

## HONDURAS

Items	Regulations in force on 31 December 2013
1: Notification procedures in the case of individual dismissal of a worker with a regular contract	The employer must give a written notification to the worker indicating the cause of termination. The employer may not subsequently invoke grounds other than those referred to in the notification letter, article 117 of the Labour Code (hereinafter LC).
2: Delay involved before notice can start	The notice must be communicated in written to the employee. The term of the prior notice starts as from the day after the notification (Article 119 LC). Calculation (for EPL indicators): 1 day when the notice can be handled to the employee plus 1 day of delay before notice can start: 2 days
3: Length of notice period at different tenure durations (a)	Notice period varies according to employee's length of service (article 116 LC): a) 24 hours, if the employee worked for a period of 3 m. b) 1 w > 3 m < 6 m. c) 2 w > 6 m < 1 y. d) 1 m > 1 y < 2 y. e) 2 m > 2 y.
4: Severance pay at different tenure durations (a)	<u>Fair dismissal</u> : No severance payment in case of dismissal with justified cause which are related to employee's conduct or capacity, article 112 LC. <u>Unfair dismissal</u> : when no justified cause can be alleged (or proved at Court if employee challenges it) and when the contract is terminated by the employee due to employer's gross misconduct – indirect dismissal- (articles 114 and 120 LC). In such case, employer is obliged to pay the following <u>severance payment</u> ("Auxilio de cesantía") if the worker does not ask to be reinstated: a) 10 d wages > 3 m < 6 m. b) 20 d wages > 6 m < 1 y. c) From 1 year of service onwards, 1 monthly salary per year and in proportion for any fraction of year, with a ceiling of 25 monthly salaries. Severance pay for unfair dismissal is considered in item 7. Calculation (for EPL indicators): 0 as compensation is considered in Item 7.
5: Definition of unfair dismissal (b)	<u>Fair dismissal</u> : Article 112 LC provides a list of just causes which allow the employer to dismiss an employee which are related to the employee's conduct or capacity: 1) deceit by means of false letters of recommendation or certificates, 2) acts of violence, insults, or serious indiscipline at work against the employer or his/her relatives, 3) deliberate material damages against the plant, machinery, tools, goods or merchandise and any serious negligence endangering the safety of the workers or the material, 4) acts of immorality, 5) revealing manufacturing secrets, 6) criminal conviction, 7) unjustified absence from work without any justification for two consecutive working days, or a total of three days within the same months, 8) repeated failure to adopt the preventive measures or to follow the proper procedure to avoid accidents at work and occupational diseases, 9) incapacity or manifest inefficiency to fulfil the obligations under the contract, 10) infectious disease or mental illness when the worker refuses treatment, 11) serious misconduct and serious breaches of the obligations under the contract of employment. In addition, article 111 LC provides a list of economic reasons treated as fair dismissal. However, these cover only force majeure bankruptcy, plant or firm-closure or authorised suspension of activity for more than 120 days for reasons of over-production, lack of funds or raw materials and/or unprofitability. No severance payment is due for fair dismissal. <u>Unfair dismissal</u> : According to article 120 LC unfair dismissal occurs when the employer can't allege a justified cause -or prove the just cause at Court, if employee challenges it- (article 113) and when the employee terminates the employment agreement due to the employer's gross misconduct – indirect dismissal- (article 114 LC). The LC is very strict in the definition of dismissal related to incapacity as it requires inefficiency to be manifest. In addition individual redundancy is not a just cause for dismissal. Calculation (for EPL indicators): 2.5
6: Length of trial period (c)	The trial period is of a maximum of 60 days (Article 49 LC). It must be expressed in written (Article 50 LC).
7: Compensation following unfair dismissal (d)	Article 112 LC establishes justified causes for the dismissal of employees. However, if the employer fails to prove at Court the just cause alleged, the employee will be entitled to receive compensation for unfair dismissal of an amount equivalent to severance payment (see Item 4) plus back pay as from the date of dismissal until court's final decision. Calculation (for EPL indicators): severance pay (20 months) plus back pay: 26 months.
8: Reinstatement option for the employee following unfair dismissal (b)	The LC, article 113 provides reinstatement option for the employees if the just cause for dismissal alleged by the employer (article 112) can't be proved at court. In such case, the employee may decide whether to claim the severance payment for unfair dismissal or the reinstatement option. If the judge orders reinstatement, although the employee is not entitled to receive severance payment, back pay is mandatory.
9: Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)	The maximum time period to claim for unfair dismissal is of 60 days (Article 864 LC).

