

Detailed Description of Employment Protection Legislation for Latin America and the Caribbean, 2014

IDB
OECD

Labor Markets Division
(SCL/LMK)

TECHNICAL
NOTE N°
IDB-TN-1310

Detailed Description of Employment Protection Legislation for Latin America and the Caribbean, 2014

IDB
OECD

August 2015



Cataloging-in-Publication data provided by the
Inter-American Development Bank
Felipe Herrera Library

Detailed description of employment protection legislation for Latin America and the Caribbean, 2014 / Inter-American Development Bank, Organization for Economic Cooperation and Development.

p. cm. — (IDB Technical Note ; 1310)

1. Labor contract-Latin America. 2. Labor contract-Caribbean Area. 3. Employees-Dismissal of-Law and legislation-Latin America. 4. Employees-Dismissal of-Law and legislation-Caribbean Area. 5. Severance pay-Law and legislation-Latin America. 6. Severance pay-Law and legislation-Caribbean Area. I. Inter-American Development Bank. Labor Markets Division. II. Organization for Economic Cooperation and Development. III. Series.

IDB-TN-1310

<http://www.iadb.org>

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DETAILED DESCRIPTION OF EMPLOYMENT PROTECTION LEGISLATION FOR LATIN AMERICA AND THE CARIBBEAN, 2014

TECHNICAL NOTE

INTER-AMERICAN DEVELOPMENT BANK

ORGANIZATION FOR ECONOMIC COOPERATION AND
DEVELOPMENT

August 2015

Summary

The Employment Protection Legislation (EPL) methodology developed by the Organization for Economic Cooperation and Development (OECD) measures the degree of stringency of employment protection legislation of OECD and G20 countries, to determine, amongst others, its labour market impacts. The Inter-American Development Bank (IDB), in collaboration with the OECD, has applied this methodology to Latin American and Caribbean (LAC) countries. This document presents detailed description of employment protection legislation for 21 countries in the region as of December 31s, 2013. Brazil was prepared by OECD as part of the 2013 update; information corresponds to 2012. Chile and Mexico were prepared by OECD as part of the 2013 update.

Keywords

Labor regulations, dismissal, severance pay, collective dismissal, temporary contracts, temporary-work-agency

JEL codes

K31, M50, Y10

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* Brazil was prepared by OECD as part of the 2013 update. Information corresponds to 2012.

** Chile and Mexico were prepared by OECD as part of the 2013 update.

ARGENTINA

	Regulations in force on 11 November 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	A written notification is required (Article 231 and 235 of the Labour Contract Law –hereinafter LCT). If the employee is dismissed for just cause, the reason has to be indicated in the notification letter. The employer is not allowed to change the reason for dismissal, if the case is summoned at Court (article 242 LCT). Just cause is a serious breach of the labour contract (gross misconduct or offence).
Item 2 Delay involved before notice can start	Notice starts the day after the notification its receipt by the employee (Article 233 of the LCT). Calculation for EPL indicators: 1 day
Item 3 Length of notice period at different tenure durations (a)	a) 15 d: Probationary period. b) 1 m < 5 y. c) 2 m > 5 y.
Item 4 Severance pay at different tenure durations (a)	Severance payment for employees dismissed without just cause is equivalent to one monthly salary per each year of service, or fraction of year exceeding 3 months (Article 245 LCT). Severance payment for employees dismissed for redundancy is equivalent to half of the payment of article 245 (Article 247 LCT). These reduced severance payment also applies in case of force majeure, death of the employer or the employee or bankruptcy of the company (without fault of the employer). Calculation for EPL indicators: average of dismissal without just cause and redundancy.
Item 5 Definition of unfair dismissal (b)	Prohibited grounds for dismissal are discrimination (sex, race, religion, political affiliation, social condition) maternity, wedding, trade union representative, during an accident of professional disease. In these cases, an additional indemnity must be paid. Employers can dismiss employees without justified cause (sin justa causa) provided the prior notice is respected and severance indemnity is paid (Article 245 LCT). Therefore, dismissal is considered unfair when a just cause can't be alleged and proved by the employer. Also employers can dismiss in case of redundancy and force majeure. In case of redundancy the rule first in first out must be observed. Calculation for EPL indicators: average without reason (0) and redundancy (1).
Item 6 Length of trial period (c)	The first 3 months are of probationary period (Article 92 bis LCT). During this period, the employer can dismiss the employee without just cause, with 15 (fifteen) days prior notice, and without payment of any severance indemnity.
Item 7 Compensation following unfair dismissal (d)	Compensation is equivalent severance pay in case of dismissal without cause (article 245 of the LCT). Additional compensations must be paid in case of maternity, wedding, union affiliation, accident or professional disease. In most cases, the additional compensation amounts to 1 year of remunerations (plus the general severance indemnity). Calculation for EPL indicators: Compensation – average severance: 5 months.
Item 8 Reinstatement option for the employee following unfair dismissal (b)	Reinstatement proceeds when: 1) a union representative or a worker on union leave is dismissed, if the employer did not claim the judicial procedure of exclusion of the union tuition, 2) a worker is dismissed on discriminatory grounds. Calculation for EPL indicators: cases of discrimination and of dismissal on prohibited grounds are not taken into account for EPL indicators. Therefore, there is no scope for reinstatement.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	2 years after dismissal (Article 256 LCT).
Item 10 Valid cases for use of standard fixed term contracts	Fixed term contracts are permitted if the term of duration is agreed between the parties or if the task to be performed is of limited duration (Article 90 LCT). A written agreement stating the duration of the FTC is required. Calculation for EPL indicators: average 1 and 2: 1.5
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	No specific limitation within the maximum duration (5 years). However, according to article 90 LCT, if more than one renewal is made, it would most likely to be considered as a contract of indefinite duration. Calculation for EPL indicators: initial contract plus one renewal. 2
Item 12 Maximum cumulated duration of successive standard FTCs	The maximum cumulated duration of standard FTC is of 5 (five) years (Article 93 LCT).

<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>TWA employment is allowed only for objective reasons. These circumstances are:</p> <ol style="list-style-type: none"> 1) Absence of permanent employees of the user firm. 2) Suspensions or vacation leave of employees of the user firm. 3) Increase of the activity of the user firm, which requires, on an occasional and extraordinary period, of additional employees. 4) When the user firm needs to organize or participate in congresses, conferences, fairs, exhibitions. 5) When an immediate execution of activities is required in order to avoid accidents or to repair equipment, machines or buildings of the user firm, only if such activities can't be performed by dependent employees of the user firm. 6) When, due to extraordinary and temporary situations, the user firm needs to perform tasks that are not of its current and core business
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>No specific restrictions for assignments and contracts. However, in both cases, limited to the duration of the temporary and extraordinary situation (see item 13). They are ruled by provisions of collective agreements of each sector or economic activity.</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>No specific restrictions. However in both cases, they are limited to the duration of the temporary and extraordinary situation.</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>Yes. The set-up of a TWA requires administrative authorisation from the Labour Ministry and reporting obligations.</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>Yes. The principle of equal treatment applies by law.</p>
<p>Item 18 Definition of collective dismissal (b)</p>	<p>For purposes of the law, a collective dismissal occurs when the employer plans to dismiss: 1) more than 15% of its workers in companies of less than 400 employees; 2) more than 10% in companies between 400 and 1000 workers; 3) more than 5% in companies of more than 1000 employees.</p>
<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>Negotiations with unions before the Labour Ministry.</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>The delay depends on the duration of the mandatory administrative proceeding. A preventive administrative procedure has to be filed by the employer or the union before the Labour Ministry. The Ministry will summon the parties to a hearing to attempt an agreement, within 2 days. If no agreement is reached within 5 days, a new period of 10 days for negotiations will be tempted by the authority. If the employer and the union arrive to an agreement, the Labour Ministry, after analyzing its content, may homologate or reject such agreement within 10 days. If the parties do not agree, the procedure will come to an end.</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>Companies with more than 50 employees must propose a compensation plan. Proposing a severance indemnity is advisable (although not mandatory). Calculation for EPL indicators: 0.5</p>

THE BAHAMAS

	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Individual termination: Notice of dismissal may be given orally or in writing to the employee or sent to his usual or last-known residence or sent by prepaid registered post addressed to him at that place (Section 30 of the Employment Act –hereinafter EA)</p> <p>Redundancy: According to Section 32 of the Code of the Industrial relations Practice in the Industrial Relations Act Chapter 321 (hereinafter IRA), if redundancy becomes necessary, consultation with the Labour Ministry and trade union should take place.</p> <p>Calculations (for EPL indicators): Average: 0 for individual termination, 2 for redundancy</p>
Item 2 Delay involved before notice can start	<p>Individual termination: No delays involved. The notice must be communicated to the employee orally or in written.</p> <p>Redundancy: warning procedure (Section 32 IRA, Collective agreements)</p> <p>Calculation for (EPL indicators): Average: 1 day for individual termination, 6 days warning procedure for redundancy.</p>
Item 3 Length of notice period at different tenure durations (a)	<p>Length of notice varies:</p> <p>Dismissal due to redundancy:</p> <p>When an employee -of at least 1 year tenure- is dismissed because of redundancy, the following notice periods must be observed (section26 EA):</p> <p>a) 2 w or 2 w basic pay in lieu of notice > 12 m</p> <p>b) 1 m or 1 m basic pay in lieu of notice for supervisory or managerial position.</p> <p>Dismissal due to other causes</p> <p>When an employment agreement is terminated by the employer, the following minimum notice periods must be observed (section29 EA):</p> <p>a) 1 w or 1 w pay in lieu of notice > 6 m < 12 m</p> <p>b) 2 w or 2 w pay in lieu of notice > 12 m</p> <p>c) 1 m or 1 m pay in lieu of notice for supervisory or managerial position.</p> <p>Calculation (for EPL indicators): Average of supervisors and other employees (averaging redundancy and other causes for each of them): 9 months tenure (0 + 0 + 1 w + 1 m)/4: 0.3 months; 4 years tenure (2 w + 1 m + 2 w + 1 m)/4: 0.7 months; 20 years tenure (2 w + 1 m + 2 w + 1 m)/4: 0.7 months</p>
Item 4 Severance pay at different tenure durations (a)	<p>No severance pay in case of dismissal with justified reason, which occurs when the employee has committed a fundamental breach of his contract or has acted in a manner repugnant to the fundamental interests of the employer – gross misconduct- (section31 EA: summary dismissal).</p> <p>Redundancy:</p> <p>Employer who dismisses an employee, of at least 1 year tenure, must pay (Section26 EA):</p> <p>a) 2 w (or a part thereof on a pro rata basis) for each year up to 24 weeks.</p> <p>c) 1 m (or a part thereof on a pro rata basis) for each year up to 48 weeks for supervisory or managerial positions.</p> <p>Personal grounds and others:</p> <p>Employer must pay the following severance payments (section29 EA):</p> <p>a) 1 w (or a part thereof on a pro rata basis > 6 m < 12 m.</p> <p>b) 2 w (or a part thereof on a pro rata basis) for each year up to 24w > 12 months.</p> <p>c) 1 m (or a part thereof on a pro rata basis) for each year up 48 w for supervisory or managerial positions.</p> <p>Calculation (for EPL indicators): Average of supervisors and other employees (averaging redundancy and personal grounds): 9 months (0 + 0 + 1w + 1 m)/4: 0.3 months; 4 years tenure (8w + 4m + 8w + 4 m)/4: 2.92 months; 20 years tenure: (24w+48w+24w+48w)/4: 8.30 months.</p>

