

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>No statutory provision. For redundancy, although not mandatory, consultation with worker´s representative is a common practice. Value (for EPL indicators): average between personal reasons (0) and economic reasons: (1).</p> <p>As of a certain number of dismissals: see item 19</p>
2: Delay involved before notice can start	<p>Personal reasons: 1 day for oral notification. Economic reasons: 5 days for consultation (not mandatory) Calculation (for EPL indicators): average between personal reasons (1 day) and economic reasons (5 days)</p> <p>As of a certain number of dismissals: see item 20</p>
3: Length of notice period at different tenure durations (a)	No legal requirements.
4: Severance pay at different tenure durations (a)	<p>Dismissal on personal reasons and redundancy: employers can always dismiss employee´s without specifying a reason provided severance indemnity is paid. This payment amounts to one monthly remuneration per each year or fraction of year of work, with a ceiling of 6 monthly instalments. No severance payment in case of dismissal due to the employee´s gross misconduct (Law N° 10.489, Law N° 12.597). If the case is challenged at Court, the employer has the burden to prove gross misconduct. Failure to prove, determines the payment of ordinary severance indemnity. Dismissal with fault is not considered for EPL purposes. Calculation (for EPL indicators): 9 months: 1; 4 years: 4 months; 20 years: 6 months</p>
5: Definition of unfair dismissal (b)	<ul style="list-style-type: none"> <li>• Fair dismissal: on a general basis, dismissal is allowed without justifying any cause, if severance indemnity is paid.</li> <li>• Unfair dismissal: no legal definition of unfair dismissal. Doctrine and jurisprudence (although not a source of law) have created the figure of “abusive dismissal” for those cases of notorious abuse by the employer when dismissing (for example dismissal offending worker´s dignity -shouting or insults-, dismissal as a consequence of testifying against the employer). In these cases, apart from the regular severance indemnity, if the employee proves the case at Court, the employer is obliged to pay pain and damages (which amount from 1 to 3 times the ordinary severance pay, plus regular severance indemnity). This additional compensation is considered in Item 7.</li> <li>• Special dismissals for certain categories of workers which can be considered as unfair dismissal: Certain categories of workers have a special protection against dismissal (maternity, sickness, professional disease or labour accident, sexual harassment). This protection entails for the employer the payment of a special severance indemnity which is higher than the regular severance pay. However, dismissal is always allowed provided this special indemnity is paid.</li> <li>• Sickness: Double severance indemnity for an employer who dismisses an employee during sick leave or after 30 days of his return to work.</li> <li>• Professional illness or labour accident: Triple severance indemnity for an employer who dismisses an employee during a professional illness leave or labour accident or after 180 days of his return to work.</li> <li>• Pregnancy or maternity leave: severance indemnity plus 6 months´ salary for an employer who dismissed an employee due to pregnancy or after a period of 6 months of her reincorporation to work.</li> <li>• Sexual harassment: an employee, who suffered from sexual harassment, can terminate the employment agreement and claim the general severance indemnity plus 6 monthly salaries.</li> </ul> <p>As of a certain number of dismissals: Social plans are common practice, and outplacement or retraining courses are generally offered to employees.</p>
6: Length of trial period (c)	No statutory regulation. Common practice is to stipulate a 3 months trial period as a clause of the employment agreement. The jurisprudence has accepted the validity of this clause.
7: Compensation following unfair dismissal (d)	<b>Compensation following unfair (abusive) dismissal:</b> If the Tribunal finds that the grounds for a claim for abusive dismissal are proved, the Tribunal can order the payment of damages which amount from 1 to 3 times the ordinary severance indemnity.

<b>8:</b> Reinstatement option for the employee following unfair dismissal (b)	Reinstatement option only applies to dismissals related to trade union membership or participation in union activities (Law 17.940). It is not possible to avoid enforcement of reinstatement orders by paying compensation. According to court case, reinstatement has been ordered in very few cases.
<b>9:</b> Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)	1 year (Law 18.091).
<b>10:</b> Valid cases for use of standard fixed term contracts	No statutory regulation. Case Law and collective agreements provide that FTC are only permitted for objective or material reasons.
<b>11:</b> Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	No statutory regulation. However, successive FTC is construed as a unique contract of indefinite duration by case law.
<b>12:</b> Maximum cumulated duration of successive standard FTCs	Although there is no statutory provision on maximum duration of FTC, collective agreements provide and jurisprudence recognizes that the maximum duration of a FTC is of 6 months, and only 1 renewal is allowed, making the maximum cumulated duration of 12 months.
<b>13:</b> Types of work for which temporary work agency (TWA) employment is legal	TWA are only allowed to perform services of a temporal and exceptional basis.
<b>14:</b> Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)	The law is silent. However labour doctrine and jurisprudence understand that as TWA are only allowed to perform temporary or occasional services, renewals should be the exception.
<b>15:</b> Maximum cumulated duration of TWA assignments (f)	No statutory regulation. No limit but services should be on a temporal basis (cf. Item 13)
<b>16:</b> Does the set-up of a TWA require authorisation or reporting obligations?	Yes. Both authorization and reporting obligations are required.
<b>17:</b> Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	The principal of equal treatment regarding labour benefits (remunerations and other payments in cash or kind) applies (article 5 Law N° 18.099).
<b>18:</b> Definition of collective dismissal (b)	No statutory definition of collective dismissal. However, it is advisable to take additional notification steps and offering social plans are common practice. Value (for EPL indicators): average of 0 and 4 = 2
<b>19:</b> Additional notification requirements in cases of collective dismissal (g)	No statutory regulation. However a communication to the trade union and the Labour Ministry (DINATRA) is advisable and a common practice.  Value (for EPL indicators): average of cases with and without communication to the Labour Ministry
<b>20:</b> Additional delays involved in cases of collective dismissal (h)	There is no statutory procedure for collective dismissal. However, as it is advisable and common practice to communicate the decision to the trade union and the Labour Ministry (DINATRA), certain days of delay should be considered. Calculation (for EPL indicators): 15 days minus 5 days for consultation (item 2): 10
<b>21:</b> Other special costs to employers in case of collective dismissals (i)	No legal provision regarding costs or social compensations. However, additional severance indemnities are generally offered to employees or outplacement or retraining courses. Value for (EPL indicators): 1 as these practices are used on a general basis to avoid trade union measures (such as strikes, occupation of the workplace).
<b>22:</b> The worker alone has the burden of proof when filing a complaint for unfair dismissal	No
<b>23:</b> Ex-ante validation of the dismissal limiting the scope of unfair dismissal complaints	No.
<b>24:</b> Pre-termination resolution mechanisms granting unemployment benefits	Unemployment benefits are applicable to dismissed workers.

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 Versions 1 to 3 (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.