

Employment protection in Belgium – 2008

Item 1 Notification procedures in the case of individual dismissal of a workers with a regular contract	Notification of employee by registered letter. Oral notification possible if employer chooses severance pay in lieu of notice.
Item 2 Delay involved before notice can start	Blue collar: In case of written notification, the letter becomes effective three working days after the letter has been sent and the notice period runs from the first Monday following receipt of the registered letter. White collar: In case of written notification, the letter becomes effective three working days after the letter has been sent and the notice period runs from the first day of the calendar month following receipt of the registered letter.
Item 3 Length of notice period at different tenure durations	Blue collar: no notice required during the trial period; 7d<6m; 28d<6m; 35d<5y; 42d<10y; 56d<15y; 84d<20y; 112d>20y. White collar: 7d during the trial period; 3m<5y then three additional month for year five year period after that (eg : 6m<10ans,9m<15ans....). This is the legal minimum. If the annual salary is above 28 580 euros (2008) or 29 729 euros (2009), the parties must agree to a notice period not less than the legal minimum. In the absence of agreement, the tribunal will set a notice period.
Item 4 Severance pay at different tenure durations	All workers: none. In cases of dismissal without notice: payment equal to the applicable notice period.
Item 5 Definition of unfair dismissal	Unfair: for blue collar workers, dismissals for reasons which have no connection whatsoever with the capability or conduct of the worker or which are not based on the operational needs of the undertaking, establishment or department. For white collar workers, the concept of abusive dismissal does not exist in regulation and one will refer to the general concept of abuse right. The right to lay off must be exerted for an aim for which it was granted, namely the interest of the company. Also unfair are dismissals of workers on maternity or educational leave, and trade union and works council delegates.
Item 6 Length of trial period	Not legally required, but when introduced in the employment contract, minimum and maximum duration is set by law. Blue collar: 7-14 days. White collar: 1-6 months (up to 12 months if annual salary exceeds 34 261 EUR (2008) or 35 638 EUR (2009)).
Item 7 Compensation following unfair dismissal	Compensation at least equal to the notice period (in the event that notice was not given). White collar: additional compensation for damages as determined by a judge. Blue collar: additional compensation for damages corresponding to six months' wages. Typical compensation at 20 years tenure: white collar: 10 months; blue collar: 15 or 21 months (depending on whether the annual salary is above or below the threshold of 28 580 EUR (2008) or 29 729 EUR (2009)).
Item 8 Reinstatement option for the employee following unfair dismissal	No right to reinstatement.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made	One year after dismissal.
Item 10 Valid cases for use of fixed term contracts	Fixed-term contracts are permitted without specifying an objective reason, for up to two years, or for up to three years with the authorisation of the social and labour inspectorate. In other cases, fixed-term contracts are restricted to objective situations in (replacement, temporary increase in workload, etc.).
Item 11 Maximum number of successive FTCs (initial contract plus renewals and/or prolongations)	Four successive FTCs are permitted without specifying an objective reason.
Item 12 Maximum cumulated duration of successive FTCs	Without specifying objective reasons: 2 years or 3 years with the authorisation of the social and labour inspectorate. With objective reasons: no limit.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	Limited to objective situations, including: replacement of absent workers, temporary increases in workload or exceptional work.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts?	Subject to the same limitations as for fixed-term contracts.
Item 15 Maximum cumulated duration of TWA contracts	Replacement of absent workers: 6 month contract renewable with 12 months limit. Temporary increases in workload: 18 months or more if extended by collective agreement. Exceptional workload: 3 months.

Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	Agencies requires authorisation from regional authorities.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	TWA workers must receive equal pay and conditions to other workers in user firm.
Item 18 Definition of collective dismissal	Within 60 days, 10+ workers in firms with 20-99 employees; 10%+ in firms with 100-300; 30+ workers in firms with 300+ employees.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal	Employee representatives: Obligation to inform and consult with the Works Council or trade union delegation. Public authorities: Notification of sub-regional employment office, reporting on the results of consultations giving full information of planned dismissals.
Item 20 Additional delays involved (compared to Item 2)	30 days delay after notification to the sub-regional employment office. Can be lengthened to 60 days by the sub-regional employment office manager.
Item 21 Other special costs to employers in case of collective dismissals	Type of negotiation required: Consultation on alternatives to redundancy and ways to mitigate the effects. A social plan can be established. Severance pay: The amount of severance pay varies according to the length of the notice period. The longer the notice period, the lower the severance pay.

This summary was produced by the OECD based on responses to a questionnaire submitted by authorities in OECD member countries. It describes the situation current as at 1 January 2008 and is the basis for calculating the OECD employment protection indicators. To find out more about the methodology used to calculate the OECD employment protection indicators, see www.oecd.org/employment/protection.