

POLAND

Items	Regulations in force on 1 January 2019
1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Notification to representative trade union (establishment's trade union body, which represents the worker) of intention to terminate, including reasons for dismissal. If the employee is not protected by the union, the employer does not have to consult with the union about the dismissal. Written notice is usually given to the employee personally. In the case the employee takes the case to the labour court, the court may require evidence of a notification procedure to trade union (Art. 30 paragraph 4 , Article 38, Article 177 of the Labour Code).</p> <p>As of a certain number of dismissals (see Item 18): see item 19.</p>
2: Delay involved before notice can start	<p>The employer must establish whether the employee is represented by trade union. If yes , the employer must consult with the trade union, giving the union 5 days to respond. If the employee is not protected by the union, the employer does not have to consult with the union about the dismissal. Written notice is usually given to the employee personally (Article 30, Article 38 of the Labour Code).</p> <p>Calculation (for EPL indicators): Union members: 13 = 1 day to send enquiry + 5 days for response + 1 day to notify union + 5 days for consultations + 1 day for notice Non-union members: 7 = 1 day to send enquiry + 5 days for response + 1 day for notice On average: 10 days</p> <p>As of a certain number of dismissals (see Item 18): 20 days (see Item 20)</p>
3: Length of notice period at different tenure durations (a)	<p>All workers on open-ended contracts: 2w<6m, 1m>6m, 3m>3y. 2w for school leavers in first job. The notice period covering one or more weeks or months ends on a Saturday or on the last day of the month, respectively (Article 36 of the Labour Code).</p> <p>Calculation (for EPL indicators): 9 months tenure: 1.5 month, 4 years tenure: 3.5 months, 20 years tenure: 3.5 months.</p>
4: Severance pay at different tenure durations (a)	<p>Usually none, but 1 month in case of termination due to disability or retirement.</p> <p>Moreover severance pay is paid by employers employing at least 20 employees when the employment contract is terminated in collective redundancies or in individual cases, due to reasons not attributable to employees, if these reasons solely justify termination (by notice or mutual agreement).</p> <p>Severance pay totalling:</p> <p>i) a one-month pay provided that the employee has been employed with a given employer for less than two years, ii) a two-month pay if the employee has been employed with a given employer for 2-8 years, iii) a three-month pay if the employee has been employed with a given employer for more than 8 years, (Article 92 of the Labour Code, Article 8 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees).</p> <p>Calculation for EPL indicators for individual dismissals: average of personal reasons and redundancy: 9 months: 0.5 months; 4 years: 1 month; 20 years: 1.5 months</p>

