leave, and this affects our estimates of eligibility
- the prevalence of paid parental leave is relatively concentrated among groups who usually have better labour force outcomes, such as highly paid workers, professionals and permanent full-time workers
- paid parental leave is sometimes more commonly available for groups who are less likely to need it. For instance, employees are more likely to be eligible for paid parental leave at ages over 45 than at ages under 25.

The usage of parental leave also varies between groups. Trends in the use of leave reflect trends in the availability of leave, as well as the decisions made by parents and other features of the labour market. For instance, mothers with particularly high or particularly low incomes, and the self-employed are all more likely to return to work early. However, the reasons behind a mother's return to work are likely to differ for each group.