

CANADA

Items	Regulations in force on 1 January 2019
<p>1: Notification procedures in the case of individual dismissal of a worker with a regular contract</p>	<p>Written or oral notification (without reason) to the employee or, sometimes, to the employee's representative (union). Warning procedure in Quebec only.</p> <p>Federal: Canada Labour Code, Section 241(1) Alberta: Section 56 of the Employment Standards Code British Columbia: Section 63 of the Employment Standards Act Ontario: Section 54 and 57 of the Employment Standards Act Quebec: Section 82 of the Act respecting labour standards</p> <p>Value (for EPL indicators): 0.28 (1 for Quebec (warning for personal reason: 0.5 for reason + 0.5 for warning itself), 0 for the other provinces)</p> <p>As of a certain number of dismissals (see Item 18): see item 19.</p>
<p>2: Delay involved before notice can start</p>	<p>Written or oral notification.</p> <p>As of a certain number of dismissals (see Item 18): 3.15 days (=1 as for individual dismissal + $10 \times (0.28 + 0.15) \times 0.5$ for possible joint committees in British Columbia and Quebec) (see Item 20).</p>
<p>3: Length of notice period at different tenure durations (a)</p>	<p>Varies depending on the jurisdiction. No notice of termination required if the employee has been dismissed for just cause. In all cases, an employee must have completed a minimum period of service in order to be entitled to notice. Notice can be exchanged for termination pay.</p> <p>Federal jurisdiction: 2 weeks. Ontario: 1w<1y; 2w<3y; 3w<4y; 4w<5y, up to 8w>8y.. Québec: 1w<1y; 2w<5y; 4w<10y; 8w>10y. British Columbia: 1w<1y; 2w<3y; 3w<4y; 4w<5y, up to 8w>8y. Alberta: 1w<2y; 2w<4y; 4w<6y; 5w<8y, 6w<10y, 8w>10y.</p> <p>Calculation (for EPL indicators): Weighted average over Quebec (0.28), Ontario (0.45), Alberta (0.11) and BC (0.15). Weights depend on the relative size of each jurisdiction in terms of working-age population. Overall these 4 jurisdictions represent more than 85% of the working-age population in Canada. On average: 9 months tenure: 1 week, 4 years tenure: 3.4 weeks, 20 years tenure: 8 weeks.</p> <p>As of a certain number of dismissals (see Item 18):</p> <p>In seven jurisdictions, the notice that must be given to each employee affected by a collective dismissal is normally longer than for an individual termination of employment. Minimum and maximum notice in the case of collective dismissals for the four largest provinces is 8-16 weeks in Ontario and Quebec, 4 weeks in Alberta and 8-16 weeks in British Columbia (Art. 58, Ontario's Employment Standards Act, Sec. 137 Alberta's Employment Standards Code, Art. 64 British Columbia's Employment Standards Act and Art. 84.0.4 Quebec's Lois sur le Normes du Travail / Act Respecting Labour Standards). In British Columbia an employee must be given notice of individual termination in addition to a notice of collective dismissal (the two notice periods are consecutive, not concurrent). However, in Ontario, Alberta and Quebec, notice of collective dismissal can be concurrent with individual notification.</p> <p>Federal: Section 230 of the Canada Labour Code Alberta: Section 56 of the Employment Standards Code British Columbia: Section 63(3) of the Employment Standards Act Ontario: Section 57 of the Employment Standards Act Quebec: Section 82 of the Act respecting labour standards</p> <p>Calculation (for EPL indicators): weighted average of mean weeks of notice for four largest provinces. In the case of Alberta, Quebec and Ontario, where individual and collective notifications may be concurrent, individual notice periods (at 4 years tenure) are subtracted (that is 4 weeks in Ontario and Alberta and 2 weeks in Quebec, cf. Item 3): $0.45 \times (12) + 0.28 \times (12) + 0.11 \times (4) + (12 + 4) \times 0.15$</p>