<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Fair dismissal</u> (called "Summary dismissal"): Section 31 and 32 EA provides a list of justified grounds for summary dismissals which relate mainly to the worker's gross misconduct (theft, fraudulent offenses, dishonesty, gross insubordination or insolence, gross indecency, breach of confidentiality, gross negligence, incompetence, gross misconduct). In these cases the employer may dismiss without pay or notice.</p> <p><u>Termination of employment with notice</u>: Section 29 EA allows the employer to terminate the employment agreement without cause provided prior notice is respected and severance indemnity is paid.</p> <p><u>Redundancy</u>: Section 26 EA allows the employer to dismiss the employee because of redundancy provided prior notice is respected and severance indemnity is paid. However re-training and transfer to other work must be attempted prior to dismissal (Section 31 IRA and collective agreements).</p> <p><u>Unfair dismissal</u>: Articles 36, 37, 38 and 40 EA provide a list of circumstances in which dismissal is regarded as unfair:</p> <p>a) Dismissal related to trade union membership: the dismissal of an employee is regarded as having been unfair if the reason for it or the principal reason was that the employee:</p> <ul style="list-style-type: none"> • Was, or proposed to become, a member of an independent trade union; • Had taken, or proposed to take, part at any appropriate time in the activities of an independent trade union; • Was not a member of any trade union, or of a particular trade union, or of a particular trade union, or of one of a number of a particular trade union, or had refused or proposed to refuse to become or remain a member. <p>b) Dismissal on ground of redundancy: the dismissal is regarded as unfair if</p> <ul style="list-style-type: none"> • The reason for which the employee was selected in comparison to other employees who held the same position, was an inadmissible reason, • The selection of the employee for dismissal was in contravention of a customary arrangement or agreed procedure relating to redundancy and there was no special reason justifying a breach of such arrangement or procedure. <p>c) Dismissal on ground of pregnancy: dismissal is regarded as unfair if the reason or principal reason for dismissal is that the employee is pregnant or is for any other reason connected with pregnancy.</p> <p>d) Dismissal in connection with a lockout, strike or other industrial action: the dismissal is regarded as unfair where at the date of dismissal</p> <ul style="list-style-type: none"> • The employer was conducting or instituting a lockout; or • The employee was taking part in a lawful industrial action. <p>Calculation (for EPL indicators): 2: personal dismissal is possible without significant restrictions but transfer or training must be attempted before economic dismissal (Source: on how to value this cases: OECD).</p>
<p>Item 6 Length of trial period (c)</p>	<p>No statutory regulation in the EA. Certain collective agreements stipulate a 12 months probationary period (Industrial Agreement College of Bahamas & Union of Tertiary Educators).</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>Compensation following unfair dismissal (Section 42 EA): The Tribunal can order the <u>reinstatement or re-engagement</u>, should they find that the grounds for a claim for unfair dismissal are proved. If the terms of the order are not complied with, the Tribunal will order an <u>award of compensation for unfair dismissal</u> composed of:</p> <ol style="list-style-type: none"> 1) basic award: 3 w per year of work 2) compensatory award: Determined by the Tribunal considering the loss of benefits and expenses incurred by the dismissed employee. <p>The ceiling to compensation of 18 months in general; 24 months for supervisory or managerial positions (Section 48 EA).</p> <p>Calculation (for EPL indicators): Formula: average of workers with supervisory and non-supervisory positions (for each, average of min and max award – severance payment in Item 4): $(13.84m+21m)/2 - 8.30m = 9.12$ months.</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Under EA the Tribunal may order reinstatement option if the grounds for unfair dismissal are proved. This option applies to:</p> <ul style="list-style-type: none"> • Dismissal related to trade union membership • Dismissal on ground of redundancy under the circumstances stated in Item 5 • Dismissal on ground of pregnancy • Dismissal in connection with a lockout, strike or other industrial action
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>12 months (Section 68 (2) IRA).</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>General. EA does not contain any restriction on the use of fixed-term contracts.</p>

Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	No limit.
Item 12 Maximum cumulated duration of successive standard FTCs	No limit.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	No statutory regulation.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation. No limit
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. No limit
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	No statutory definition of collective dismissal. Although certain collective agreements contain provisions regarding the number of employees involved and the procedures to be followed, they correspond to the public sector (which is actually no being considered for EPL purposes). IRA establishes a procedure by which if redundancy becomes necessary, consultation with trade unions and Labour Ministry should take place to: a) give warning to employees, b) introduce schemes for voluntary redundancy and c) select the employees to be dismissed. However, IRA does not establish the number of employees involved. Calculation (for EPL indicators): 0 (as collective agreements of the public sector do not count for EPL purposes).
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	IRA requires communications with Labour Ministry and trade unions if redundancy becomes necessary. Calculation (for EPL indicators): 0 as redundancy was already considered in Item 1.
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	No statutory regulation.
Item 21 Other special costs to employers in case of collective dismissals (i)	No special costs involved.

BARBADOS

	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	Individual termination: Employees with 1 year's continuous service have the right to receive, upon request a written statement of the reasons of their dismissals (Section 22 and 23(2) of the Employment Rights Act –hereinafter ERA).
Item 2 Delay involved before notice can start	Written or oral notification. Calculation (for EPL indicators): 1 day when dismissal can be notified orally or the notice can be directly handed to the employee.
Item 3 Length of notice period at different tenure durations (a)	<p>All workers: Recent enactment of ERA (2012) established notice periods prior to dismissal for all workers. Length of notice varies depending on years of service and frequency wages are paid. They apply to employees with at least 1 year of continuous service (ERA Section 22):</p> <p>Hourly, daily or weekly paid (Section 22 (1)):</p> <p>d) 1w,<2y e) 2w,>2y<5y f) 4w,>5y<10y g) 6w,>10y<15y h) 10w,>15y</p> <p>Fortnightly paid (Section 22 (2))</p> <p>d) 2 w,<5y e) 4w,>5y<10y f) 6w,>10y<15y g) 10w,>15y</p> <p>Monthly paid (Section 22 (3)):</p> <p>a) 1m,<10y b) 1 ½ m,>10<15y c) 2 ½ m,>15y</p> <p>Redundancy: Under Severance Payment Act (SPA), notice period varies according to length of service and applies to workers with at least 2 years tenure.</p> <p>a) Not less than 2w,>2y<5y b) Not less than 4w,>5y</p> <p>Before the enactment of ERA, applying case law, the statutory periods under SPA were enlarged by the importation of common law principles of reasonable notice applicable in cases of long service employees made redundant or wrongfully dismissed. From the decisions of the Supreme Court of Justice (June Clarke vs. American Life Insurance Company. Civil Appeal N° 33 of 1998; Sandra Agard vs. Caribbean Data Services LTD. Magisterial Appeal N° 12 of 2000), a notice period of approximately 3 months was considered reasonable. The Labour Ministry understands that for notice period the applicable legislation is that of ERA. However, in their opinion the court has the final decision on this matter. Certain doctrine's interpretation is that for severance payment, the applicable notice period is that of SPA (Sections 20) and court cases decisions. As there is no case law since the enactment of ERA, for the purposes of EPL indicators, a 3 month period of notice under SPA for employees with 20 years tenure, was considered for redundancy cases.</p> <p>Calculation (for EPL indicators): average of redundancy and personal reasons (monthly-paid workers): 9 months tenure: 0; 4 years tenure (1m + 0.46m)/2: 0.73 months. 20 years tenure (2 ½ m + 3m)/2: 2.75 months</p>
Item 4 Severance pay at different tenure durations (a)	<p>Legally required for employees with 2 years tenure dismissed for: redundancy, lay off/ kept on short-time and natural disaster (Section 3 (1) Severance Payments Act –hereinafter SVA). The amount of severance payment is:</p> <ul style="list-style-type: none"> • 2.5 weeks' basic pay for each such year up to 10 years • 3 weeks' basic pay for each such year by which the employment exceeds 10 years but does not exceed 20 years, and • 3.5 weeks' basic pay for each such year by which the employment exceeds 20 years but does not exceed 33 years. <p>Other cases: no severance payment</p> <p>Calculation (for EPL indicators): (average of redundancy and other cases (no severance pay): 9 months tenure: 0; 4 years tenure: 5w; 20 years tenure: 27.5w</p>

Item 5 Definition of unfair dismissal (b)	<p>Fair dismissal: Dismissal related to the capability or conduct of the employee, because of redundancy, because continued employment would be illegal or some other substantial reason of a kind (Section 29 ERA).</p> <p>Unfair dismissal: Dismissal related to a range of reasons including: absence as a result of occupational disease or work-related accident, filing a complaint against the employer, employee suffering AIDS or life-threatening disease, refusal to carry out an unlawful instruction, trade union representative or membership, pregnancy or maternity, race, colour, gender religion or political opinion, amongst other similar reasons (Section 30 ERA).</p>
Item 6 Length of trial period (c)	No statutory regulation. Claims for unfair dismissal are not possible until 1 year's service has been completed (Section 27(3) ERA).
Item 7 Compensation following unfair dismissal (d)	<p>Compensation following unfair dismissal: If the Tribunal finds that the grounds for a claim for unfair dismissal are well founded, the Tribunal can order the <u>reinstatement or re-engagement</u> of the employee (Section 33 (2) ERA). If the orders are unfeasible (because the employee does not wish to be reinstated or re-engaged or because it is not practicable for the employer to comply with the order) the Tribunal will order an <u>award of compensation for unfair dismissal</u> composed of:</p> <ol style="list-style-type: none"> 1) Basic award: <ul style="list-style-type: none"> • 5 w < 2y • 2 ½ w for each year from 2y to less than 10y • 3 w for each year from 10y to less than 20y • 3 ½ w for each year from 20y to less than 33y <p>The amount of the basic award has to be reduced by the amount of any severance payment paid by the employer under the SPA or any payment made by the employer, whether in pursuance of the SPA or otherwise, on the ground that the dismissal was by reason of redundancy (Fifth Schedule. ERA)</p> 2) Additional amount determined by Tribunal considering the benefits lost by the employee because of dismissal. 3) Extra amount if dismissal was for reason specified in Section 30 (1) (c) ERA (mainly prohibited grounds) an amount up to 52 week's wages can be ordered. <p>Calculation (for EPL indicators): Formula (maximum compensation + average compensation)/2 – average severance payment: 14,5m.</p> <p>Explanation: Typical compensation at 20 years tenure, worker 35 years of age at start of employment, court case takes 6 months: (maximum: basic award (52.5w); additional amount 6 month's salary (24w); extra amount (52w) plus average)/2 minus average severance payment (27,5w).</p>
Item 8 Reinstatement option for the employee following unfair dismissal (b)	Yes, if an employee makes a complaint to the Tribunal on the grounds of unfair dismissal, the Tribunal can make an order of reinstatement or re-engagement on a comparable position. If the order is not feasible (because employee does not wish to be reinstated or re-engaged or it is impracticable for the employer, the Tribunal may make an award of compensation for unfair dismissal. Since ERA was recently enacted, there is no case law available at present to check the frequency or percentage of cases where a reinstatement or re-engagement order is actually applied.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	Within 3 months of the employee's effective date of termination or within such further period as the Tribunal considers reasonable if they believe it was not reasonably practicable for the employee to made the complaint within such 3 months period (Section 32 (2) ERA).
Item 10 Valid cases for use of standard fixed term contracts	No restrictions.
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	No limit. Section 26 (1) (b) states that an employee is considered to be dismissed if the FTC is not renewed at the end of the expiry term, implying that workers will then be entitled to protection against unfair termination and redundancy pay (but not advance notice) in the same way as permanent workers.
Item 12 Maximum cumulated duration of successive standard FTCs	No limit.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	General. No statutory regulation.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No limit.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. No limit.

Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	Redundancies affecting at least 10% of the workforce (Section 31 (4) ERA).
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Additional notification requirements are necessary: 1) <u>Consultations</u> with the affected employees or their representatives; b) <u>Written statement</u> to the employee or the trade union and the Chief Labour Officer.
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	Consultations with the affected workers or their representatives shall commence no later than 6 weeks before any of the affected employees is dismissed and shall be completed within a reasonable time (Section 31 (6)). The written statement must be delivered before dismissals take place. Calculation (for EPL indicators): 42 days (minus item 2 and item 3 –assuming –for length of notice period- employee’s 4 years tenure): 12 days.
Item 21 Other special costs to employers in case of collective dismissals (i)	Severance pay: no special regulations for collective dismissal. Section 40 ERA provides, within 6 months of the collective dismissal, for priority in recruitment of employees who were made redundant provided they met performance standards during their employment (However priority in re-hiring is not taken into account for calculating EPL indicators).

BOLIVIA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	No specific notification procedure is required in case of dismissal with just cause or without just cause, but the reasons for dismissal must be communicated to the employee in all cases as its absence implies the acknowledgement of lack of just cause (article 12 and 16 General Labour Law –GLL). Calculations (for EPL indicators): 1
Item 2 Delay involved before notice can start	Warning procedures are advisable in case of dismissal with just cause (Case Law. Sala Social y Administrativa Expediente: 10/2012-S). Dismissal without just cause is unfair, thus it is considered in Items 5, 7 and 8. Calculations (for EPL indicators): dismissal with cause 7 days
Item 3 Length of notice period at different tenure durations (a)	The GLL (article 12) mandates employers to provide workers an advance notice of their dismissal. The length of notice period varies for blue-collar workers (obreros) and white-collar (empleados). <ul style="list-style-type: none"> 1) Blue-collars <ul style="list-style-type: none"> a) 7d > 1m b) 15d > 6m c) 1m > 1y 2) White-collars <ul style="list-style-type: none"> 90d > 3m <p>If an employer dismisses an employee without prior notice, termination is considered in Spanish “despido intempestivo” being the employee entitled to the payment of “desahucio”, which amounts to pay in lieu of notice. For white-collars: 3 months’ salary. Calculation (for EPL indicators): average of blue collar and white collar: 9 months tenure: 52.5 days; 4 years tenure: 60 days; 20 years tenure: 60 days</p>
Item 4 Severance pay at different tenure durations (a)	<u>Dismissal with just cause:</u> No severance pay (called Indemnity for length of service) in case of dismissal with justified cause (“justa causa”), which essentially corresponds to employee’s misconduct (article 16 GLL and article 10 Supreme Decree N° 28699). <u>Dismissal without just cause:</u> considered in Item 7: Compensation for unfair dismissal. Employee can opt between reinstatement or severance payment (equivalent to 1 monthly salary per each year of service and in proportion per fraction of year).
Item 5 Definition of unfair dismissal (b)	<u>Fair dismissal:</u> Article 16 GLL provides an exhaustive list of reasons for dismissal with justified cause, which are related to employee’s conduct: 1) intentional damage to firm’s machinery, products or merchandise; 2) disclosure of firm’s industrial secrets, 3) non-compliance with industrial hygiene and safety rules, 4) failure to comply, totally or partially with firm’s internal rules, 5) abuse of trust of theft. Employee’s capability is not a just cause for dismissal. <u>Unfair dismissal:</u> when no justified cause is alleged or when the employee challenges the just cause alleged by the employer. Employee can opt between reinstatement plus back pay or severance payment plus pay in lieu of notice. Upon dismissal, the employer and employee must file a form called in Spanish “Finiquito” before the Labour Ministry. The employer is obliged to pay, within 15 days of dismissal, the amounts corresponding to severance payment (if applicable) plus other labour benefits owed to the employee. If the employer fails to comply with this obligation, a fine of 30% is imposed (article 9 Supreme Decree 28699).
Item 6 Length of trial period (c)	3 months (Article 13 GLL).
Item 7 Compensation following unfair dismissal (d)	In case of unfair dismissal (dismissal without just cause “sin justa causa”), which occurs when no just cause (article 16 GLL) is alleged by the employer or when the just cause is challenged by the employee before the Labour Ministry (or at Court), the latest can opt between reinstatement plus back pay or the payment of severance indemnity plus pay in lieu of notice (article 10 Supreme Decree N° 28699). Severance pay for unjustified dismissal (“sin justa causa”) is equivalent to 1 monthly salary per each year of service and in proportion per fraction of year (article 13 GLL, articles 9 and 10 Supreme Decree 28699 of May, 1 st 2006 and articles 1 and 2 Supreme Decree N° 110 of May, 1 st 2009). Calculation (for EPL indicators at 20 years tenure): (20 months’ salary plus pay in lieu of notice 3 months for white collar – notice period counted in Item 3): 20 months

