

## Employment protection in Canada – 2008

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| Item 1 Notification procedures in the case of individual dismissal of a workers with a regular contract   | Written or oral notification to the employee or, sometimes, to the employee's representative (union).  |
| Item 2 Delay involved before notice can start   | Written or oral notification.  |
| Item 3 Length of notice period at different tenure durations  | Varies depending on the jurisdiction. No notice of termination required if the employee has been dismissed for just cause. In all cases, an employee must have completed a minimum period of service in order to be entitled to notice. Notice can be exchanged for termination pay.<br>Federal jurisdiction: 2 weeks.<br>Ontario: 1w<1y; 2w<3y; 3w<4y; 4w<5y, up to 8w>8y..<br>Québec: 1w<1y; 2w<5y; 4w<10y; 8w>10y.<br>British Columbia: 1w<1y; 2w<3y; 3w<4y; 4w<5y, up to 8w>8y.<br>Alberta: 1w<2y; 2w<4y; 4w<6y; 5w<8y, 6w<10y, 8w>10y.  |
| Item 4 Severance pay at different tenure durations  | <b>Federal jurisdiction:</b> 0<12m, after which 2 days for each year of tenure, but with a minimum of 5 days.<br><b>Ontario:</b> for workers who have completed at least five years of service, 1w per year of service, up to 26w maximum, if tenure >5y, and if in a firm with a payroll of \$ 2.5 million or more.<br><b>Other jurisdictions:</b> no legislated severance pay.   |
| Item 5 Definition of unfair dismissal   | <b>Prohibited dismissals:</b> Dismissals are prohibited if they are based on a prohibited ground of discrimination (e.g., sex, race, disability, religion, sexual orientation), pregnancy, garnishment proceedings, or the exercise by an employee of a right under human rights or labour statutes (e.g., employment standards, occupational safety and health and labour relations legislation).<br><b>Unjust dismissal:</b> Legislation in three jurisdictions contains "unjust dismissal" provisions, whereby an employee who meets specific eligibility requirements (e.g., minimum length of service) may not be dismissed unless specific conditions are met:<br>• Federal jurisdiction: a person employed for more than 12 months and who is not covered by a collective agreement may not be laid off, unless due to lack of work or the discontinuance of a function.<br>• Quebec: an employee with two years or more of uninterrupted service in the same enterprise may not be dismissed without "good and sufficient reason".<br>• Nova Scotia: an employee with 10 years or more of service may not be discharged or suspended without just cause, unless it is for a reason beyond the control of the employer (e.g., destruction of a plant, labour dispute, weather conditions), the employee has refused the employer's offer of reasonable other employment or the employee has reached the age of retirement. Certain occupations and industries (e.g., construction industry) are excluded from these provisions. |
| Item 6 Length of trial period   | Typically 3 months, except in Manitoba (30 days) and in New Brunswick, Prince Edward Island and Yukon (6 months).  |
| Item 7 Compensation following unfair dismissal  | Varies. Employees discharged on prohibited grounds are entitled to compensation for wages and benefits lost by reason of the dismissal. Some statutes also provide that additional compensation may be ordered for pain and suffering or as punitive damages where an employer has engaged wilfully or recklessly in unlawful practices.   |
| Item 8 Reinstatement option for the employee following unfair dismissal                                   | Depending on the circumstances of a case, an employer may be ordered to reinstate an employee.   |
| Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made | Time varies. With respect to unjust dismissal provisions, a complaint must be filed within the following time period after dismissal: 90 days in the federal jurisdiction; 45 days in Quebec; 6 months in Nova Scotia. In Alberta, British Columbia and Ontario, there is no recourse against unfair dismissal.<br>An employee in other provinces can file a complaint within 6 months (2 years in Ontario) with the Director of Employment Standards if they believe their dismissal was in contravention of the Employment Standards Code (e.g. if they were dismissed because they requested maternity or parental leave).  |
| Item 10 Valid cases for use of fixed term contracts   | No restrictions.   |
| Item 11 Maximum number of successive FTCs (initial contract plus renewals and/or prolongations)           | No limit.  |
| Item 12 Maximum cumulated duration of successive FTCs   | No limit.  |
| Item 13 Types of work for which temporary work agency (TWA) employment is legal                           | General.   |