<p>5: Definition of unfair dismissal (b)</p>	<p>Termination with period of notice (Article 45, Articles 52 -53, Article 56 of the Labour Code).</p> <p>The employee may apply to court if the termination of an open-ended contract of employment is:</p> <ul style="list-style-type: none"> - found unjustified or - contrary to the provisions on the termination of contracts of employment (for example: lack of notice in writing, lack of notification to representative trade union). <p>Fair/Justified: Court practice. Dismissals based on factors inherent in the employee (e.g. lack of competence, insufficient performance at work) or on economic grounds of redundancy of the job. A medical contraindication to perform at least one duty belonging to the scope of activities at the workplace justifies the termination of the employment contract (Supreme Court ruling I PKN 469/99).</p> <p>The Supreme Court judgments (I PKN 401/97, I PKN 20/97) insist that courts should question the legitimacy of dismissal motives only if these reasons are real and whether the criteria for selecting employees for dismissals are not arbitrary and discriminatory. It cannot examine the advisability of organizational changes and cast doubt on the employer's actions (Supreme Court ruling I PK 111/18).</p> <p>In the event of re-employment of employees in the same professional group, the employer should employ the employee with whom he terminated the employment under the group dismissal, if the dismissed employee declares his intention to take up employment with that employer within one year from the date of termination of employment (Article 9 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees).</p> <p>Selection criteria are mandatory. The employer has the right to set criteria for the selection of employees for dismissal, which will enable the selection of employees with the qualities desired by the employer and at the same time be the same for all persons subject to assessment, legible, transparent, fair and objective (Supreme Court ruling II PK 258/11). Social considerations play subsidiary role, they are applied after operational criteria.</p> <p>Dismissal without notice.</p> <p>Justified only in cases provided by the law.</p> <p>Employee's fault:</p> <ul style="list-style-type: none"> - an employee commits serious violation of his/her basic duties; - an employee commits an offence that makes his/her further employment impossible; - an employee loses by his/her own fault the qualifications required by law to perform a particular job. <p>Unfair Dismissal which cannot be attributed to the employee's fault or the justified reasons mentioned above as well as dismissal due to absence from work due to illness or other excused reasons for a long period stated in this provision.</p> <p>The employer should re-employ the dismissed employee within 15 months from the date of termination of employment under a collective dismissal (Article 9 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees).</p>
<p>6: Length of trial period (c)</p>	<p>All workers: There is a special type of contract: a fixed-term contract for a trial period of no more than three months, which may precede any other contract (see items 10, 11 and 12).</p>
<p>7: Compensation following unfair dismissal (d)</p>	<p>Compensation of up to 3 months depending on amount of salary earned in another job by the time of court decision (Article 45, Article 47 of the Labour Code).</p> <p>Calculation (for EPL indicators): Typical compensation at 20 years tenure (all workers): 3 months.</p>
<p>8: Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Reinstatement is possible (dismissal with notice as well as without notice), but not often made available by the court (Article 45 of the Labour Code).</p>
<p>9: Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)</p>	<p>An appeal against a notice of termination of a contract of employment shall be filed with the labour court within 21 days of the delivery date of the letter terminating the contract of employment. A claim for reinstatement in employment or for payment of compensation shall be filed with the labour court within 21 days after the delivery date of the letter terminating the contract of employment without notice, or after the expiry of the contract of employment (Article 264 of the Labour Code).</p>
<p>10: Valid cases for use of standard fixed term contracts</p>	<p>No restrictions on standard fixed-term contracts (Art. 25 of the Labour code).</p>

11: Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	<p>3 successive fixed-term contracts allowed, plus 1 contract for a trial period (Art. 25 of the Labour code).</p> <p>It is possible to re-sign an employment contract for a trial period with the same employee:</p> <ol style="list-style-type: none"> 1) if the employee is to be employed for the purpose of performing another type of work; 2) after a lapse of at least 3 years from the date of termination or expiry of the previous employment contract if the employee is to be employed for the purpose of performing the same type of work; in this case it is permissible to re-assign an employment contract for a trial period. <p>Calculation (for EPL indicators): 4 (without restrictions)</p>
12: Maximum cumulated duration of successive standard FTCs	<p>36 months = 33 months + 3 months for a contract for a trial period (Art. 25 of the Labour code).</p>
13: Types of work for which temporary work agency (TWA) employment is legal	<p>Only allowed for:</p> <ol style="list-style-type: none"> 1. seasonal tasks, periodic tasks or ad hoc tasks; 2. tasks whose timely performance by the user company's permanent staff would be impossible; 3. tasks normally falling within the duties of a temporarily absent employee of the user company. <p>(Art. 2 point 3 of Act on the employment of temporary agency workers).</p>
14: Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)	<p>No</p>
15: Maximum cumulated duration of TWA assignments (f)	<p>Over a period of thirty-six successive months, the total period of temporary work performed by the temporary worker for a single user employer may not exceed 18 months.</p> <p>If the temporary worker performs temporary work for a given user employer in a continuous manner and his work includes tasks that fall within the duties of an absent worker of the user employer, the period of temporary work may not exceed thirty-six months.</p> <p>After the period of temporary work referred to in the second paragraph above, performed for a given user employer, the temporary worker may be posted to the same user employer to perform temporary work not earlier than after thirty-six months.</p> <p>There are no limits for contracts between the worker and the agency provided that the worker changes user employer once maximum assignment length is reached.</p> <p>Calculation (for EPL indicators): 27 months = (18+36)/2</p> <p>(Art. 20 of Act on the employment of temporary agency workers).</p>
16: Does the set-up of a TWA require authorisation or reporting obligations?	<p>The set up of TWA in Poland requires special administrative authorisation and entails periodic reporting obligations.</p>
17: Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	<p>A temporary employee during the period of performing work for a user firm cannot be treated less favourably with regard to working conditions and other terms of employment than employees employed by the user firm at the same or similar work station (remuneration included)(Art. 15 of Act on the employment of temporary agency workers).</p>
18: Definition of collective dismissal (b)	<p>10 workers in firms with 20-99 employees. 10% in firms <300 employees. 30 workers in firms with 300 or more workers (Article 1 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees).</p>
19: Additional notification requirements in cases of collective dismissal (g)	<p>Notification of employee representatives: Duty to inform competent trade unions. Notification of public authorities: Notification of local employment office. (Article 4 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees). Agreement to be reached with trade unions on alternatives to redundancy and ways to mitigate the effects. The parties should hold consultations in good faith, namely, with the intention of reaching an agreement. If consent as to the content of the agreement cannot be reached, the employer must prepare regulations defining the procedure for mass layoffs with special regard to agreements agreed with the company trade unions in the course of the negotiations.</p>
20: Additional delays involved in cases of collective dismissal (h)	<p>Information to trade union 20 days before implementation and notification to PES before start of notice period (Article 3 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees).</p> <p>Calculation (for EPL indicators): 20 days - 10 days for individual dismissals</p>

