

Employment protection in Mexico – 2008

Item 1 Notification procedures in the case of individual dismissal of a workers with a regular contract	The employer must give the employee written notice of the date and cause or causes of termination. If the employee fails to accept the notice, the employer can appear before the Board of Conciliation and Arbitration and request that notice be given to the employee.
Item 2 Delay involved before notice can start	Letter sent by mail or handed directly to employee.
Item 3 Length of notice period at different tenure durations	All workers: No minimum notice period.
Item 4 Severance pay at different tenure durations	All workers: 3 months.
Item 5 Definition of unfair dismissal	Fair: Dismissals are fair only when the employer can demonstrate the worker's lack of integrity or actions prejudicial to the company's interests (such as negligence, imprudence, or disobedience). Unfair: In all other cases, including where relevant notification procedures have not been followed, the dismissal will usually be ruled unfair. Redundancy or poor performance are normally not legal grounds for dismissal.
Item 6 Length of trial period	Not legally regulated.
Item 7 Compensation following unfair dismissal	In the case of dismissal without "just cause", compensation of 3 months plus 20 days per year of service. Typical compensation at 20 years tenure: 16 months.
Item 8 Reinstatement option for the employee following unfair dismissal	The employee may request reinstatement, but the employer can be exempted from reinstating the employee by paying compensation to the employee in cases where the employee had tenure of less than one year, was employed on a casual basis or where an ongoing employment relationship is not possible. As such, reinstatement orders are rare.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made	The Board of Conciliation and Arbitration, upon receiving notification of dismissal, decides whether the case should proceed to the court.
Item 10 Valid cases for use of fixed term contracts	Restricted to objective situations (replacement, temporary increase in workload, work on a project that is itself of a fixed-term nature, etc.), with the exception of a few occupations. Extent of use determined in consultation with union delegates.
Item 11 Maximum number of successive FTCs (initial contract plus renewals and/or prolongations)	No limit specified, negotiable by both parties.
Item 12 Maximum cumulated duration of successive FTCs	No limit specified, negotiable by both parties. If the fixed term contract is to perform work of a fixed-term nature, the contract will extend as long as the work extends.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	Temporary work agency contracts are illegal.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts?	Temporary work agency contracts are illegal.
Item 15 Maximum cumulated duration of TWA contracts	Temporary work agency contracts are illegal.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	Temporary work agency contracts are illegal.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	Temporary work agency contracts are illegal.
Item 18 Definition of collective dismissal	Unspecified number to be dismissed for economic reasons; provisions restricted to companies with 20+ employees.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal	Notification of employee representatives: Duty to inform and consult with trade union/employee representatives. Notification of public authorities: Notification to Conciliation and Arbitration Board if no agreement with union can be found.
Item 20 Additional delays involved (compared to Item 2)	No special regulations for collective dismissal.
Item 21 Other special costs to employers in case of collective dismissals	Type of negotiation required: Negotiation with employee representatives on conditions and procedures of dismissal. If no agreement is reached, agreement by Conciliation and Arbitration Board on terms of dismissal required. Selection criteria: Usually seniority-based. Severance pay: No special regulation for collective dismissal

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.