4: Severance pay at different tenure durations (a)	<p>Federal jurisdiction: 0<12m, after which 2 days for each year of tenure, but with a minimum of 5 days. 9 months tenure: 0, 4 years tenure: 8 days, 20 years tenure: 40 days. Ontario: for workers who have completed at least five years of service, 1w per year of service, up to 26w maximum, if tenure >5y, and if in a firm with a payroll of \$ 2.5 million or more. 9 months tenure: 0, 4 years tenure: 0, 20 years tenure: 20 weeks. Other jurisdictions: no legislated severance pay.</p> <p>Federal: Canada Labour Code, Section 235(1) and Section 230(1) Ontario: Sections 64 and 65 of the Employment Standards Act Calculation (for EPL indicators): Weighted average over Quebec (0.28), Ontario (0.45), Alberta (0.11) and BC (0.15). Weights depend on the relative size of each jurisdiction in terms of working-age population. Overall these 4 jurisdictions represent more than 85% of the working-age population in Canada. On average: 9 months tenure: 0, 4 years tenure: 0 weeks, 20 years tenure: 9 weeks.</p>
5: Definition of unfair dismissal (b)	<p>Prohibited dismissals: Dismissals are prohibited if they are based on a prohibited ground of discrimination (e.g., sex, race, disability, religion, sexual orientation), pregnancy, garnishment proceedings, or the exercise by an employee of a right under human rights or labour statutes (e.g., employment standards, occupational safety and health and labour relations legislation). Unjust dismissal: Legislation in three jurisdictions contains "unjust dismissal" provisions, whereby an employee who meets specific eligibility requirements (e.g., minimum length of service) may not be dismissed unless specific conditions are met:</p> <ul style="list-style-type: none"> • Federal jurisdiction: a person employed for more than 12 months and who is not covered by a collective agreement may seek recourse against what he/she considers an unjust dismissal, unless laid off due to lack of work or the discontinuance of a function. • Quebec: an employee with two years or more of uninterrupted service in the same enterprise may not be dismissed without "good and sufficient reason". As dismissal is an extreme measure; it must only be imposed when all other solutions have been exhausted. • Nova Scotia: an employee with 10 years or more of service may not be discharged or suspended without just cause, unless it is for a reason beyond the control of the employer (e.g., destruction of a plant, labour dispute, weather conditions), the employee has refused the employer's offer of reasonable other employment or the employee has reached the age of retirement. Certain occupations and industries (e.g., construction industry) are excluded from these provisions. <p>As of a certain number of dismissals (see Item 18): adjustment programs on request in British Columbia and Quebec.</p> <p>Federal: Sections 221, 240, 242(3.1) and Division IX of the Canada Labour Code Alberta: Section 125 of the Employment Standards Code British Columbia: Section 71 of the Employment Standards Act, Prohibited grounds of discrimination come from BC Human Rights Code Ontario: Prohibited grounds of discrimination come from Ontario Human Rights Code Quebec: Section 124 and Division III of the Act respecting labour standards</p>
6: Length of trial period (c)	<p>An employee must have completed a minimum period of service in order to be entitled to notice (typically 3 months, except in Manitoba - 30 days - and in New Brunswick, Prince Edward Island and Yukon - 6 months). By contrast, the minimum period of service required to be covered by unjust dismissal provisions is typically longer in the three jurisdictions where legislation specify them (24 months in Quebec, 12 months under the Federal jurisdiction and 10 years in Nova Scotia). However, in all other jurisdictions, legislation does not contain "unjust dismissal" provisions.</p> <p>Federal: Sections 230(1) and 240(1)(a) of the Canada Labour Code Alberta: Section 54 of the Employment Standards Code British Columbia: Section 63 of the Employment Standards Act Ontario: Section 54 of the Employment Standards Act Quebec: Sections 82 and 124 of the Act respecting labour standards</p>

<p>7: Compensation following unfair dismissal (d)</p>	<p>It varies. Employees discharged on prohibited grounds are entitled to compensation for wages and benefits lost by reason of the dismissal. Some statutes also provide that additional compensation may be ordered for pain and suffering or as punitive damages where an employer has engaged wilfully or recklessly in unlawful practices.</p> <p>Federal: Section 242(4) of the Canada Labour Code Alberta: Section 89 of the Employment Standards Code British Columbia: Prohibited grounds of discrimination come from BC Human Rights Code; remedies come from section 37 of the BC Human Rights Code Ontario: Prohibited grounds of discrimination come from Ontario Human Rights Code; remedies come from Section 45.2(1) of the Human Rights Code Québec: Section 128 of the Act respecting labour standards</p>
<p>8: Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Depending on the circumstances of a case, an employer may be ordered to reinstate an employee.</p> <p>Federal: Canada Labour Code, Section 242(4)(b) Alberta: Section 89 of the Employment Standards Code British Columbia: Section 37 of the BC Human Rights Code Ontario: Section 45.2(1) of the Human Rights Code Quebec: Section 128 of the Act respecting labour standards</p>
<p>9: Maximum time period after dismissal up to which an unfair dismissal claim can be made (e)</p>	<p>It varies. With respect to unjust dismissal provisions, a complaint must be filed within the following time period after dismissal: 90 days in the federal jurisdiction; 45 days in Quebec; 6 months in Nova Scotia. In Alberta, British Columbia and Ontario, there is no recourse against unfair dismissal.</p> <p>[Note: an employee in other provinces can file a complaint within 6 months (2 years in Ontario) with the Director of Employment Standards if they believe their dismissal was in contravention of the Employment Standards Code (e.g. if they were dismissed because they requested maternity or parental leave).]</p> <p>Calculation (for EPL indicators): Weighted average over Quebec (0.28), Ontario (0.45), Alberta (0.11) and BC (0.15). Weights depend on the relative size of each jurisdiction in terms of working-age population. Overall these 4 jurisdictions represent more than 85% of the working-age population in Canada.</p> <p>Federal: Section 240(2) of the Canada Labour Code Alberta: Section 82(2) of the Employment Standards Code British Columbia: Section 74(3) of the Employment Standards Act Ontario: Section 96(3) of the Employment Standards Act Quebec: Section 124 of the Act respecting labour standards</p>
<p>10: Valid cases for use of standard fixed term contracts</p>	<p>No restrictions</p>
<p>11: Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>No limit</p>
<p>12: Maximum cumulated duration of successive standard FTCs</p>	<p>No limit</p>
<p>13: Types of work for which temporary work agency (TWA) employment is legal</p>	<p>General</p>
<p>14: Are there restrictions on the number of renewals and/or prolongations of TWA assignments? (f)</p>	<p>No</p>
<p>15: Maximum cumulated duration of TWA assignments (f)</p>	<p>No limit</p>