Item 8 Reinstatement option for the employee following unfair dismissal (b)	Under Bolivian Constitution (articles 48 and 49), employees enjoy job stability. Reinstatement option is always available (article 10 Supreme Decree 28699). Upon unfair dismissal, employees can opt between reinstatement (plus back pay) or severance indemnity (plus pay in lieu of notice), article 10 and 11 Supreme Decree 28699. If the employee opts for reinstatement, he can request the Labour Authority to issue a reinstatement order -provided unjustified dismissal is proved-. If the employer fails to comply with the order a fine will be imposed. In such case, the employee can claim the compliance with reinstatement order before the Labour Court (submitting the document issued by the Labour Ministry which proves that dismissal was unfair), article 10 III Supreme Decree N° 28699. Reinstatement is also available for certain categories of workers which have special protection as pregnant women or on maternity leave, recent fathers (Supreme Decree N° 12 of 2009)
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	Labour claims do not prescribe (article 48 IV Constitution). The Constitution in force as of February, 2009 modified article 120 GLL. The latest stated a time limit of 2 years.
Item 10 Valid cases for use of standard fixed term contracts	FTCs are permitted when the nature of the service or the tasks is itself of limited duration (Ministerial Resolution N° 283/62 of June, 13 th 1962). FTCs are prohibited for permanent tasks (Decree Law N° 16.187, article 2).
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	Only initial contract plus one renewal is admitted (Ministerial Resolution N° 283/62 of June, 13 th 1962 and Decree Law N° 16.187, article 2). Calculation (for EPL indicators): 2 (initial contract plus 1 renewal).
Item 12 Maximum cumulated duration of successive standard FTCs	FTC must not exceed 1 year. Same time limit applies to renewal (Ministerial Resolution N° 283/62 of June, 13 th 1962). Calculation (for EPL indicators): 24 months
Item 13 Types of work for which temporary work agency (TWA) employment is legal	Regulations refer to the broader category of outsourcing. Supreme Decree N° 521 of May 26 th 2010 prohibits the use of outsourcing, subcontracting, engagement, externalization of operations and other similar contractual agreements to develop the permanent and core activities of the counterparty (also Ministerial Resolution 108 of 2010). Failure to comply determines that both companies are jointly liable for the labour and social security benefits of the employees of the user firm. Moreover, the law considers an infringement subject to penalties, the following activities: 1) The usage of these figures to simulate non labour relationships 2) The recruitment and provision of labour force using the above mentioned figures to avoid complying with labour and social security regulations (article 2 Supreme Decree N° 521) These types of agreements are permitted for non core activities (article 3 Supreme Decree N° 521).
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No specific regulation. FTC rules apply to FTCs between the agency and the worker. If assignments are of fixed-term, the duration of assignments and contracts typically coincide.
Item 15 Maximum cumulated duration of TWA contracts (f)	No specific regulation. However FTC rules apply to agreements with user firms. FTC rules apply to FTCs between the agency and the worker. Applying this rule, the assumption of a time limit of 24 months –for FTC- was considered. See Item 12
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No specific authorization or reporting requirements (other than those which correspond to every employer).
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No specific regulation. However Supreme Decree N° 521, article 5 states that employees, ex- employees, who developed permanent and core activities of the user firm using the figures referred to in Item 13 (outsourcing, subcontracting, etc), can request the Labour Ministry to enforce their labour and social security rights.
Item 18 Definition of collective dismissal (b)	No statutory definition of collective dismissals. However there are certain situations that determine the termination of all the employment agreements such as: cessation of business due to bankruptcy, liquidation procedure, death of the employer (articles 14 and 15 GLL).
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	No additional requirements.
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	No additional requirements.
Item 21 Other special costs to employers in case of collective dismissals (i)	No additional costs involved. Half of severance payment must be paid (articles 14 and 15 GLL).

BRAZIL*

	Regulations in force on 1 January 2012
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	Oral or written notification in the case of misconduct. In the case of dismissal for any other reason (sem justa causa), no prescribed procedure but notice must be certain and is generally written.
Item 2 Delay involved before notice can start	Once notice is given, termination becomes effective upon expiration of the respective period of notice. If the employer reconsiders the dismissal before the end of the notice period, the worker may accept or reject that decision. If the worker accepts reconsideration or continues to work after the notice period expires, the employment contract will remain valid as if no notice had been given.
Item 3 Length of notice period at different tenure durations (a)	Advanced notice of 8 days, if weekly paid and less than one year of job tenure in the case of dismissal without justified reason (sem justa causa). Advance notice of at least 30 days for workers either paid monthly or twice a month or with at least one year of job tenure in the case of dismissal without justified reason. This is increased by three days per year of service until a maximum of 90 days (Law 12.506 of October 13, 2011; art 487 of the Consolidation of Labour Laws). Calculations (for EPL indicators): 9 months tenure: 0.75 month; 4 years: 1.4 months 20 years: 3 months
Item 4 Severance pay at different tenure durations (a)	No severance pay in the case of dismissal with justified reason (com justa causa), which essentially corresponds to employee's misconduct. However, the employer deposits 8% of the worker's monthly earnings into a saving account in the worker's name in the Fundo de Garantia por Tempo de Serviço (FGTS), which can be accessed by the worker, inter alia, in the case of dismissal not due to misconduct (sem justa causa). Moreover, in this case, private-sector workers are also entitled to an indemnity (multa) of 40% of the total amount deposited in their name in the FGTS. The indemnity is paid over and above the deposits in the worker's FGTS account during the employment contract. In addition, employers must pay as social contributions 10% of the total amount deposited in the FGTS (Decree 3914, 11-09-2001). Note that this applies only as of the fourth month of the employment contract, the first three months being considered as a probationary period. Calculation (for EPL indicators): 40%*8%*number of months of employment
Item 5 Definition of unfair dismissal (b)	The following cases constitute ground for dismissal with justified reason (com justa causa): i) dishonest acts; ii) immoral conduct or misbehaviour; iii) regular conduct of business by the worker for his own or another person's account, without the employer's permission, in competition with or to the detriment of the employer; iv) criminal conviction, unless the sentence has been suspended; v) slothfulness or negligence; vi) habitual or on-the-job drunkenness; vii) breach of company secrecy; viii) breach of discipline or insubordination; ix) abandonment of the job; x) physical or verbal aggression in the workplace against any person, except in self-defence or in defence of third parties; xi) physical or verbal aggression against the employer or a superior, except in self-defence or in defence of third parties; xii) habitual gambling. Acts prejudicial to national security, if proven in administrative proceedings, also constitute grounds for fair dismissal. However, employers can always dismiss workers with no justified reason (sem justa causa) provided that advance notice is respected and severance payments are observed, except in cases of discrimination and of those categories of employees enjoying job stability (i.e. pregnant women, member of a trade union board and workers' representatives on the Internal Accident Prevention Commission (CIPA)). In the case of dismissal of workers hired before 1979 who have not opted for the FGTS system, courts might order full compensation or reinstatement
Item 6 Length of trial period (c)	3 months
Item 7 Compensation following unfair dismissal (d)	In the case of dismissal not due to misconduct (sem justa causa), only prescribed notice and indemnities are due. However in the case of dismissal of workers hired before 1979 who have not opted for the FGTS system, if no reinstatement is ordered, prescribed compensation is entirely paid by the employer
Item 8 Reinstatement option for the employee following unfair dismissal (b)	The indemnity paid through the FGTS is usually the only remedy. However reinstatement is available in the case of dismissal of workers hired before 1979 who have not opted for the FGTS system. If a serious offence is not duly established, they shall be reinstated or be awarded compensation if the Court declares that reinstatement is not advisable. The same rules apply to those categories of employees enjoying job stability (i.e. pregnant women, member of a trade union board and workers' representatives on the Internal Accident Prevention Commission (CIPA)). If serious reasons for dismissal are not recognized by the Labour Court, they have the right to be reinstated. Calculation (for EPL indicators): 0.5 since reinstatement is still possible for workers hired before 1979 who have not opted for the FGTS system.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	Maximum time period after dismissal notification up to which a claim concerning dismissal can be made is 24 months (Constitution, Art. 7 XXIX)

Item 10 Valid cases for use of standard fixed term contracts	A contract for a specified period is a contract in which duration is fixed in advance or which depends upon the performance of specified services or on the occurrence of a particular event, the approximate date of which can be foreseen. Contracts for a specified period are valid only if they govern services whose nature or transitional character justifies the fixing of their duration in advance, transitional activities carried out by the undertaking, and contracts of a probationary nature (Art. 443 Consolidated Labour Law)
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	May be extended once.
Item 12 Maximum cumulated duration of successive standard FTCs	Not exceeding 2 years.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	Work in urban areas to meet a temporary or seasonal need for regular and permanent employees, or to cope with an extraordinary workload increase.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No, within the 3 month limit unless authorised by the Ministry of Labour and Employment.
Item 15 Maximum cumulated duration of TWA contracts (f)	3 months unless authorised by the Ministry of Labour and Employment.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	A temporary work agency must be registered with the Ministry of Labour and Employment. The agency must comply with any requests for information made by the Ministry.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	A TWA worker must receive the same pay as a worker doing the same work for the user firm. There is no explicit requirement for equal treatment on working conditions, but a number of minimum working conditions for TWA workers are set out in legislation. Case Law also goes beyond working conditions set in legislation in imposing equal treatment (e.g. in the case of pregnancy)
Item 18 Definition of collective dismissal (b)	No legal provision is established in statutory law. However, in a recent decision, the Superior Labour Court established that negotiations among social partners must precede a mass dismissal (see Superior Labour Court decision TST-RODC-30900-12.2009.5.15.0000). This doctrine seems to have been retained in recent courts' rulings (see for example Superior Labour Court decision TST-RO-173-02.2011.5.15.0000). Calculation (for EPL indicators): since no definition of mass dismissal exists but court rulings concern only cases with many dismissal, the implied threshold is likely to be above 50.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	No legal provision is established in statutory law. The matter may be covered by collective bargaining. However, in a recent decision, the Superior Labour Court established that negotiations among social partners must precede a mass dismissal (see Item 18).
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	No legal provision is established in statutory law. The matter may be covered by collective bargaining. However, in a recent decision, the Superior Labour Court established that negotiations among social partners must precede a mass dismissal (see Item 18). No available information on how long these consultations should last
Item 21 Other special costs to employers in case of collective dismissals (i)	No legal provisions exist. The matter may be covered by collective bargaining.

* Brazil was prepared by OECD as part of the 2013 update. Information corresponds to 2012.