21: Other special costs to employers in case of collective dismissals (i)	<p>Type of negotiation required: Agreement to be reached with trade unions on alternatives to redundancy and ways to mitigate the effects. The parties should hold consultations in good faith, namely, with the intention of reaching an agreement. If consent as to the content of the agreement cannot be reached, the employer must prepare regulations defining the procedure for mass layoffs with special regard to agreements agreed with the company trade unions in the course of the negotiations. The agreement or employer's layoff program should cover at least: reasons for the intended collective layoff, the number of the employees employed and occupational groups to which these employees belong, the occupational groups to which the employees to be laid off belong, the period in which the employees will be laid off, proposed criteria of selecting the employees to be laid off under the collective layoff program, the sequence of laying the employees off, proposed resolution of employee issues related to the intended collective layoff, and if these issues include pecuniary benefits, the employer shall additionally present the methods for determining their amounts (Article 2 of the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees).</p> <p>Selection criteria: Law lays down union participation, but no specific selection criteria for dismissal.</p> <p>Severance pay: no additional requirement</p>
22: The worker alone has the burden of proof when filing a complaint for unfair dismissal	Yes
23: Ex-ante validation of the dismissal limiting the scope of unfair dismissal complaints	No
24: Pre-termination resolution mechanisms granting unemployment benefits	If within a period of 6 months preceding registration, the unemployed terminated the employment contract with notice or on a basis of agreement with the employer, the unemployed cannot obtain benefits for 90 days.

Legend: d: days; w: weeks; m: months; y: years. For example "1m < 3y" means "1 month of notice (or severance) pay is required when length of service is below 3 years".

Notes:

- a) Three tenure durations (9 months, 4 years, 20 years). Case of a regular employee with tenure beyond any trial period, dismissed on personal grounds or economic redundancy, but without fault (where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment). Averages are taken where different situations apply – e.g. blue collar and white collar; dismissals for personal reasons and for redundancy.
- b) Based also on case law, if court practice tends to be more (or less) restrictive than what specified in legislation.
- c) Initial period within which regular contracts are not fully covered by employment protection provisions and unfair dismissal claims cannot usually be made.
- d) 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 and pay in lieu of notice. Where relevant, calculations of scores to compute OECD EPL indicators assume that the worker was 35 years old at the start of employment and that a court case takes 6 months on average. Description based also on case law.
- e) Maximum time period after dismissal up to which an unfair dismissal claim can be made.
- f) Description based on both regulations on number and duration of the contract(s) between the temporary work agency and the employee and regulations on the number and duration of the assignment(s) with the same user firm.
- g) Notification requirements to works councils (or employee representatives), and to government authorities such as public employment offices. Only requirements on top of those requirements applying to individual redundancy dismissal count for Versions 1 to 3 of the OECD EPL indicators (cf. Item 1).
- h) Additional delays and notice periods in the case of collective dismissal (only delays on top of those required for individual dismissals – as reported in Items 2 and 3 – count for the OECD EPL indicators).
- i) This refers to whether there are additional severance pay requirements and whether social compensation plans (detailing measures of reemployment, retraining, outplacement, etc.) are obligatory or common practice.