

CALCULATING SUMMARY INDICATORS OF EMPLOYMENT PROTECTION STRICTNESS

Methodology

For each country, employment protection is described along 21 basic items which can be classified in three main areas: (i) protection of regular workers against individual dismissal; (ii) regulation of temporary forms of employment; and (iii) specific requirements for collective dismissals. The information refers to employment protection provided through legislation and as a result of enforcement processes. In countries where collective bargaining occurs at an industry, regional or national level and provisions for dismissal protection in collective agreements are typically more generous than those in legislation, these have been included where possible. The detailed country notes available at www.oecd.org/employment/protection provide more information on where collective bargaining provisions have been included in the indicator. Table 1 shows the method used to convert raw data on each item into a cardinal score on a scale of 0-6, with higher scores representing stricter regulation.

Table 1 Quantifying the 21 basis measures of employment protection strictness

A. Individual dismissals of workers with regular contracts

	Original unit and short description		Assignment of numerical strictness scores						
			Assigned scores						
			0	1	2	3	4	5	6
Item 1 Notification Procedures	Scale 0-3		Scale (0-3) × 2						
	0	when an oral statement is enough;							
	1	when a written statement of the reasons for dismissal must be supplied to the employee;							
	2	when a third party (such as works council or the competent labour authority) must be notified;							
	3	when the employer cannot proceed to dismissal without authorisation from a third party.							
Item 2 Delay involved before notice can start	Days Estimated time includes, where relevant, the following assumptions: 6 days are counted in case of required warning procedure, 1 day when dismissal can be notified orally or the notice can be directly handed to the employee, 2 days when a letter needs to be sent by mail and 3 days when this must be a registered letter.		≤ 2	< 10	< 18	< 26	< 35	< 45	≥ 45
Item 3 Length of the notice period at	9 months tenure	Months	0	≤ 0.4	≤ 0.8	≤ 1.2	< 1.6	< 2	≥ 2
	4 years tenure	Months	0	≤ 0.75	≤ 1.25	< 2	< 2.5	< 3.5	≥ 3.5
	20 years tenure	Months	< 1	≤ 2.75	< 5	< 7	< 9	< 11	≥ 11
Item 4 Severance pay at	9 months tenure	Months pay	0	≤ 0.5	≤ 1	≤ 1.75	≤ 2.5	< 3	≥ 3
	4 years tenure	Months pay	0	≤ 0.5	≤ 1	≤ 2	≤ 3	< 4	≥ 4
	20 years tenure	Months pay	0	≤ 3	≤ 6	≤ 10	≤ 12	≤ 18	> 18

	Original unit and short description		Assignment of numerical strictness scores						
			Assigned scores						
			0	1	2	3	4	5	6
Item 5 Definition of justified or unfair dismissal	Scale 0-3		Scale (0-3) × 2						
	0	when worker capability or redundancy of the job are adequate and sufficient ground for dismissal;							
	1	when social considerations, age or job tenure must when possible influence the choice of which worker(s) to dismiss;							
	2	when a transfer and/or a retraining to adapt the worker to different work must be attempted prior to dismissal;							
Item 6 Length of trial period	Months Period within which, regular contracts are not fully covered by employment protection provisions and unfair dismissal claims can usually not be made.		≥ 24	> 12	> 9	> 5	> 2.5	≥ 1.5	< 1.5
Item 7 Compensation following unfair dismissal	Months pay Typical compensation at 20 years of tenure, including back pay and other compensation (e.g. for future lost earnings in lieu of reinstatement or psychological injury), but excluding ordinary severance pay.		≤ 3	≤ 8	≤ 12	≤ 18	≤ 24	≤ 30	> 30
Item 8 Possibility of reinstatement following unfair dismissal	Scale 0-3		Scale (0-3) × 2						
	0	no right or practice of reinstatement;							
	1	reinstatement rarely or sometimes made available;							
	2	reinstatement fairly often made available;							
Item 9 Maximum time to make a claim of unfair dismissal	Months Maximum time period after dismissal notification up to which an unfair dismissal claim can be made.		Before dismissal takes effect	≤ 1	≤ 3	≤ 6	≤ 9	≤ 12	> 12

B. Temporary employment

	Original unit and short description		Assignment of numerical strictness scores						
			Assigned scores						
			0	1	2	3	4	5	6
Item 10 Valid cases for use of fixed-term contracts (FTC)	Scale 0-3		6-(Scale (0-3) × 2)						
	0	fixed-term contracts are permitted only for "objective" or "material situation", i.e. to perform a task which itself is of fixed duration;							
	1	if specific exemptions apply to situations of employer need (e.g. launching a new activity) or employee need (e.g. workers in search of their first job);							
	2	when exemption exist on both the employer and employee sides;							
Item 11 Maximum number of successive FTC	Number		No limit	≥ 5	≥ 4	≥ 3	≥ 2	≥ 1.5	< 1.5

	Original unit and short description	Assignment of numerical strictness scores							
		Assigned scores							
		0	1	2	3	4	5	6	
Item 12 Maximum cumulated duration of successive FTC	Months	No limit	≥ 36	≥ 30	≥ 24	≥ 18	≥ 12	< 12	
Item 13 Types of work for which temporary work agency (TWA) employment is legal	Scale 0-4		6-(Scale (0-4) × 6/4)						
	0	when TWA employment is illegal;							
	1	only allowed in specified industries;							
	2	only allowed for “objective reasons”;							
	3	generally allowed, with specified exceptions;							
Item 14 Restrictions on number of renewals	Yes/No		-	-	No	-	Yes	-	-
	Item 15 Maximum cumulated duration of TWA contracts	Months	No limit	≥ 36	≥ 24	≥ 18	≥ 12	> 6	≤ 6
Item 16 Does the set-up of a TWA require authorisation or reporting obligations	Scale 0-3		Scale (0-3) × 2						
	0	no authorisation or reporting requirements;							
	1	requires special administrative authorisation;							
	2	requires periodic reporting obligations;							
Item 17 Do regulations ensure equal treatment of regular and agency workers at the user firm?	Scale 0-2		Scale (0-2) × 3						
	0	no requirement for equal treatment;							
	1	equal treatment regarding pay <u>or</u> working conditions;							
	2	equal treatment regarding pay <u>and</u> working conditions.							