CHILE**

	Regulations in force on 1 January 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>A written dismissal letter is always mandatory. This letter must state the legal cause of termination and the facts supporting such cause.</p> <p>This letter must be either handed directly to the employee or sent as registered letter to the employee's domicile.</p> <p>A copy of such letter must be sent to the competent Labor Inspection within 3 working days as of the date of termination.</p>
Item 2 Delay involved before notice can start	<p>The notification letter must be either handed directly to the employee or sent as registered letter to the employee's domicile, within within 3 working days as of the date of termination.</p> <p>Calculation (for EPL indicators): average of 1 day for verbal notice and 3 days for registered letter</p>
Item 3 Length of notice period at different tenure durations (a)	<p>The employee must be given a 30-day notice, or payment in lieu of notice of one month's salary. The last monthly salary on which the payment in lieu of prior notice is based has a statutory cap of 90 "monetary indexed units" (At the end of 2012, about US\$ 4,280 - this unit is adjusted daily to inflation by the Chilean government. At the end of 2012 1 monetary indexed unit is equivalent to approximately US\$48), except if modified by the parties by mutual agreement.</p>
Item 4 Severance pay at different tenure durations (a)	<p>Employees with at least one year of continuous service shall receive severance pay equivalent to 30 days of employee's last monthly salary per year of service and fraction higher than six months. Notwithstanding the latter, this severance is subject to two statutory limits:</p> <p>a.- The last monthly salary on which the severance pay is based is capped at 90 "monetary indexed units" (currently US\$ 4,280 approx.).</p> <p>b.- The seniority is capped at 330 days (11 years). However, this limit is not applicable to employees hired before August 14th, 1981.</p> <p>These caps may be modified by the parties by mutual agreement. However, the employer's contribution to the worker's individual unemployment insurance saving account, plus the yield of this account minus all applicable fees, may be deducted from the severance pay. In practice, this implies a deduction of 20% from severance payments due in the case of dismissal.</p>
Item 5 Definition of unfair dismissal (b)	<p>The Labor Code permits an employer to dismiss an employee without fault. According to the position held by the employee, the understanding of "termination without fault" could be tailored under two venues: (i) for business necessities or economic redundancy ("necesidades de la empresa") and (ii) dismissal at will ("desahucio escrito del empleador").</p> <p>Firstly, dismissal based on business necessities or economic redundancy is generally applicable to employees in general. It does not mean that the employer is entitled to determine them at his sole discretion, but means that the dismissal must be justified by financial or economic circumstances that make the termination of the employee's contract unavoidable. Furthermore, court practice tends to be more restrictive since courts usually require that the economic justification be based on objective situations that cannot be attributed to the responsibility of the employer and meet a general situation of crisis for the whole company and not for a branch alone.</p> <p>Secondly, dismissal at will is only applicable to employees who bear at least general authority management, such as managers, assistant managers, attorneys and agents, as well as domestic workers. This reason requires the mere written notice of termination.</p> <p>The termination letter plays a key role in determining whether a dismissal is or not wrongful. In this regard, the employer is strictly bound by the statements made in the termination letter since, in the case the employee challenges the termination before a court for wrongful dismissal, the employer has the burden of proof of the veracity of the facts stated in the termination letter, not being allowed to claim any different facts supporting his/her dismissal decision.</p>
Item 6 Length of trial period (c)	<p>No trial period is admitted in legislation (except for domestic workers).</p>

<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>In the event of wrongful dismissal of permanent regular workers, the current legal framework envisages two options in challenging such dismissal:</p> <p>1.- If the dismissal was based by the employer on economic reasons and this was eventually wrongful, the additional compensation the Court can award is a 30%-surcharge over the employee's severance pay.</p> <p>2.- If the dismissal was not based on any cause, or was based by the employer on reasons other than economic reasons or redundancy (e.g., employee's serious breach of the obligations) and this was eventually wrongful, the employee is entitled to a payment in lieu of notice of one monthly salary. Also, the employee is entitled to his/her severance pay, including an additional surcharge varying from 50% to 100% over the employee's severance pay.</p> <p>Higher compensation is possible if termination is in fact based on discriminatory grounds.</p> <p>Calculation (for EPL indicators): Typical compensation at 20 years of tenure: average of 65% x 11 months' severance pay = 7.2 months.</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Reinstatement is available to permanent employees who were dismissed without fault while being under medical leave. It also applies to employees who have dismissal protection privilege ("fuero"). Dismissal protection privilege is granted by law to those employees in situations that may imply a vulnerable condition for keeping their employment (e.g. pregnancy, maternity leave, union representation). This privilege means that employer is prevented from dismissing permanent employees bearing such capacity without prior judicial authorization based on employee's fault. Moreover, the Labour Protection Procedure sets forth the prohibition of termination based on discriminatory grounds (eg. union activity, social extraction, sex).</p> <p>In general, if dismissal is deemed as "seriously discriminatory" by the Court, the employee may choose between either compensation or reinstatement. Similarly, in case of wrongful dismissal based on anti-union practices of employees who do not have dismissal protection privilege in virtue of union activity (e.g. union representatives, employees involved in collective bargaining), the employee may choose between either compensation or his/her reinstatement.</p> <p>In case of wrongful dismissal based on anti-union practices of employees who have dismissal protection privilege in virtue of union activity (e.g. union representatives, employees involved in collective bargaining), reinstatement is the only available remedy.</p> <p>All these alternatives allow employees to claim the amounts the employee did not receive during the period of undue separation.</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>Employees may lodge a complaint for wrongful dismissal before Labour Courts within 60 working days as of the date of effective termination.</p> <p>If a complaint for wrongful dismissal has been filed before the Labour Inspection prior to the jurisdictional stage, the 60 working days will be increased by the time the complaint is pending before the Labour Inspection. However, this latter increase may not exceed 30 working days.</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>No restrictions.</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>A second renewal of a fixed term contract will be taken to be a contract of indefinite length.</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>The duration of a fixed term contract may not exceed one year (two years for managers or persons with a professional or technical degree bestowed upon by a University certified by the State.). A worker who has been employed intermittently under more than two fixed-term contracts for 12 out of a continuous period of 15 months is presumed to be hired under a contract of indefinite length. Exceptions apply for arts and show business employment contracts as well as professional football players and direct assistance staff.</p> <p>Calculation (for EPL indicators): average of the two situations mentioned above</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>TWA workers can be employed in the following circumstances: (i) to replace workers on leave; (ii) for extraordinary events e.g. exhibitions, conferences; (iii) for new projects or expansion into new markets; (iv) when starting a new business; (v) to cover occasional increases in workload; (vi) for urgent and precise work requiring immediate performance without delay (e.g. conducting repairs).</p> <p>TWA employment is illegal in certain circumstances. This means the TWA may not place employees at the user firm in the following circumstances: (i) to perform positions entailing the representation of the user firm, such as managers, assistant managers; (ii) to substitute employees of a user firm who have gone legally strike within a collective bargaining process; and (iii) to place the employee at the disposal of a third TWA.</p>

Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No restrictions within the maximum term of cumulated duration as specified in answer to Item 15 below. Additionally, numerous assignments at the user firm of the same TWA employee aimed at hiding a permanent labour relationship with the user firm are illegal. In this case, the user firm shall be considered the employer
Item 15 Maximum cumulated duration of TWA contracts (f)	TWA assignments for extraordinary events or to cover occasional increases in workload have a maximum duration of 90 days. TWA assignments for new businesses or projects have a maximum duration of 180 days. TWA assignments to (i) replace employees on leave and (ii) for urgent and precise work requiring immediate performance at the user firm can last as long these situations truly exist. Calculation (for EPL indicators): average of 3 months and 6 months = 4.5 months
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No prior authorization is required. However, TWA can operate only if they are enrolled in a special registry run by the Labor Directorate and pay a money deposit guarantee. Hence, if no registration exists, no operation is allowed. This registration is conditional and exposed to cancellation by the labor authority upon the following situations: a.- When the TWA has an ownership relationship with the user firm; b.- When the TWA commits repeated and serious labor offences. This will be understood in the case of (i) 3 or more labor infringements within one year or (ii) infringements having significant impact against the protection of child labor, maternity and remunerations. The Labor Directorate may take the autonomous initiative to verify the existence of these offences.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No requirement for equal treatment.
Item 18 Definition of collective dismissal (b)	No requirements in legislation.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	No requirements in legislation.
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	No requirements in legislation.
Item 21 Other special costs to employers in case of collective dismissals (i)	No requirements in legislation.

* Chile was prepared by OECD as part of the 2013 update.

COLOMBIA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>No specific notification procedure is required in case of dismissal with justified cause or without justified cause (Articles 62 and 64 of the Labour Code –hereinafter CST), but the reasons for dismissal must be communicated to the employee the termination date (article 66 CST).</p> <p>However a prior 15 day notice is required only in certain specific situations of dismissal with justified cause related to employee´ misconduct or low performance (Article 62 CST numerals 9 to 15). Therefore a statement must be supplied to the employee in all cases as its absence implies the acknowledgement of lack of just cause.</p> <p>Calculations (for EPL indicators): 1</p>
Item 2 Delay involved before notice can start	<p>All workers: No delays involved. The notice can be given the date of termination.</p> <p>Prior notice in case of employee´s misconduct or low performance, are considered in Item 3.</p> <p>Calculations (for EPL indicators): 1 day</p>
Item 3 Length of notice period at different tenure durations (a)	<p>General basis: No notice period. Notification of dismissal can be given the date of termination (Article 66 CST). However in the following cases, related to employee´ misconduct or low performance, a 15 days prior notice is required (Article 62 numerals 9 to 15). These cases are: a) poor performance; b) systematic failure to comply with the legal or conventional obligations; c) addiction of the worker that disturbs the discipline of the company; c) breach of the safety and health recommendations prescribed by the employer´s doctors or by the authorities to prevent illnesses or accidents; d) ineptitude to perform the given task; e) chronic or contagious disease, not of a professional nature.</p> <p>Calculation (for EPL indicators: (average of 0 days to 15 days regardless tenure duration) 7.5 days.</p>
Item 4 Severance pay at different tenure durations (a)	<p>No severance pay in the case of dismissal with justified reason (“justa causa”), which essentially corresponds to employee´s misconduct or poor performance, as stated in Item 5 (Article 62 CST). Severance pay for unfair dismissal (“sin justa causa”) varies depending on the employee´s monthly salary (Article 64 CST):</p> <p>a) Remuneration lower than 10 (ten) minimum legal monthly salaries (MLMS):</p> <ol style="list-style-type: none"> 1) 30 d < 1 y 2) 20 d (in addition to the 30 d of numeral 1), for each subsequent year and in proportion per fraction of year. <p>b) Remuneration in excess of 10 (ten) MLMS:</p> <ol style="list-style-type: none"> 1) 20 d < 1 y 2) 15 d (in addition to the 20 d of numeral 1), for each subsequent year and in proportion per fraction of year. <p>Calculation (for EPL indicators): (averages just cause and without just cause -in this case using higher values-): 9 months tenure: 0.5 months; 4 years tenure: 1.5 months; 20 years tenure: 6,83 months</p>
Item 5 Definition of unfair dismissal (b)	<p><u>Fair dismissal</u>: Article 62 CST provides an exhaustive list of reasons for dismissal with justified cause, which are related to employee´s conduct or capacity: 1) dishonest acts related to the submission of false certificates to obtain a position in the company, 2) acts of violence, serious breaches of discipline, insults and disrespect addressed to the employer, member of his family, representatives, senior staff or other workers, whether they take place inside or outside the workplace; 3) deliberate damage to buildings, plant, works, machinery, instruments, documents, raw materials and other goods belonging to the enterprise, 4) disclosure of confidential information or trade secrets to third parties, 5) poor performance; 6) systematic failure to comply with the legal or conventional obligations; 7) criminal conviction, unless the sentence has been suspended, 8) addiction of the worker that disturbs the discipline of the company; 9) breach of the safety and health recommendations prescribed by the employer´s doctors or by the authorities to prevent illnesses or accidents; 10) ineptitude to perform the given task; 11) chronic or contagious disease, not of a professional nature. In these cases, no severance payment is due.</p> <p>However, the employer can always dismiss employee´s without justified reason provided severance indemnity is paid.</p> <p><u>Unfair dismissal</u>: when no justified cause can be alleged and proved by the employer, or when the employee terminates the employment agreement due to the employer´s misconduct – constructive dismissal (Articles 62 and 64 CST).</p>
Item 6 Length of trial period (c)	2 months (Article 78 CST). The trial period must be expressed in written.
Item 7 Compensation following unfair dismissal (d)	<p>In case of unfair dismissal only prescribed severance payments are due. However, if the employer can´t prove at Court a just cause for dismissal, he will be condemned to pay severance indemnity.</p> <p>Calculation (for EPL indicators at 20 years tenure): average: 6.83 months</p>
Item 8 Reinstatement option for the employee following unfair dismissal (b)	There is no reinstatement option for the employee following unfair dismissal.

Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	3 years (Article 488 CST).
Item 10 Valid cases for use of standard fixed term contracts	No restrictions on the use of standard fixed-term contracts, other than written version and maximum duration of 3 years (Articles 45 and 46 CST).
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	No limitation. Standard FTC can be renewed indefinitely (Article 46 CST). In effect, there are no limitations on the number of successive standard FTCs. Although the maximum duration of a FTC is of 3 years, they can be renewed indefinitely.
Item 12 Maximum cumulated duration of successive standard FTCs	No limitation. As stated, although the maximum duration of a FTC is of 3 years, they can be renewed indefinitely. Therefore, there is no limit on the maximum cumulated duration of successive FTCs.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	According to article 77 of Law 50 of 1990, TWA employment is legal: 1) For services required on occasional, accidental or transitory basis as stated in article 6 CST. 2) To replace workers of the user firm which are on vacation, maternity or sickness leave. 3) To attend an increase in production, transport, sales of goods, stationary periods of harvest and in the provision of services. Law 50 of 1990 prohibits use of TWA to replace workers on strike at the User firm.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	Assignments: Yes. 1) For services required on occasional, accidental or transitory basis: 30 days (article 6 CST) 2) Replacements: limited to the period to cover the particular event 3) Production increases and services: for a term of 6 months renewable for another period of 6 months. Calculation (for EPL indicators): Yes
Item 15 Maximum cumulated duration of TWA contracts (f)	Assignments: Yes 1) For services required on occasional, accidental or transitory basis: 30 days 2) To cover replacements: the time is given to cover the particular event 3) Production increases and services: 6 (six) months renewable for another period of 6 (six) months. Total 12 months Calculation (for EPL indicators): (average of 1 month and 12 months): 6.5 months.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	Authorization, registration and periodic statistics reporting obligations to the Labour Ministry (Articles 84 and 88 of Law 50 of 1990 and Decree 4369).
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	Yes. Article 79 of Law 50 of 1990 requires equal treatment of regular workers and agency workers at the user firm.
Item 18 Definition of collective dismissal (b)	Labour Ministry considers that a collective dismissal occurs when it affects (Article 67 Law 50 of 1990): a) In a company between 10 and 50 employees: 30% of its workers; b) In a company of more than 50 employees and up to 100: 20% of its workers; c) In a company of more than 100 employees and up to 200: 15% of its workers; d) In a company of more than 200 employees and up to 500: 9% of its workers; e) In a company of more than 500 employees and up to 1000: 7% of its workers; f) In a company of more than 1000 employees: 5% of its workers.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Yes. In case of collective dismissals, the employer is obliged to obtain a prior authorization from the Labour Ministry. Simultaneously, the employer has to notify its workers in written.
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	The additional days of delay are those of the duration of the administrative procedure required to obtain the authorization from the Labour Ministry. According to article 67 of Law N° 50 of 1990, the Labour Ministry is obliged to issue its decision in a period of 2 months. Calculation (for EPL indicators): 2 months minus notice period Item 3: 52.5 days.
Item 21 Other special costs to employers in case of collective dismissals (i)	No special costs involved. According to article 67 of Law N° 50 of 1990, there are no other special costs than the payment of the severance indemnity (that applies for dismissal without justified cause). Notwithstanding, if the assets of the employer are below one thousand (1.000) MLMS, the severance payment can be reduced to 50%.

