

## Employment protection in Luxembourg – 2008

Item 1 Notification procedures in the case of individual dismissal of a workers with a regular contract	Employees must be notified of dismissal by registered mail. The labour inspectorate and the enterprise's works council (if applicable) must also be notified of impending dismissals.
Item 2 Delay involved before notice can start	The employer must notify the employee of the dismissal by registered mail. The notice period starts either on the 1 <sup>st</sup> or 15 <sup>th</sup> day of the month following notice being received by the employee, whichever is earliest.
Item 3 Length of notice period at different tenure durations	In the event of termination of an employee at the initiative of the employer, the employment contract ends: after two months' notice to an employee with less than five years' continuous service; after four months notice to an employee with between five and ten years of continuous service; after six months' notice to an employee with ten years of continuous service.
Item 4 Severance pay at different tenure durations	Employees with at least five years of continuous service are entitled to severance pay if their indefinite contract is terminated by the employer. The severance pay shall not be less than one month salary after five years service; two months after 10 years service; three months after 15 years service; six months after 20 years service; nine months after 25 years service; and 12 months after 30 years' continuous service. Firms with less than 20 employees can choose between making severance payments or giving additional notice equivalent to the amount of severance pay.
Item 5 Definition of unfair dismissal	Dismissal is fair if it is based on serious misconduct; worker capability; economic needs of the business. In assessing the conduct of the employee in unfair dismissal cases, judges take into account education, work histories, social status and elements affecting the employee's responsibility and consequences of dismissal.
Item 6 Length of trial period	The maximum length of the trial period for a contract of unlimited duration is 6 months.
Item 7 Compensation following unfair dismissal	If the dismissal is found to be unfair, the employer may be required to pay damages to the employee. In determining the amount of damages, the court will consider a period which should have been sufficient for the employee to find a new job (typically 4-6 months). The dismissed employee must demonstrate that he/she has taken necessary steps to find a new job. The court also takes into account various factors such as seniority, age and family situation. <b>Typical compensation at 20 years of tenure: 5 months</b>
Item 8 Reinstatement option for the employee following unfair dismissal	When ruling on unfair dismissal, judges may request that the employee is reinstated. If the employer does not want to reinstate the employee, the employer can pay additional compensation of one months' salary.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made	The time limit for making a claim of unfair dismissal is three months from the date of the dismissal or the date when the employee requested/received reasons for dismissal.
Item 10 Valid cases for use of fixed term contracts	Fixed-term contracts can be used to replace temporarily absent employees (except where the absence is due to an industrial dispute), where the work is of a seasonal, temporary, urgent or occasional nature, in response to a temporary increase in work in the enterprise, to hire approved categories of unemployed persons registered with the Employment Administration (authorisation takes into account age, training and duration of unemployment), and with the authorisation of the Labour Ministry, employment intended to promote the hiring of some categories of workers or to engage in training.
Item 11 Maximum number of successive FTCs (initial contract plus renewals and/or prolongations)	A fixed-term contract can be renewed twice. Some categories of workers (teachers, artists, performers, athletes, coaches) are not subject to restrictions on renewals of fixed-term contracts.
Item 12 Maximum cumulated duration of successive FTCs	A fixed-term contract cannot exceed 24 months in duration (including renewals). Fixed-term contracts for seasonal work cannot exceed 10 months in a 12 month period.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	TWA workers may be employed to replace an absent or employee whose employment contract is suspended for a reason other than labour dispute or to replace an employee whose position became vacant before the entry into service of his successor; for seasonal jobs; for jobs in specific sectors or occupations where the nature of the work is temporary; or to perform urgent work.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts?	The contract can be renewed twice without exceeding the 12 month limit.
Item 15 Maximum cumulated duration of TWA contracts	Except for seasonal jobs, the contract should not exceed 12 months in duration for the same employee in the same job, including renewals.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	Temporary work agencies require authorization from the Ministry of Labour, which is granted initially for 12 months. A request for extension of authorization must be made three months before the expiry of the authorisation. If granted, authorisation runs for a further two years. After a period of three years of authorised operation, the agency will be granted unlimited authorisation.

Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	A TWA worker is required to receive the same pay and conditions as an employee with the same or an equivalent qualification hired by the user firm as a permanent employee.
Item 18 Definition of collective dismissal	Additional regulations apply for dismissals of 7 or more workers within a 30 day period or 15 or more workers within a 90 day period.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal	The works council and the labour inspectorate must be notified of the dismissal.
Item 20 Additional delays involved (compared to Item 2)	Once notification has been given, negotiations start on a social plan, which must be finalised within 2 weeks. After the social plan has been agreed to, individual notification can be given to workers after 75 days.
Item 21 Other special costs to employers in case of collective dismissals	The social plan typically contains internal and external reclassification measures and the amount of additional compensation payable.

*This summary was produced by the OECD using national labour legislation, secondary legal sources and advice from researchers at CEPS/INSTEAD in Luxembourg. 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).*