C. Additional regulations for collective dismissals

	Original unit and short description	Assignment of numerical strictness scores						
		Assigned scores						
		0	1	2	3	4	5	6
Item 18 Definition of collective dismissal	Scale 0-4		Scale (0-4) × 6/4					
	0	if there is no additional regulations for collective dismissals;						
	1	if specific regulations apply from 50 dismissals upward;						
	2	if specific regulations apply from 20 dismissals onward;						
	3	if specific regulations apply at 10 dismissals;						
	4	if specific regulations start to apply at below 10 dismissals;						

	Original unit and short description	Assignment of numerical strictness scores						
		Assigned scores						
		0	1	2	3	4	5	6
Item 19 Additional notification requirements	Scale 0-2	Scale (0-2) × 3						
	There can be notification requirements to <i>works councils</i> (or employee representatives), and to <i>government authorities</i> such as public employment offices. Countries are scored according to whether there are additional notification requirements on top of those requirements applying to individual redundancy dismissal.							
	0 no additional requirements;							
	1 when one more actor needs to be notified;							
	2 when two more actors need to be notified.							
Item 20 Additional delays involved before notice can start	Days Delays in addition to those in the case of individual dismissal	0	< 25	< 30	< 50	< 70	< 90	≥ 90
Item 21 Other special costs to employers	Scale 0-2	Scale (0-2) × 3						
	This refers to whether there are additional <i>severance pay</i> requirements and whether <i>social compensation plans</i> (detailing measures of reemployment, retraining, outplacement, etc.) are obligatory or common practice							
	0 no additional requirements;							
	1 additional severance pay <u>or</u> social compensation plans required;							
	2 additional severance pay <u>and</u> social compensation plans required.							

After converting each item to a cardinal scale, the indicators are calculated using the weights shown in Table 2. There are three sub-indicators measuring the strictness of regulation on regular contracts, temporary contracts and collective dismissal respectively on a scale of 0-6. Three versions of the overall summary indicator are available, reflecting changes over time in the breadth of information incorporated into the indicator:

- Version 1 is an unweighted average of the sub-indicators for regular and temporary contracts. The indicator for regular contracts does not include item 9 (maximum to make a claim of unfair dismissal) and the indicator for temporary contracts does not include items 16 (authorisation and reporting requirements for TWAs) and 17 (equal treatment for TWA workers). Annual time series data are available for version 1 of the indicator from 1985-2008 from www.oecd.org/employment/protection.
- Version 2 is the weighted sum of the sub-indicators for regular and temporary contracts and collective dismissals. The indicators for regular and temporary contracts are the same as for version 1. Annual time series data are available for version 2 of the indicator from 1998-2008 from www.oecd.org/employment/protection.
- Version 3 of the overall summary indicator incorporates three new data items collected for the first time in 2008 (items 9, 16 and 17) and is the main indicator of employment protection used in the paper. Data for version 3 are available for 2008 from www.oecd.org/employment/protection. However, it is impracticable to accurately collect information about the new items prior to 2008.

Table 2 Employment protection summary indicator weights

Level 1 Scale 0-6	Level 2 Scale 0-6	Level 3 Scale 0-6	Level 4 Scale 0-6	Version 1 & 2 weights	Version 3 weights		
O V E R A L L S U M M A R Y I N D I C A T O R	Regular contracts (version 2 & 3: 5/12 .) (version 1: 1/2)	Procedural inconveniences (1/3)	1. Notification procedures 2. Delay to start a notice	(1/2) (1/2)	(1/2) (1/2)		
		Notice and severance pay for no-fault individual dismissals (1/3)	3. Notice period after	9 months 4 years 20 years	(1/7) (1/7) (1/7)	(1/7) (1/7) (1/7)	
			4. Severance pay after	9 months 4 years 20 years	(4/21) (4/21) (4/21)	(4/21) (4/21) (4/21)	
			Difficulty of dismissal (1/3)	5. Definition of unfair dismissal		(1/4)	(1/5)
				6. Trial period		(1/4)	(1/5)
		7. Compensation			(1/4)	(1/5)	
		Fixed term contracts (1/2)	8. Reinstatement		(1/4)	(1/5)	
			9. Maximum time for claim		--	(1/5)	
			Temporary work agency employment (1/2)	10. Valid cases for use of fixed-term contracts		(1/2)	(1/2)
	11. Maximum number of successive contracts				(1/4)	(1/4)	
	12. Maximum cumulated duration				(1/4)	(1/4)	
	Temporary contracts (version 2 & 3: 5/12) (version 1: 1/2)	13. Types of work for which is legal		(1/2)	(1/3)		
		14. Restrictions on number of renewals		(1/4)	(1/6)		
		15. Maximum cumulated duration		(1/4)	(1/6)		
		16. Authorisation and reporting		--	(1/6)		
		17. Equal treatment		--	(1/6)		
	Collective dismissals (version 2 & 3: 2/12) (version 1: 0)		18. Definition of collective dismissal		(1/4)	(1/4)	
			19. Additional notification requirements		(1/4)	(1/4)	
			20. Additional delays involved		(1/4)	(1/4)	
			21. Other special costs to employers		(1/4)	(1/4)	