<p>16: Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>Requirements vary across jurisdictions. In Alberta, British Columbia, Manitoba, Yukon, Nunavut and the Northwest Territories, the owner of an employment agency is required to hold a licence (a certificate of registration in Yukon) in order to operate. Specific record-keeping requirements apply to employment agencies in Alberta, British Columbia, Manitoba and in the Northwest territories and Nunavut. In Yukon, such agencies must provide a statistical statement and financial report every year. There are no authorisations or reporting requirements in the federal jurisdiction, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Quebec or Saskatchewan. Provinces that require special administrative authorisation for TWAs account for less than a third of the Canadian workforce. In most cases, TWAs do not face particular legal constraints. Calculation (for EPL indicators): $(0.11+0.15) * 1$ for special administrative authorisation.</p>
<p>17: Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>No Québec: Yes – Bill 176, an Act to amend the Act respecting labour standards and other legislative provisions mainly to facilitate family-work balance (assented to in June 2018) prohibits employers from setting different wage rates fixed solely on the basis of the employment status of employees. In addition, it prohibits a temporary help agency from remunerating an employee at a lower rate of wage than that granted to employees of the client company who perform the same tasks. These provisions of the Act came into force in June 2018 (Section 41.2 of the Act respecting labour standards.) Québec: Section 41.2 of the Act respecting labour standards. Calculation: $0.28 (=0.28*1+0.72*0)$</p>
<p>18: Definition of collective dismissal (b)</p>	<p>It varies (note: in some statutes, a collective dismissal is deemed to occur only if a set number of employees are discharged in a “single location” or in one “establishment”). Federal jurisdiction, Alberta, Manitoba, Newfoundland and Labrador: dismissal of 50 employees or more in 4-week period. Ontario: dismissal of 50 employees or more in 4-week period, (a) representing more than 10% of employees at an establishment or (b) where the termination is caused by the permanent discontinuance of part or all of the employer’s business at an establishment. British Columbia: dismissal of 50 employees or more in 2-month period. Northwest Territories, Nunavut, Yukon: 25 employees or more in 4-week period. Nova Scotia, Saskatchewan: 10 employees or more in 4-week period. Quebec: 10 employees or more in 2-month period (some exceptions). New Brunswick: more than 10 employees in 4-week period, representing at least 25% of employer’s workforce. Prince Edward Island: no collective dismissal provisions. Federal: Section 212(1) of the Canada Labour Code Alberta: Section 137(1) of the Employment Standards Act British Columbia: Section 64 of the Employment Standards Act Ontario: Section 58(1) of the Employment Standards Act Quebec: Section 84 of the Act respecting labour standards Calculation (for EPL indicators): Weighted average of the values for Alberta, British Columbia, Ontario and Quebec</p>