<p><b>10:</b> Valid cases for use of standard fixed term contracts</p>	<p>According to articles 46: FTC are permitted:</p> <ul style="list-style-type: none"> <li>a) For a fixed term, when the termination date is specified in the employment agreement or when the occurrence of any fact or circumstance as the construction of a work, necessarily determines the termination of the contract.</li> <li>b) For specific work or services, when the price of the worker's services is set globally or in a lump. In this case, the term depends upon the termination of a work.</li> </ul> <p>Article 47 states that contracts for a fixed term or for a specific work or service are exceptional and thus are only valid when the nature of the service or work is of temporal and limited duration. FTC is not permitted for services of permanent and continuous duration. If a FTC is agreed for such type of work or services, it is construed by the law that the contract is of indefinite duration.</p>
<p><b>11:</b> Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>Article 48 LC states that the maximum duration of a single FTC is in general of 1 year; or 5 years for work requiring a special technical preparation. However, they can be renewed. No maximum authorized of renewals is specified. As FTC is exceptional, it can be construed from article 48 LC, that renewals are only admitted if the objective or material reason for the use of FTC maintains.</p>
<p><b>12:</b> Maximum cumulated duration of successive standard FTCs</p>	<p>No specific regulation. Notwithstanding as FTC is exceptional, the reasonable limit would be of 1 renewal: 2 years in general, 10 years for specialized workers. Calculation (for EPL indicators) average: 6 years</p>
<p><b>13:</b> Types of work for which temporary work agency (TWA) employment is legal</p>	<p>No statutory regulation up to date. A prospect of regulation is being considered by the parties (State office of Labour and Social Security –STSS–, Employees, Agencies). However, article 7 LC defines the figures of Intermediaries, Contractors and Private Work Agencies (PWA). The definition of Private Work Agency, under article 7, differs from the concept of TWA for EPL purposes. In effect, while PWA simply provides services which consist in linking demand and supply of labour, TWA are professional employers which place their employees at the disposal of a third party. However the definitions of Intermediary and Contractor (article 7 LC) are similar to OECD's definition. In these cases, the LC states that the user firm (patrono) is jointly liable of the intermediary's or contractor's labour obligations towards their employees.</p>
<p><b>14:</b> Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)</p>	<p>No statutory regulation.</p> <p>FTC rules apply to FTCs between the agency and the worker.</p> <p>If assignments are of fixed-term, the duration of assignments and contracts typically coincide.</p>
<p><b>15:</b> Maximum cumulated duration of TWA assignments (f)</p>	<p>No statutory regulation.</p>
<p><b>16:</b> Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>No statutory regulation.</p>
<p><b>17:</b> Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>No statutory regulation.</p>
<p><b>18:</b> Definition of collective dismissal (b)</p>	<p>No statutory definition and no regulation as such of collective dismissals for economic reasons. However, the LC regulates the suspension of the employment contracts for economic reasons and allows the employer to terminate the employment contracts which have been suspended for more than 120 days following a special procedure (articles 111 letter h, 100 numerals 1, 3, 4, 5 and 6). This situation applies to lack of raw material, overproduction, unprofitable activity, lack of funds and impossibility to obtain them.</p>
<p><b>19:</b> Additional notification requirements in cases of collective dismissal (g)</p>	<p>Legal regulations apply to the suspension of activities. Article 102 LC requires the employer to notify in writing the workers affected by the suspension at least 30 days in advance and to send a copy of this notification to the Ministry of Labour and Social Welfare. The suspension of employment contracts for economic reasons must be authorized by the Ministry of Labour and Social Welfare (La Secretaría de Trabajo y Previsión Social): article 101 LC.</p> <p>Calculation (for EPL indicators): 1</p>
<p><b>20:</b> Additional delays involved in cases of collective dismissal (h)</p>	<p>A 30 day prior notice to the workers affected by the suspension is required. A copy of this notification must be send to the Ministry of Labour and Social Welfare. The suspension has to be authorized by the Ministry of Labour and Social Welfare art. 101 LC.</p> <p>Calculation for EPL indicators: 30 days</p>
<p><b>21:</b> Other special costs to employers in case of collective dismissals (i)</p>	<p>No special costs involved, however authorisation is not necessarily granted.</p> <p>Calculation (for EPL indicators): 0.5</p>

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 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.