COSTA RICA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Individual termination: Dismissal without cause a written notification must be given to the employee, article 28 Labour Code (hereinafter LC).</p> <p>Dismissal with cause (essentially worker mis-conduct, see item 5): written notification indicating the cause for dismissal is advisable because if the employee challenges it at Court, the written notice is a key proof for the employer, article 82 LC.</p> <p>According to article 35 LC, in all cases, the employee being terminated has the right to request a written document indicating the termination and the reasons for such.</p> <p>Calculation (for EPL indicators):1</p>
Item 2 Delay involved before notice can start	<p>For dismissal with or without cause: written notification is required.</p> <p>Calculation (for EPL indicators): 1 day</p>
Item 3 Length of notice period at different tenure durations (a)	<p>Dismissal with cause: written notification is advisable to prove just cause (article 82 LC). However there is no prior period established by LC.</p> <p>Dismissal without cause: The following notice periods must be given (article 28 LC):</p> <ol style="list-style-type: none"> a) 7 d > 3 m up to 6 m b) 15 d > 6 m up to 1y c) 30 d > 1y <p>Calculation (for EPL indicators): dismissal with cause and without cause: 9 months tenure: 15 days, 4 years tenure: 30 days, 20 years tenure:30 days.</p>
Item 4 Severance pay at different tenure durations (a)	<p>Dismissal with cause: No severance pay (articles 81 and 82 LC).</p> <p>Dismissal without cause: Severance payment ("auxilio de cesantía) varies according to different tenure durations (article 29 LC):</p> <ol style="list-style-type: none"> a) > 3m < 6m: 7 days´ salary b) 6m < 1y: 14 days´ salary c) From 1y onwards, the following table applies: <ul style="list-style-type: none"> • Year 1: 19.5 d • Year 2: 20 d per year or fraction in excess of 6 months • Year 3: 20.5 d per year or fraction in excess of 6 months • Year 4: 21 d per year or fraction in excess of 6 months • Year 5: 21.24 d per year or fraction in excess of 6 months • Year 6: 21.5 d per year or fraction in excess of 6 months • Year 7: 22 d per year or fraction in excess of 6 months • Year 8: 22 d per year or fraction in excess of 6 months • Year 9: 22 d per year or fraction in excess of 6 months • Year 10: 21.5 d per year or fraction in excess of 6 months • Year 11: 21 d per year or fraction in excess of 6 months • Year 12: 20.5 d per year or fraction in excess of 6 months • Year 13 and onwards: 20 d per year or fraction in excess of 6 months <p>Ceiling: last 8 years of the labour relationship.</p> <p>Calculation (for EPL indicators): dismissal without cause: 9 months tenure: 14 days; 4 years tenure: 84 days; 20 years tenure: 160 days. (For calculation purposes 7 days (1 week) is equivalent to 0,23 months).</p>

Item 5 Definition of unfair dismissal (b)	<p>Under Costa Rica's LC, <u>the employer can always dismiss an employee without cause</u> provided prior notice is respected (article 28 LC) and severance payment (auxilio de cesantía) is paid (article 29 LC). Thus dismissal on personal grounds and redundancy is always possible.</p> <p><u>Fair dismissal ("Dismissal with just cause")</u>: Article 81 LC sets out just causes for dismissal which are related mainly to workers conduct and -in some cases- to workers capacity (letters h and j). Just causes are: a) If the employee commits immoral acts during the execution of tasks or has incurred in slander, insults and other mistreatments against the employer, b) If the employee commits any of the aforementioned acts against one of his fellow co-workers, causing an alteration of the discipline at the workplace that determines the suspension of the activities, c) If during non working hours the employee commits any of the aforementioned acts against the employer, representative of the company, d) If the employee willingly causes material losses to the machinery, constructions, equipment, raw materials, products and any other objects related to their works, e) If the employee reveals manufacturing secrets or exposes confidential matters to the detriment of the company, f) If the employee carelessly or recklessly jeopardizes the security of the workshop, workplace or of the people inside them, g) If the employee does not attend work during two consecutive days or two days in one same month without the due authorization from the employer, h) If the employee, manifestly and repeatedly, refuses to adopt preventive measures or follow the establish procedures to avoid accidents or illnesses; or if the employee fails to comply with the orders of the employer or his representatives in order to achieve the highest efficiency an performance of work, i) If the employee violates provisions of article 72 letters a, b, c, d and e LC, j) if, when the contract was concluded, the worker deceived the employer by means of false recommendation letters or certificates of qualifications that the employee does not poses and the employer acknowledges the incapacity during the execution of the contract, k) If the employee has been sentenced to prison by irrevocable judgment, l) if the employee commits serious breaches of his obligations under the labour agreement.</p> <p><u>Unfair dismissal ("Dismissal without cause")</u>: according to articles 29, 81, 82 and 83 LC, unjustified dismissal occurs when no just cause is alleged or proved at court and when the employee terminates the employment agreement due to the employer's misconduct (constructive dismissal).</p>
Item 6 Length of trial period (c)	LC does not establish explicitly a trial period, except for domestic workers. However, it should be noted that an employee has no right to prior notice (or payment in lieu of notice) or severance payment (auxilio de cesantía) unless he has been employed for a period of at least 3 months (articles 28, 80 and 102 LC).
Item 7 Compensation following unfair dismissal (d)	In case of unfair dismissal (article 29), the court will require the employer to pay the employee: 1) notice period, 2) severance payment (auxilio de cesantía), 3) back pay as from the date of the claim until court's decision (article 82 LC), (if the employee challenges the just cause for dismissal at court). Calculation (for EPL indicators): 20 years' tenure employee: back pay (6 months' salary) plus pay in lieu of notice (30 days' salary).
Item 8 Reinstatement option for the employee following unfair dismissal (b)	No reinstatement option following unfair dismissal (for EPL purposes). Reinstatement is only allowed in case discrimination (race, sex, religion, age) article 624 LC and on prohibited grounds such as pregnant employees (articles 94 and 94 bis LC) or members of a trade union (articles 367 and 368). These situations are not considered for EPL purposes.
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	The maximum time period to claim for unfair dismissal if of 1 year (article 602 LC).
Item 10 Valid cases for use of standard fixed term contracts	FTC are permitted only to provide a service or perform a work which in its nature is of limited duration (articles 26 and 31LC).
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	<p><u>General rule</u>: The total duration of FTC cannot exceed 1 year. When the employee continues to render services, of the same nature, beyond the date of termination, the contract shall be considered of indefinite duration (article 27 LC).</p> <p><u>Special case</u>: For services that require special technical preparation, the duration can be up to 5 years (article 27 LC).</p> <p>Article 27 LC states that FTC can be renewed. However the law does not specify the maximum number of renewals or prolongations.</p> <p>According to doctrine renewals are permitted only if the service is of limited duration. Renewals (as initial contract) are not permitted to perform services of a permanent nature. Thus FTCs are the exception.</p> <p>Calculation (for EPL indicators): Although LC allows renewals, as FTC are the exception, the assigned value is 2 (initial contract plus one renewal).</p>
Item 12 Maximum cumulated duration of successive standard FTCs	Although limit is regulated for initial contract (1 year/5 years), renewals follow the same limit. Calculation (for EPL indicators): average of general rule and special case: 72 months
Item 13 Types of work for which temporary work agency (TWA) employment is legal	No statutory provisions in LC, except for definition of "Intermediario" as the person who engages the services of others to execute a work on behalf of an employer- beneficiary of the services. In such case both companies are jointly liable of labour and social security obligations (article 3 LC) . However Case Law (Sentencia Sala Segunda de la Corte N° 830. 1/10/2004/ Sentencia Sala Segunda de la Corte N° 863. 16/06/2010) defines TWA (citing doctrine) as the agencies which provide workers to satisfy temporary needs of the user firm (i.e meet short term requirements of the market, substitute a worker or cover a temporary vacancy during a selection process).

Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker. If assignments are of fixed-term, the duration of assignments and contracts typically coincide.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker. Applying this rule and considering that case law defines TWA as those agencies which provide workers for temporary services, the assumption of a time limit of 24 months/10years –for FTC- was considered. See Item 12
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No special statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	No statutory definition of collective dismissal. However there are certain situations that determine the termination of all the employment agreements (article 85 LC): Fortuity or force majeure, insolvency, bankruptcy, liquidation procedures, death of the employer which determine the total closure of the business or final cease of the operations.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Since collective dismissals are not regulated as such by the Costa Rican labour law, the termination of the employment agreements must be addressed individually and employers must give prior notice (or pay in lieu of notice) and pay severance indemnity. Thus there are no additional requirements on top on those requirements applying to individual dismissals. Calculation (for EPL indicators): 0
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	No additional delays involved. Calculation (for EPL indicators): 0
Item 21 Other special costs to employers in case of collective dismissals (i)	No special costs involved other than those required for individual termination (article 85 LC). Calculation (for EPL indicators): 0

ECUADOR

Items	Regulations in force on 31 December 2013
<p>Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract</p>	<p>According to article 169 of the Labour Code (LC), employment agreements may terminate, amongst other causes, by the following:</p> <ol style="list-style-type: none"> 1) <u>Just cause for dismissal alleged by the employer</u>, prior approval by the Labour Inspector (“visto bueno”). The notification procedure is as follows: The employer has to file a petition before the Labour Inspector. The latest will qualify the request for prior approval and notify the worker within 24 hours. The employee has 2 days to oppose to the petition. After such period, the Labour Inspector will determine a date to follow an investigation at the workplace, after which the final resolution, granting or rejecting, the prior approval (“visto bueno”) will be issued (articles 172, 545 number 5, 621, 622 LC, information from website of Ministry of Labour Relations). At the request of the employer, the Labour Inspector can proceed to suspend the labour relationship, if the former deposits the amount of one monthly salary. If the Labour Inspector rejects the prior approval, such amount will be given to the employee. In addition an order of reinstatement will be issued. Failure to comply with said order, determines the payment of indemnities corresponding to unfair dismissal (“despido intempestivo”). 2) <u>Just cause alleged by the employee</u>, when the employer breaches the employment agreement. Prior approval (“visto bueno”) by the Labour Inspector is also needed (article 173). 3) <u>Unjustified dismissal</u> (“despido intempestivo”): when no cause is alleged by the employer and no prior notification is given (article 188 LC). 4) <u>Desahucio</u>: when either party terminates the employment agreement without alleging a cause. The party who decides to terminate must request the Labour Inspector to notify the other party of such situation. Within 24 hours, the Labour Inspector must proceed to notify the termination (articles 184, 545 number 5 and 624 LC). For employers, desahucio only applies if the employee is engaged in a fixed term contract. Not considered for EPL purposes. <p><u>Economic reasons</u>: considered in Item 18 and 19.</p> <p>Calculation (for EPL indicators): Only dismissal without just cause (“despido intempestivo”) was considered: 0.</p> <p>(When dismissal with just cause relates principally to employee’s misconduct, it is not considered in the averaging for EPL purposes)</p>
<p>Item 2 Delay involved before notice can start</p>	<p>Delays are those of the procedures that must be followed for dismissal with just cause (“visto bueno”) and without just cause (“despido intempestivo”). For dismissal with just cause, the prior approval procedure (“visto bueno”) takes approximately 15 days. However as dismissal with just cause relates mainly to employee’s misconduct, it is not considered in the averaging for EPL purposes.</p> <p>Calculation (for EPL indicators): 1 day for dismissal without just cause.</p>
<p>Item 3 Length of notice period at different tenure durations (a)</p>	<p>Personal grounds: For dismissal with just cause and without just cause (“despido intempestivo”): no statutory length of notice period. Notification was considered in Items 1 and 2. However Art. 14 LC establishes that no worker can be dismissed if he/she has less than one year of tenure. In practice, this implies a “notice period” of 3 months at 9 months of tenure.</p> <p>Redundancy: article 193 establishes a 30 prior notice for the termination of all employment agreements due to final closure of the company. Considered in Items 19 and 20.</p>