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| Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts?       | No.   |
| Item 15 Maximum cumulated duration of TWA contracts   | No limit.   |
| Item 16 Does the set-up of a TWA require authorisation or reporting obligations?                      | Requirements vary across jurisdictions. In Alberta, British Columbia, Manitoba, Yukon, Nunavut and the Northwest Territories, the owner of an employment agency is required to hold a licence (a certificate of registration in Yukon) in order to operate. Specific record-keeping requirements apply to employment agencies in Alberta, British Columbia and in the Northwest territories and Nunavut. In Yukon, such agencies must provide a statistical statement and financial report every year. There are no authorisation or reporting requirements in the federal jurisdiction, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec or Saskatchewan. Provinces that require special administrative authorisation for TWAs account for less than a third of the Canadian workforce. In most cases, TWAs do not face particular legal constraints.   |
| Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm? | No  |
| Item 18 Definition of collective dismissal  | Varies (note: in some statutes, a collective dismissal is deemed to occur only if a set number of employees are discharged in a "single location" or in one "establishment".) Federal jurisdiction, Alberta, Manitoba, Newfoundland and Labrador: dismissal of 50 employees or more in 4-week period. Ontario: dismissal of 50 employees or more in 4-week period, (a) representing more than 10% of employees at an establishment or (b) where the termination is caused by the permanent discontinuance of part or all of the employer's business at an establishment. British Columbia: dismissal of 50 employees or more in 2-month period. Northwest Territories, Nunavut, Yukon: 25 employees or more in 4-week period. Nova Scotia, Saskatchewan: 10 employees or more in 4-week period. Quebec: 10 employees or more in 2-month period (some exceptions). New Brunswick: more than 10 employees in 4-week period, representing at least 25% of employer's workforce. Prince Edward Island: no collective dismissal provisions.  |
| Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal    | <b>Notice to employees:</b> in seven jurisdictions, the notice that must be given to each employee affected by a collective dismissal is normally longer than for an individual termination of employment. Depending on the number of employees dismissed, notice ranges from 4 to 12 weeks in Saskatchewan; 8 to 16 weeks in British Columbia, Newfoundland and Labrador, Nova Scotia and Ontario; 10 to 18 weeks in Manitoba; and 6 weeks in New Brunswick. Moreover, in British Columbia an employee must be given notice of individual termination in addition to a notice of collective dismissal (the two notice periods are consecutive, not concurrent).<br><b>Notice to public authorities:</b> in all jurisdictions (except Prince Edward Island), the employer must notify the competent labour authorities (e.g., Minister of Labour).<br><b>Notice to trade union:</b> a copy of the notice must be given to the bargaining agent of each affected employee in the federal jurisdiction, British Columbia, Manitoba, New Brunswick, Quebec and Saskatchewan.<br><b>Posting of notice:</b> in some jurisdictions, a collective dismissal notice must also be posted in conspicuous places in the workplace. |
| Item 20 Additional delays involved (compared to Item 2)   | Minimum and maximum collective dismissal notice for the four largest provinces is 0-8 weeks in Ontario, Quebec, 0 weeks in Alberta and 8-16 weeks in British Columbia.  |
| Item 21 Other special costs to employers in case of collective dismissals                             | <b>Type of negotiation required:</b> In 4 jurisdictions, an employer who intends to proceed with a collective dismissal is required (federal jurisdiction) or may be required (British Columbia, Manitoba, Quebec) to establish a joint committee to develop an adjustment program aimed at minimizing the number and impact of job losses and assisting affected workers in finding new employment. In Quebec, an employer may also be required to make a financial contribution to the operating costs of the committee and its reclassification activities. This is obligatory in the federal jurisdiction.<br><b>Selection criteria:</b> As laid down in any collective agreements.<br><b>Severance pay:</b> No additional severance pay obligations if notice requirements for collective dismissal are met.   |

*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](http://www.oecd.org/employment/protection).*