

Employment protection in Portugal – 2009

Item 1 Notification procedures in the case of individual dismissal of a workers with a regular contract	Written notice to employee and employee representatives justifying the reasons for dismissal and the lack of suitable alternatives. In case of individual termination for unsuitability, a replacement must be hired. In case of economic redundancy, the employee and the employee's representatives have, if they wish, 3 working days to call in the Labour Inspectorate and the latter has 7 days to react and verify justification of dismissal.
Item 2 Delay involved before notice can start	Termination for disciplinary reasons: communication of a "guilt note", 10 working days for the worker and his representatives to react, then the employer makes a decision (in minimum 5 days, up to 30 days). Termination for unsuitability and termination for individual redundancy: communication, 10 days for employee or his representatives to present their views, and a further delay of 5 days before final notice is issued, usually in a letter sent by mail or handed directly to employee.
Item 3 Length of notice period at different tenure durations	9 months tenure: 15 days, 4 years tenure: 30 days, 20 years tenure: 75 days.
Item 4 Severance pay at different tenure durations	All workers: 1m per year of service (legal minimum 3m).
Item 5 Definition of unfair dismissal	Fair: Dismissals are permitted for economic grounds and for lack of professional or technical capability. Dismissals for individual redundancy must not involve posts also manned by people on fixed-term contracts. Dismissals for lack of competence are only possible after introduction of new technology or change to job functions. Unfair: Where the grounds for dismissal are irregular (where some of the formalities are not followed) or illegal (where the grounds for dismissal are declared unfounded by a judge or which lack fundamental procedural aspects).
Item 6 Length of trial period	90 days for general workers, 180 days for jobs with technical complexity or which require special skills or trust or that imply high levels of responsibility and 240 days for managers and senior officers/top executives.
Item 7 Compensation following unfair dismissal	Irregular dismissal: no back pay, no reinstatement, only right to compensation of 7.5-22.5 days of pay per year of service (typically up to 15 days per year of service). Illegal dismissal: back pay limited to one year (in case the court takes longer to rule on the issue, the State will bear the costs), and choice between reinstatement and compensation, typically of one month of pay per year of service (with minimum payment of 3 months). Typical compensation at 20 years tenure: 20 months.
Item 8 Reinstatement option for the employee following unfair dismissal	Irregular dismissal: no reinstatement available. Illegal dismissal: The option of reinstatement is made available to the employee, although the employer may, in companies with up to nine workers, or in the case of directors or workers in management positions, submit a request to the court to oppose reinstatement.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made	60 days
Item 10 Valid cases for use of fixed term contracts	Permitted, <i>inter alia</i> , for a) business start-ups, b) launching a new activity of uncertain duration and c) recruiting workers in search of their first job and long-term unemployed.
Item 11 Maximum number of successive FTCs (initial contract plus renewals and/or prolongations)	Four
Item 12 Maximum cumulated duration of successive FTCs	Three years when there is a fixed date of termination; six years where there is no fixed date of termination (e.g. for completion of a particular task).
Item 13 Types of work for which temporary work agency (TWA) employment is legal	Restricted to "objective situations", including seasonal activity and substitution of absent workers.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts?	No restrictions on the number of renewals/prolongations.
Item 15 Maximum cumulated duration of TWA contracts	Work contracts are between the temporary employee and the TWA, while the TWA concludes a different type of contract with the final user. Contracts between the temporary employee and the TWA may be entered into for an unlimited duration. Contracts between the TWA and the final user have a maximum duration of two years.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No special administrative authorisation, but there are periodic reporting obligations.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	Yes.

Item 18 Definition of collective dismissal	Within 90 days, dismissal of 2+ workers in firms <51 employees; 5+ workers in firms 51+ employees for structural, technological or market motives.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal	Notification of employee representatives: Duty to inform and consult with Works Council or trade union delegation. Notification of public authorities: Notification of service in charge of labour relations.
Item 20 Additional delays involved (compared to Item 2)	No additional delays
Item 21 Other special costs to employers in case of collective dismissals	Type of negotiation required: Consultation on alternatives to redundancy, selection standards and ways to mitigate the effects. Selection criteria: No criteria laid down in law. Severance pay: No special regulations for collective dismissal. Note that the criteria for collective dismissal are less strict than for individual dismissal because collective dismissal without fault is possible without the need to retrain or transfer workers to another post and without priority rules based on tenure or occupation.

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 17 February 2009 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.