<p>Item 4 Severance pay at different tenure durations (a)</p>	<p><u>Dismissal with just cause:</u> relates principally with employee’s misconduct (lack of capacity as a just cause for dismissal is only considered if the employer proves that the employee shows a manifest professional inaptitude). No severance payment.</p> <p><u>Unjustified dismissal:</u> In case of dismissal without just cause (“despido intempestivo”), the employer is obliged to pay <u>severance payment</u> in accordance to length of service (article 188 LC) plus <u>bonus for desahucio</u>:</p> <p>Severance (article 188 LC):</p> <ul style="list-style-type: none"> • < 3 y: 3m • >3 y: 1m salary per each year of service with a ceiling of 25m. Fraction of year is considered a complete year for the purposes of the calculation. <p>Bonus for “desahucio”: amounts to 25% of last monthly remuneration per year of service (articles 188 and 185 LC).</p> <p>If dismissal is for an alleged just cause but prior approval (“visto bueno”) is denied, then the amount of one monthly salary deposited by the employer is given to the employee, in addition to severance pay and bonus for desahucio. This situation only applies if the employer requests the suspension of the employee during the prior approval (“visto bueno”) procedure.</p> <p><u>Redundancy:</u></p> <p>In case of final business closure which determines the termination of all employment agreements, the employer is obliged to pay severance indemnity for unjustified dismissal (despido intempestivo) plus bonus for desahucio (articles 193, 185 and 188 LC). Considered in Items 18 to 21 as collective dismissals.</p> <p>Calculation (for EPL indicators): dismissal without just cause: 9 months tenure: 3 months; 4 years tenure: 5 months; 20 years tenure: 25 months. (Severance payment and bonus for desahucio were considered in the calculation). No averages were taken as dismissal with just cause relates principally to employee’s misconduct.</p>
<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Fair dismissal:</u> Articles 172 and 310 LC provide a limited list of just causes for dismissal which relate mainly to worker’s misconduct and manifest professional inaptitude. In these cases, the employer can terminate the labour contract, prior approval (“visto bueno”) from the Labour Inspector (article 172 and 183 LC). If approved, no severance payment is due: 1) Repeated and unjustified lateness, absence or abandonment of the job for more than 3 consecutive days within a period of 1 month, 2) Indiscipline or gross infringement of employer’s internal rules (“Reglamento interno”) duly approved by the authority, 3) Immoral behaviour, 4) Gross disrespectful acts against the employer, relatives or representatives, 5) Manifest professional inaptitude for the required task or position, 6) Unjustified denunciation against the employer of its obligations before the Social Insurance, 7) Failure to comply with safety, preventive and hygienic measures required by law, rules or by the competent authority; or with medical prescriptions, 8) Reveal of manufacturing secrets or communications to the detriment of the employer, 9) Deceive the employer by means of false letters of recommendation or certificates when the contract was concluded.</p> <p><u>Unjustified dismissal</u> (“despido intempestivo”): when the employer dismisses without just cause and with no prior notice (article 188 LC) or when the employee decides to terminate the agreement due to the employer’s breach of its obligations (article 173 LC). Thus employers can dismiss workers with no justified cause provided severance payment and bonus for desahucio are paid.</p>
<p>Item 6 Length of trial period (c)</p>	<p>Trial period is of a maximum of 90 days (Article 15 LC).</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>In case of unjustified dismissal, severance payment and bonus for desahucio should be paid by the employer. If the employee claims before Court, he will receive the stated payments. Thus there is no additional compensation following unfair dismissal.</p> <p>Calculation (for EPL indicators): 0 month</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Although job stability applies for employees during the first year of employment (article 14 LC), it is not treated as reinstatement (employer can always wait for the expiration of the period).</p> <p>In case of dismissal with just cause, if the Labour Inspector rejects the request for prior approval (“visto bueno”) and the labour relationship was suspended, an order of reinstatement will be issued. However, if the employer does not comply with the order, the remedy is the payment of indemnities corresponding to unfair dismissal (“despido intempestivo”), article 622 LC. For EPL purposes, if the employer can reject an order of reinstatement by paying severance indemnity, the situation is not considered.</p> <p>Calculation (for EPL indicators): 0.</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>The maximum time period to claim for unfair dismissal is of 3 years (Article 635 LC).</p>

<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>Classification of FTC include (article 11 LC): 1) Fixed term contracts for permanent activities, however limited in time, from a minimum of 1 year to a maximum of 2 years (article 11c, 14 and 184), 2) seasonal contracts for cyclic and discontinuous activities, repeated each season (article 11c and 17) – however not a fixed term contract if repeated each season, as the worker is entitled to severance payment if not hired for the next season, 3) eventual contracts to: a) replace a worker on vacation, illness, maternity leave or b) to attend an increase on demand of goods and services limited to 6 months within a period of 1 year (article 17 LC), 4) On call contracts to attend extraordinary non-core activities of the employer, limited to 30 days within a period of 1 year (article 17 LC), 5) Contracts for specific work or service, which in its nature is of limited duration (article 16 LC). Thus FTC are allowed for: a) permanent activities with the time limit of 2 years, b) objective or material reasons or to perform a task or work which in itself is of limited duration, c) special needs of the employer, . Calculation (for EPL indicators): 3</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>FTC cannot exceed 2 years. Renewals and prolongations are not permitted (article 184 LC). Calculation (for EPL indicators): 1 (initial contract)</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>24 months (article 184 LC)</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>Article 327 of the Constitution and Legislative Decree N° 8 of 2008 state that labour relationships shall be bilateral and direct. All forms of job insecurity and instability are forbidden, such as labour intermediation and outsourcing of the employer's core and permanent activities, hiring by the hour, or any other that may affect the rights of workers, either individually or collectively. Default on obligations, fraud, deceit and embezzlement in labour affairs shall be penalized and sanctioned by law. Legislative Decree N° 8 only permits the provision of complementary services by companies authorized by the Ministry of Labour, such as vigilance, security, messenger, cleaning. This type of work does not fall under the definition of TWA.</p>
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>TWA employment is illegal (article 327 Constitution, Legislative Decree N°8)</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>TWA employment is illegal (article 327 Constitution, Legislative Decree N°8)</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>TWA employment is illegal (article 327 Constitution, Legislative Decree N°8)</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>TWA employment is illegal (article 327 Constitution, Legislative Decree N°8)</p>
<p>Item 18 Definition of collective dismissal (b)</p>	<p>No statutory definition of collective dismissal for economic reasons. However, final business closure determines the termination of all employment agreements (article 193 LC). Employer is obliged to pay severance indemnity (article 188 LC) plus bonus for desahucio (article 185) and follow the procedure described in Item 20. Calculation (for EPL indicators): average of business closure (4) and other types of redundancy, where that can be treated as simple despidos intempestivos (0): 2</p>
<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>No additional notification requirements. Calculation (for EPL indicators): 0</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>In case of collective dismissals due to final closure of the business a 30 day prior notice must be given to the employees (article 193 LC). Calculation (for EPL indicators): average of business closure (30 days) and despido intempestivo (1 day) minus 1 day for item 2 ("despido intempestivo"): 14.5 days.</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>No additional costs involved other than the ones applicable to individual termination (severance payment plus bonus for "desahucio"). According to article 193, employer is obliged to re-hire workers if business opens within 1 year (not considered for EPL calculations). Calculation (for EPL indicators): there are no additional restrictions: 0</p>

EL SALVADOR

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>No specific form is required. Dismissal must be notified to the employee by the employer or his representative (Article 55 of the Labour Code – hereinafter LC-). The communication made by a person different from the employer or his representative is null and void, unless a written notification signed by the employer or his representative is provided to the employee. Upon request of the employee, the employer must issue a certificate which must include the reasons for termination.</p> <p>Economic reasons: considered in Item 18 and 19.</p> <p>Calculation (for EPL indicators): 1</p>
Item 2 Delay involved before notice can start	<p>No delays involved. The notice must be communicated to the employee</p> <p>Calculation (for EPL indicators): 1 day</p>
Item 3 Length of notice period at different tenure durations (a)	<p>There are no notice periods to be observed in the event of dismissal.</p>
Item 4 Severance pay at different tenure durations (a)	<p>No severance payment in case of dismissal with justified reason, which essentially corresponds to employee’s misconduct (or capacity for employees in supervising positions).</p> <p><u>Redundancy:</u></p> <p>No severance pay in case of dismissal due to:</p> <ol style="list-style-type: none"> a) closure of all or part of the undertaking or establishment, or final reduction of the activities, resulting from the unprofitability of the business and authorized by the competent labour judge. b) business closure caused by the exhaustion of the substance exploited by the extractive industry and authorized by the labour judge. <p>Any dismissal for economic reasons which do not fall within the limited categories specified above will be treated as a 'de facto dismissal' and will therefore entail payment of compensation for unjustified dismissal. .</p> <p><u>Unjustified dismissal:</u></p> <p>In case of dismissal without cause (“despido incausado”), the severance payment amounts to 30 days basic salary per each year of service or in proportion for any fraction of year, with a minimum of 15 days’ basic salary (Article 58 LC). The same severance payment applies to the termination of the employment agreement due to the employer’s breach of its obligations, as defined in article 53 LC (despido de facto).</p> <p>Calculation (for EPL indicators): average of employees without and with supervising duties. For the former, severance pay for unjustified dismissal is taken. For the latter, see Item 5 numeral 3, the value is the average of economic (unjustified) and personal reasons (averaging between with and without just cause: 9 months tenure:19,69 days; 4 years tenure: 3.5 months; 20 years tenure: 17.5 months.</p>

<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Fair dismissal</u>: Article 50 LC provides a limited list of justified grounds for dismissals which relate mainly to the worker's conduct and capacity: 1) if the worker deceived the employer by means of false letters of recommendation or certificates when the contract was concluded. This ground ceases to be operative after the worker has completed 30 day's employment; 2) due to the worker's repeated negligence, 3) if the employer lost confidence in an employee exercising managerial supervision, surveillance, audit functions, or similar functions – however lack of confidence of employees holding supervising duties is difficult to prove at court. As stated by the Supreme Court of Justice –Sala de lo Civil. Sentencia N° 436-2002 de 13/08/2002, sufficient objective evidence must be submitted by the employer to convince the Judge that the actions that led to the dismissal for lack of confidence are indubitable –; 4) if the worker reveals manufacturing secrets or communicates administrative matters to the detriment of the undertaking; 5) if the worker commits serious acts of immorality inside the undertaking or while performing work outside the workplace, 6) if the worker commits disrespectful acts against the employer or his/her relatives, except in the case of provocation, 7) if the workers commits acts causing serious disruption to the company's activity; 8) f the worker (either intentionally or by negligence) seriously endangers the safety or operation of the establishment, or the persons therein safety or activity of the workers, or their health, 9) if the worker deliberately damages the plant, machinery, tools, work implements, goods or merchandise, 10) if the worker is absent from work without any justification for two consecutive working days, or a total of three days within the same months; 11) if the worker, after imprisonment or pre-trial detention, comes back to work, within three days from the date of release, and s/he committed a crime against the employer or his/her relatives, 11) if the worker commits serious breaches of the obligations under the contract of employment, 12) in the event of disobedience to the employer (or employer's representative), 13) if the worker drinks alcohol or takes drugs during working time or if s/he works under the effect of alcohol or drugs, 14)If the worker does not fulfil his/her obligations under art 24 LC. In these cases, no severance payment is due.</p> <p>Additionally, following a judicial decision authorizing the dismissal, no severance payment is due in case of: 1) closure of all or part of the undertaking or establishment, or final reduction of the activities, resulting from the unprofitably of the business, 2) business closure caused by the exhaustion of the substance exploited by the extractive industry (article 49 LC).</p> <p>However, employers can always dismiss workers with no justified cause provided severance payments are observed (both for personal reasons and for redundancy).</p> <p><u>Unjustified dismissal</u>: According to article 55 LC unjustified dismissal occurs when the employer can't allege a justified cause for dismissal or when the employee decides to terminate the agreement due to the employer's breach of its obligations as referred to in article 53 of the LC (despido de facto).</p>
<p>Item 6 Length of trial period (c)</p>	<p>Trial period is of a maximum of 30 days (Article 28 LC).</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>In case of unjustified dismissal, if the employee claims before Court, he is entitled to receive, apart from severance payment, back pay as from the date of complaint until court decision, will a ceiling of 35 days' wages. If the case goes to appeal or cassation, this amount can be increased up to a maximum of 20 days (Article 420 LC).</p> <p>Calculation (for EPL indicators): (20 months –17.5 months) plus 55 days= 4.5 months.</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>No. The LC does not provide reinstatement option for the employee following unfair dismissal. However, there are certain categories of workers which have special protection: pregnant women or on maternity leave (article 113 LC), trade union representatives (article 214 and 248 LC). These workers can't be dismiss during certain periods of time or without following a special procedure.</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>The maximum time period to claim for unfair dismissal is of 60 days (Article 610 LC).</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>Only permitted for objective and material reasons. The LC authorizes FTC for a limited and specific term, to perform a specific work or to replace an employee whose contract is temporarily suspended (Articles 25 to 27 LC).</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>No statutory limitation. However, FTC are the exception, thus successive renewals can be construed as a unique contract of indefinite duration.</p> <p>Calculation (for EPL indicators): estimated 2 (initial contract plus 1 renewal)</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>No limitation.</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>No statutory regulation.</p>

Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker. If assignments are of fixed-term, the duration of assignments and contracts typically coincide.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	No statutory definition of collective dismissal for economic reasons. Jurisprudence defines it as the redundancy of at least two workers (Sala de lo civil de la Corte Suprema de Justicia 30/06/2000, N° 420-2000). Employers can dismiss workers by paying the corresponding severance indemnity. However, in certain situations, as ; a) Closure of all or part of the company or establishment, or final reduction of the activities, resulting from the unprofitability of the business and b)business closure due to the exhaustion of the substance exploited by the extractive industry, prior authorization by the labour judge, no severance indemnities are due (article 49). Calculation (for EPL indicators): as standard rules applying to individual redundancies can always be followed, there are no additional restrictions: 0
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Prior judicial authorization is required to avoid paying the severance indemnity in situations a) and b) Item 18. For other collective dismissals, no notification procedures are required (if severance indemnity is paid). Calculation (for EPL indicators): as standard rules applying to individual redundancies can always be followed, there are no additional restrictions: 0
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	If requested, the judicial authorization will determine certain days of delay. For closure of all or part of the company, the situation of unprofitability must have lasted for a period of 3 months, before the judicial authorization can be requested. Calculation (for EPL indicators): as standard rules applying to individual redundancies can always be followed, there are no additional restrictions: 0
Item 21 Other special costs to employers in case of collective dismissals (i)	No additional costs involved but prior authorization is required for cases described in Item 18. Calculation (for EPL indicators): as standard rules applying to individual redundancies can always be followed, there are no additional restrictions: 0

GUATEMALA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	Individual termination: The Labour Code (hereinafter LC) distinguishes between: dismissal with just cause (article 77 LC) and dismissal without cause (article 82 LC). <u>Dismissal with just cause</u> : written notification must be given to the employee, indicating the cause of dismissal (article 78 LC). <u>Dismissal without cause</u> : no specific notification procedure stated by the LC (article 82 LC). Calculation (for EPL indicators): (only dismissal without cause is considered): 0
Item 2 Delay involved before notice can start	<u>Dismissal with cause</u> : written notification indicating cause of dismissal (article 78 LC). <u>Dismissal without cause</u> : no statutory provision for notification procedure nor delays involved. Calculation (for EPL indicators): 1 day
Item 3 Length of notice period at different tenure durations (a)	There are no notice periods to be observed by the employer. Calculation (for EPL indicators): 0
Item 4 Severance pay at different tenure durations (a)	Dismissal with just cause: No severance pay (article 77 LC). Dismissal without cause: Severance pay equals to 1 monthly salary per year of service or fraction thereof (article 82 LC). Same indemnity applies to indirect dismissal (article 79 LC). Calculation (for EPL indicators): dismissal without cause: 9 months tenure: 0.75 months; 4 years tenure: 4 months; 20 years tenure: 20 months
Item 5 Definition of unfair dismissal (b)	<u>Fair dismissal (dismissal with just cause)</u> : Article 77 LC sets out just causes for dismissal which are related mainly to workers misconduct: a) If the employee has acted with lack of integrity and honor during the execution of tasks and has incurred in slander against the employer or his representatives, b) If the employee commits any of the aforementioned acts against one of his fellow co-workers, causing alteration to the workplace's order or the interruption of the work, c) If during non working hours the employee commits any of the aforementioned acts against the employer or his representatives, d) If the employee commits any felony or fault against the property of the employer or fellow co-workers or a third party in the establishment, and if the employee causes serious damage, intentionally, with negligence or recklessness, to the machinery, equipment, raw materials, products and any other objects related to their works, e) If the employee reveals manufacturing secrets (article 63 letter g), f) If the employee does not attend work during two consecutive days or six half days in a period of one month, g) If the employee manifestly refuses to adopt preventive measures or follow procedures established by law, to avoid accidents or illnesses; or when the employee refuses to adopt the instructions given by the employer or his representatives to obtain better performance and efficiency in his tasks, h) if the employer infringes any of the prohibitions stated in article 64 LC or in the duly approved internal manual, after being warned in written by the employer. Prior warning is not required if the employee is under the effects of alcohol, and as a consequence endangers life and security of people or assets of the employer, i) if the worker deceived the employer pretending to have capacities or knowledge he does not poses or by means of false letters of recommendation or certificates, j) If the employee has been sentenced to prison by irrevocable judgment, k) If the employee violates any other obligation of the employment agreement. <u>Unjustified dismissal</u> : According to article 82 LC unjustified dismissal occurs when no just cause is alleged or when the employee terminates the employment agreement as a consequence of the employers misconduct (indirect dismissal, article 79 LC). Under Guatemala's LC, the employer can always dismiss an employee without cause provided severance indemnity (indemnización por tiempo servido) is paid (article 82 LC). Thus dismissal on personal grounds and redundancy is always possible.
Item 6 Length of trial period (c)	Trial period is of 2 months (article 81 LC).
Item 7 Compensation following unfair dismissal (d)	If the employee challenges just cause for dismissal before the Labour Court and the employer can not prove the cause alleged, the latter must pay, apart from severance indemnity, back pay as from the date of dismissal until actual payment of indemnity, with a ceiling of 12 months (article 78 LC). Calculation (for EPL indicators): 20 years' tenure employee: back pay: 6 months
Item 8 Reinstatement option for the employee following unfair dismissal (b)	The LC does not provide reinstatement option for the employee following unfair dismissal. However, there are certain categories of workers which have special protection: pregnant women or recent mothers (article 151 LC), trade union members (article 209 LC), dismissals during a collective dispute (article 380 LC) or during an establishment shutdown which was declared illegal (article 251). These workers can't be dismissed during certain periods of time or without following a special procedure. Calculation (for EPL indicators): 0.5
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	The maximum time period to claim for unfair dismissal is of 30 days (article 260 LC).

Item 10 Valid cases for use of standard fixed term contracts	Under article 25 LC labour agreements can be: a) Indefinite duration: when no term is specified; b) Fixed term: when the date of termination is specified or when the nature of the task is in itself of limited duration; c) For a specif task: when services are adjusted to the conclusion of said task. Article 26 LC presumes that the employee is employed by an indefinite contract, except otherwise expressed. FTC are not permitted for pemanent activities. Thus FTC (both letters b) and c)) are the exception and are only permitted for services which are accidental or temporary. Calculation (for EPL indicators): 0
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	No statutory provision in the LC. However, article 26 stipulates that FTC are the exception. Therefore, subsequent renewals can be challenged in courts. Calculation (for EPL indicators): 2 (initial contract plus 1 renewal).
Item 12 Maximum cumulated duration of successive standard FTCs	No statutory limit in LC.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	No general regulation of TWA, however article 5 LC defines the figure of "intermediary" as a person who hires one or more workers to perform activities for a third party (called "patrono"). The third party is jointly liable with the intermediary for the management of said employees, in reference to their labour rights and obligations granted under the Constitution, Labour Code, internal manuals and other applicable regulations. However if the intermediary owns its capital and equipment, it is considered an employer (patrono), despite the fact of providing workers to a third party and therefore the liability regime does not apply. Agencies of this type operate in Guatemala and its regime is ruled by the commercial agreements executed by the parties (TWA and user firm). Calculation for EPL indicators: 4
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation. Restrictions and renewals depend on what was agreed privately by the parties (commercial agreements TWA-User Firm). FTC rules applies to TWA and User Firm.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. Duration depends on the commercial agreement executed privately by the parties.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation. Equal salary principle applies to employees working for the same employer (article 102 Constitution and 89 LC), which is not the case under study.
Item 18 Definition of collective dismissal (b)	No statutory definition of collective dismissal for economic reasons and no threshold involved. However, there are certain situations which determine the termination of the employment agreements: 1) fortuity and force majeure, 2) bankruptcy or liquidation procedures, 3) incapacity or death of the employer (article 85 literal b LC). In these cases, the Labour Inspection or the Labour Tribunal (in case of conflict between the parties), must quantify, discretionally, the amount of severance indemnity that the employer must pay, which cannot be lower than 2 days salary nor higher than 4 months´salary per employee. Notwithstanding the above, the employer can dismiss employees without cause by paying the corresponding severance payment (article 82 LC).
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Although article 85 letter c) requires the participation of the Labour Inspection (or the Labour Tribunal –in case of conflict-), as standard procedures for dismissal without cause can be followed, there are no additional notification requirements. Calculation (for EPL indicators): 0 (as standard procedures for individual dismissals can be followed).
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	As standard procedures for individual dismissal can be followed, there are no additional delays involved. Calculation (for EPL indicators): 0
Item 21 Other special costs to employers in case of collective dismissals (i)	As standards procedures for individual dismissals without cause can be followed, there are no other special costs involved. Calculation (for EPL indicators): 0

HONDURAS

Items	Regulations in force on 31 December 2013
Item 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).
Item 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
Item 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.
Item 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: c) 10 d wages > 3 m < 6 m. d) 20 d wages > 6 m < 1 y. e) 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.
Item 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
Item 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).
Item 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.

Item 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.
Item 9 Maximum time period after dismissal notification 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).
Item 10 Valid cases for use of standard fixed term contracts	According to articles 46: FTC are permitted: 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. 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. 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.
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	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.
Item 12 Maximum cumulated duration of successive standard FTCs	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
Item 13 Types of work for which temporary work agency (TWA) employment is legal	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.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker. If assignments are of fixed-term, the duration of assignments and contracts typically coincide.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	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.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	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. Calculation (for EPL indicators): 1

<p>Item 20 Additional delays involved (compared to Item 2) 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. Calculation for EPL indicators: 30 days</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>No special costs involved, however authorization is not necessarily granted. Calculation (for EPL indicators): 0.5</p>

JAMAICA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	The notice of dismissal may be given in writing, unless it is given in the presence of a credible witness (Section 3, subsection 1 of the Employment Termination and Redundancy Payment Act (hereinafter ETRPA). If the employee is dismissed due to redundancy, a written statement indicating how the redundancy payment has been calculated must be given to the employee.
Item 2 Delay involved before notice can start	No delays involved. The notice must be communicated to the employee Calculation (for EPL indicators): 1 day when the notice can be directly handled to the employee.
Item 3 Length of notice period at different tenure durations (a)	The notice period to be given to an employee who has been continuously employed for 4 weeks or more is of: i) Not less than 2 w < 5 y j) Not less than 4 w > 5 y < 10 y k) Not less than 6 w > 10 y < 15 y l) Not less than 8 w > 15 y < 20 y m) Not less than 12 w for 20 years or more Pay in lieu of notice is acceptable. (Section 3, subsection 1 ETRPA)
Item 4 Severance pay at different tenure durations (a)	All workers: none Severance pay is legally required for redundancy cases for employees with 104 weeks tenure (2 years). For the purposes of the ETRPA, dismissal is considered by reason of redundancy if it is attributable wholly or partly to: a) Employer having ceased to carry on the business for the purposes of which the employee was employed b) Employee's particular work having ceased or diminished c) Employee having suffered personal injury caused by an accident arising in the course of his employment, or having developed a professional disease. A seasonal employee who has worked for an employer for two or more consecutive seasons is considered to be dismissed by reason of redundancy if circumstances mentioned in letters a), b) or c) occur or if he is not employed in future seasons. Redundancy payment amounts to: 2 weeks' pay per year, for the first ten years; 3 weeks' pay per year, from the tenth year onwards. Calculation (for EPL indicators): average of redundancy and other cases: 9 months tenure:0; 4 years tenure: 4 weeks, 20 years tenure: 25 weeks

<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Fair</u>: Redundancy (when notice period is respected and severance indemnity is paid (Section 3 ETRPA). For personal reasons (loss of trust and confidence) the Court of Appeal (Resident Magistrate’s Civil Appeal N° 17/2011. Rosmond Johnson and Restaurants of Jamaica Limited) states that as the Company made a reasonable payment in lieu of notice, it was not obliged to justify its assertion that it had lost confidence in the employee.</p> <p><u>Unfair</u>: No statutory definition of unfair dismissal. However, when addressing this item, a key aspect to consider is that in Jamaica, two Institutions can rule on dismissals: 1) Judicial Power (Resident Magistrate, Court of Appeal, Supreme Court) have jurisdiction to hear claims and grant relief (damages) in respect of wrongful dismissal (breach of contract, employer not following its own termination procedure, employer not respecting limited grounds for dismissal when included in employment contract–based on common law); 2) The Industrial Disputes Tribunal (hereinafter IDT) has jurisdiction to attend claims in respect of unfair dismissal -the 2010 amendment of LRIDA clarifies that plaintiffs do not need to belong to a trade-union to seek relief before IDT. As from the amendment, IDT is the only Tribunal who has jurisdiction to hear claims related to unfair/ unjustified dismissals and issue reinstatement orders (The Court attends cases of wrongful or unlawful dismissals and orders the payment of damages).</p> <p>LRIDA, Section 12, Subsection 5 provides remedies for unjustified dismissal, which according to case law and legal provisions include dismissal on grounds of race, place of origin, political opinion, colour or creed (article 24, Jamaican (Constitution) Order in Council; dismissal in violation of a collective agreement; disciplinary breach of employment contract which are not proved by the employer (Supreme Court of Justice. Civil Appeal N° 71&72/2010), whistleblowing (Protected Disclosures Act, 2011 Section 16) and in general when dismissal action is not based on reasonable grounds. A 1985 judgment of the Supreme Court (West Indies Yeasts Company Limited case) stipulates that the Tribunal must order remedies if “the dismissal action is not justified under fair, just and reasonable grounds” (cited in Grand Lido Negril vs Grand Lido Negril Staff Association, IDT 10/95), which excludes arbitrary dismissal.</p>
<p>Item 6 Length of trial period (c)</p>	<p>No statutory regulation on the length of the trial period, it depends on the agreement between employer and employee. According to section 3, subsection 4 ETRPA, when the employment contract contains a probationary period, either party may terminate the contract without notice during the probationary period or, where the probationary period is more than 90 days, during the first 90 days thereof.</p> <p>Collective agreements generally stipulate probationary periods from 3 months to 6 months.</p> <p>Calculation (for EPL indicators): average of min and max usual values in collective agreements: $(3+6)/2=4.5$ months.</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>Under LRIDA, if IDT finds that the dismissal of the worker is unjustifiable, an order of reinstatement can be awarded. If the worker does not wish to be reinstated, the Tribunal will make an award of compensation. The normal measure of damages for unfair dismissal is the amount the employee would have earned had the employment continued.</p> <p>Calculation (for EPL indicator): assumption that a Court case takes 6 months: 6 months</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>In case of unfair (unjustified) dismissal, IDT is the competent authority to order reinstatement. From case law it emerges that reinstatement is fairly often made available.</p> <p>The Court (after 2010 Amendment of LRIDA) does not order reinstatement. Before the Amendment, applying the principle of not forcing the parties to remain together in a contract of service, injunction was not common.</p> <p>Calculation (for EPL indicators): 2 (for IDT –Court is not considered)</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>6 months after dismissal.</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>No restrictions.</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>No limit.</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>No limit.</p>