<p>19: Additional notification requirements in cases of collective dismissal (g)</p>	<p>Notice to employees: in seven jurisdictions, the notice that must be given to each employee affected by a collective dismissal is normally longer than for an individual termination of employment. Depending on the number of employees dismissed, notice ranges from 4 to 12 weeks in Saskatchewan; 8 to 16 weeks in British Columbia, Newfoundland and Labrador, Nova Scotia, Ontario and Quebec; 10 to 18 weeks in Manitoba; 4 to 16 weeks in the Northwest Territories, Nunavut and Yukon; 4 weeks in Alberta and 6 weeks in New Brunswick. Moreover, in British Columbia an employee must be given notice of individual termination in addition to a notice of collective dismissal (the two notice periods are consecutive, not concurrent). Notice to public authorities: in all jurisdictions (except Prince Edward Island), the employer must notify the competent labour authorities (e.g., Minister of Labour). Notice to trade union: a copy of the notice must be given to the bargaining agent of each affected employee in the federal jurisdiction, British Columbia, Manitoba, New Brunswick, Quebec and Saskatchewan. Posting of notice: in some jurisdictions, a collective dismissal notice must also be posted in conspicuous places in the workplace.</p> <p>In 4 jurisdictions, an employer who intends to proceed with a collective dismissal is required (federal jurisdiction) or may be required (British Columbia, Manitoba, Quebec) to establish a joint committee to develop an adjustment program aimed at minimizing the number and impact of job losses and assisting affected workers in finding new employment.</p> <p>Federal: Section 212 of the Canada Labour Code Alberta: Section 137 of the Employment Standards Code British Columbia: Section 64 of the Employment Standards Act Ontario: Section 58 of the Employment Standards Act Quebec: Section 84 of the Act respecting labour standards</p>
<p>20: Additional delays involved in cases of collective dismissal (h)</p>	<p>In 4 jurisdictions, an employer who intends to proceed with a collective dismissal is required (federal jurisdiction) or may be required (British Columbia, Manitoba, Quebec) to establish a joint committee to develop an adjustment program aimed at minimizing the number and impact of job losses and assisting affected workers in finding new employment.</p> <p>Minimum and maximum notice in the case of collective dismissals for the four largest provinces is 8-16 weeks in Ontario and Quebec, 4 weeks in Alberta and 8-16 weeks in British Columbia (Art. 58, Ontario's Employment Standards Act, Sec. 137 Alberta's Employment Standards Code, Art. 64 British Columbia's Employment Standards Act and Art. 84.0.4 Quebec's Lois sur le Normes du Travail / Act Respecting Labour Standards). In British Columbia an employee must be given notice of individual termination in addition to a notice of collective dismissal (the two notice periods are consecutive, not concurrent). However, in Ontario, Alberta and Quebec, notice of collective dismissal can be concurrent with individual notification.</p> <p>Federal: Section 212 and 230 of the Canada Labour Code Alberta: Section 56 and 137 of the Employment Standards Code British Columbia: Section 63(3) and 64 of the Employment Standards Act Ontario: Section 57 and 58 of the Employment Standards Act Quebec: Section 82 and 84 of the Act respecting labour standards</p> <p>Calculation (for EPL indicators): weighted average of mean weeks of notice for four largest provinces. In the case of Alberta, Quebec and Ontario, where individual and collective notifications may be concurrent, individual notice periods (at 4 years tenure) are subtracted (that is 4 weeks in Ontario and Alberta and 2 weeks in Quebec, cf. Item 3): $0.45*(12-4)+0.28*(12-2)+0.11*(4-4)+12*0.15+10*(0.28+0.15)*0.5$ (for the possible joint committee) = 55.15 days.</p>

21: Other special costs to employers in case of collective dismissals (i)	<p>Type of negotiation required: In 4 jurisdictions, an employer who intends to proceed with a collective dismissal is required (federal jurisdiction) or may be required (British Columbia, Manitoba, Quebec) to establish a joint committee to develop an adjustment program aimed at minimizing the number and impact of job losses and assisting affected workers in finding new employment. In Quebec, an employer may also be required to make a financial contribution to the operating costs of the committee and its reclassification activities. This is obligatory in the federal jurisdiction. The obligation to establish a joint committee under federal law can be waived by the Minister of Labour. Selection criteria: As laid down in any collective agreements. Severance pay: No additional severance pay obligations if notice requirements for collective dismissal are met. However, in Ontario, severance pay (cf. Item 4) must also be paid to employees where the employment of 50 or more employees is severed in a six-month period as a result of a permanent discontinuance of all or part of the employer's business at an establishment (independently of the payroll size of the firm).</p> <p>Federal: Section 214 of the Canada Labour Code British Columbia: Section 71 of the Employment Standards Act Quebec: Section 84.0.9 of the Act respecting labour standards</p> <p>Calculations: $0.28*1.5+0.15*0.5$ (severance pay in Quebec + adjustment program on request in Quebec & British Columbia)</p>
22: The worker alone has the burden of proof when filing a complaint for unfair dismissal	No
23: Ex-ante validation of the dismissal limiting the scope of unfair dismissal complaints	No
24: Pre-termination resolution mechanisms granting unemployment benefits	<p>Workers who voluntarily leave their jobs without just cause may not be entitled to receive characterized employment benefits. Regarding termination via mutual agreement, whether or not the employee received Employment Insurance benefits would depend on the facts of the case (i.e. the way the employer the separation on the Record of Employment form and in conversations with Service Canada personnel).</p> <p>Federal: Section 30(1) of the Employment Insurance Act</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 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.