<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>The Employment Agencies Regulation Act (hereinafter EARA) contains the rules and obligations of "Employment Agencies". These Agencies are in charge of placing persons in employment in and outside Jamaica (section 2 and 3). Regulations set forth into the EARA refer in principle to agencies whose activity is connecting offer and demand of employment, while it is not obvious whether this refers to temporary staffing services as well. In all cases, there are no limitations on the business sectors in which they can operate.</p>
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>No regulation. No limit</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>No regulation. No limit</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>The set up of an Employment Agency requires authorisation and reporting obligations. However, it is not obvious whether this refers also to companies undertaking only general temporary staffing services. Calculation for (EPL indicators): 1.5</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>No regulation.</p>
<p>Item 18 Definition of collective dismissal (b)</p>	<p>The law does not define collective dismissals and does not prescribe any specific procedure. However, in the case of collective disputes, consultations with workers are advised, although not required: The IDT could take a more anti-employer stance if no agreement is sought through good-faith consultations or conciliation. Calculation (for EPL indicators): Half-value for advised but not strictly required procedure: 2</p>
<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>No special regulation. However certain collective agreements require consultation with trade unions when dealing with redundancies. In general, in the case of collective disputes, consultations with workers are advised, although not required. Calculation (for EPL indicators): Half-value for advised but not strictly required procedure (firm-level agreements are not taking into account in EPL scores): 0.5</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>No special regulation. In general, in the case of collective disputes, consultations with workers are advised, although not required. Good faith consultations must take at least a few hours.</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>No special regulation.</p>

MEXICO**

	Regulations in force on 1 January 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>The employer who dismisses a worker shall give written notice to the employee clearly indicating the conduct or conducts that motivate his/her dismissal and the date or dates on which they were committed. The notice shall be delivered personally to the employee at the moment of the dismissal or the employer shall notify to the Conciliation and Arbitration Board competent within five business days. The Board will notify the employee (Art. 47 Federal Labour Law, FLL hereafter).</p> <p>El empleador que despidiera al trabajador debe dar una notificación escrita al empleado indicando claramente la conducta o conductas que motivan su despido y la fecha o fechas en las cuales fueron cometidas. La notificación debe ser entregada personalmente al empleado el momento del despido o el empleador debe notificar al</p>
Item 2 Delay involved before notice can start	The notice must be communicated to the employee.
Item 3 Length of notice period at different tenure durations (a)	All workers: No minimum notice period.
Item 4 Severance pay at different tenure durations (a)	<p>Dismissals are justified only if the worker in the course of his employment is guilty of a dishonest or dishonourable act. Dismissed workers shall be entitled to a service bonus of 12 months per year of service. In the case of physical or mental disability or manifest unfitness of the worker that makes impossible continued employment, severance pay is 1 month plus 12 days per year of service (Art. 54 FLL). However, permanent workers shall be entitled to a length-of- service bonus, consisting in twelve days' wages for each year of service even if they resign voluntarily, on condition that they have completed at least fifteen years of service. (Art. 162 FLL).</p> <p>Calculation (for EPL indicators): severance pay minus entitlements upon quitting.</p>
Item 5 Definition of unfair dismissal (b)	<p>Justified: Dismissals are justified only when the employer can demonstrate the worker's lack of integrity or actions prejudicial to the company's interests (such as negligence, imprudence, or disobedience). Dismissal for physical or mental disability or manifest unfitness of the worker that makes impossible employment continuation is also justified.</p> <p>Unfair: In all other cases, including where relevant notification procedures have not been followed, the dismissal will usually be ruled unfair.</p>
Item 6 Length of trial period (c)	<p>The FLL regulates the trial period as follows:</p> <p>Article 39A: In an employment relation of unspecified duration or when exceeding 180 days, the trial period, may not exceed 30 days, with the only purpose to verify that the employee meets the requirements and skills needed to develop the work requested.</p> <p>The trial period may be extended up to 180 days, only in the case of workers in management positions, managerial and other involved in the management or administrative functions in the company or establishment or the performance of specialized, professional, or technical work. At the end of the trial period, if the worker cannot prove to satisfy the qualifications and skills needed to develop the work, the employer, taking into account the opinion of the Joint Commission on Productivity, Development and Training, will terminate the employment relationship without liability.</p> <p>Calculation (for EPL indicators): average of the 2 situations: 3.5 months</p>
Item 7 Compensation following unfair dismissal (d)	<p>In the case of dismissal without "just cause", compensation of 3 months plus 20 days per year of service. Back pay accrues from the date of dismissal.</p> <p>Calculation (for EPL indicators): Typical compensation at 20 years tenure (all workers): 15 months (compensation plus backpay minus seniority bonus minus severance pay mentioned in Item 4).</p>

<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>The employee may request reinstatement, but the employer can be exempted from reinstating the employee by paying compensation to the employee in cases where the employee had tenure of less than one year, was employed on a casual basis or where an ongoing employment relationship is not possible the worker, because of the position he/she holds or the nature of his/her work, is in direct and permanent contact with the employer.</p> <p>Calculation (for EPL indicators): average of the two cases</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>In accordance with the provisions of Art. 518 FLL, the legal prescription for unfair dismissal claims is two months. The prescription runs from the day following the date of termination of the employment relationship.</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>Restricted to objective situations (replacement, temporary increase in workload, work on a project that is itself of a fixed-term nature, etc.), with the exception of a few occupations. Extent of use determined in consultation with union delegates</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>No limit specified, negotiable by both parties.</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>No limit specified, negotiable by both parties. If the fixed term contract is to perform work of a fixed-term nature, the contract will extend as long as the work extends.</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>The FLL regulates TWA employment in Articles 15-A, 15-B, 15-C and 15-D.</p> <p>The use of TWA employment should not cover the same activities that are normally performed in the user establishment.</p> <p>Moreover, jobs of regular and TWA workers at the user establishment must be different. Moreover, TWA employment must be justified by its specialized nature.</p> <p>The use of TWA employment is not permitted when worker's contract are transferred from the user firm to the agency, with the clear aim of reducing labor rights.</p>
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>No limit for both contracts and assignments</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>No limit for both contracts and assignments</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>No requirements</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>Article 14 of the FLL establishes responsibilities for companies that use intermediaries for hiring workers. Workers shall have the right to provide their services under the same conditions and have the same rights that apply to other workers who perform work in the company or similar establishment.</p>
<p>Item 18 Definition of collective dismissal (b)</p>	<p>The Federal Labour Law does not contain a definition of collective dismissal, but it contemplates the collective termination of employment relationships, following the closure of establishments or undertakings or by the permanent reduction of their production, mainly for economic reasons (Chapter VIII, FLL).</p>

<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>Notification of employee representatives: Duty to inform and consult with trade union/employee representatives. Notification of public authorities: Notification to Conciliation and Arbitration Board if no agreement with union can be found.</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>Type of negotiation required: Negotiation with employee representatives on conditions and procedures of dismissal. If no agreement is reached, agreement by Conciliation and Arbitration Board on terms of dismissal is required. For the related procedure, a hearing must be performed within the fifteen working days following the date in which the complaint was presented or at the conclusion of the investigations (Art. 893 FLL).</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>Type of negotiation required: Negotiation with employee representatives on conditions and procedures of dismissal. If no agreement is reached, agreement by Conciliation and Arbitration Board on terms of dismissal required. Selection criteria: Usually seniority-based. Severance pay: 3 months in addition to seniority bonus (Art. 436 FLL)</p>

** Mexico was prepared by OECD as part of the 2013 update.

NICARAGUA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	Individual termination: The Labour Code (hereinafter LC) distinguishes between: dismissal with just cause (article 48 LC) and dismissal without cause (article 45 LC). <u>Dismissal with just cause</u> : employer has to request prior approval to the Labour Inspector, who will not issue his decision without hearing the employee (article 48 LC). <u>Dismissal without cause</u> : no specific notification procedure stated by the LC (article 45 LC). Calculation (for EPL indicators): (only dismissal without cause is considered, as capacity is not a just cause for dismissal): 0
Item 2 Delay involved before notice can start	<u>Dismissal with cause</u> : employer must exercise the right to dismiss with cause within 30 days of the knowledge of the fault committed by the employee (article 48 LC). This is an expiry term for the employer to allege the just cause for dismissal. Delays are those of the prior approval procedure before the Labour Inspector. <u>Dismissal without cause</u> : no statutory provision for notification procedure nor delays involved. Calculation (for EPL indicators): 0
Item 3 Length of notice period at different tenure durations (a)	There are no notice periods to be observed. Calculation (for EPL indicators): 0
Item 4 Severance pay at different tenure durations (a)	Dismissal with just cause: No severance pay (article 48 LC). Dismissal without cause: Severance pay varies according to different tenure durations (article 45 LC): a) ≤ 3y: 1m salary for each year of service b) 4y onwards: 20 days per year of service with a ceiling of 5 monthly salaries. In no event, severance pay shall be lower than one monthly salary Calculation (for EPL indicators): dismissal without cause: 9 months tenure: 1month; 4 years tenure: 3,66 months; 20 years tenure: 5 months
Item 5 Definition of unfair dismissal (b)	<u>Fair dismissal</u> : Article 48 LC sets out just causes for dismissal which are related to workers misconduct: a) severe lack of integrity, b) serious offence against life and physical integrity of the employer or coworkers, c) slanderous speech to the employer which discredits and damages the company, d) breach of the obligations of the employment agreement or the internal bylaws, which severely damage the company. <u>Unjustified dismissal</u> : According to article 45 LC unjustified dismissal occurs when no just cause is alleged. Under Nicaragua's LC, the employer can always dismiss an employee without cause provided severance indemnity (indemnización por antigüedad) is paid (article 45 LC). Thus dismissal on personal grounds and redundancy is always possible.
Item 6 Length of trial period (c)	Trial period cannot exceed 30 days (article 28 LC).
Item 7 Compensation following unfair dismissal (d)	In case of unfair dismissal (under situations referred to in article 46 LC –see item 8), if allegations are proved, the Labour Judge can order reinstatement plus back pay. If the employer does not comply with the order, double severance payment will be ordered. Calculation (for EPL indicators): 20 years' tenure employee: backpay (6 months) plus 10 months' salary (double severance payment) minus the amount reported in item 4 = 11 months.
Item 8 Reinstatement option for the employee following unfair dismissal (b)	According to article 46 LC, when termination of the employment agreement has been made in violation of prohibited rules contained in the LC and other labour regulations, or when termination is a consequence of the employee having exercised his labour or trade union rights, the worker can request reinstatement before the Labour Judge. If the latter understands that the allegations are proved, reinstatement plus back pay will be ordered. However, if the employer does not comply with the order, he must pay the employee double severance indemnity. Reinstatement does not apply to employee's in position of trust. According to the EPL methodology, when the employer can avoid reinstatement by paying severance indemnity, the situation is not considered for the scoring. In addition, reinstatement option under Nicaraguan law is available only on prohibited grounds (pregnancy, trade union membership, retaliation). Calculation (for EPL indicators): 0
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	The maximum time period to claim for unjustified dismissal is of 1 year (article 257 LC). However, the limit to ask for reinstatement according to article 46 LC is 1 month (art. 260 LC) Calculation (for EPL indicators): average of the two cases: (12+1)/2 = 6.5 months
Item 10 Valid cases for use of standard fixed term contracts	LC presumes that the employee is employed by an indefinite contract, except: a) when both parties stipulate a period of time, b) to perform a task or render a service of limited duration, c) for seasonal and cyclic work (articles 25 and 26 LC). Calculation (for EPL indicators): 2
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	LC stipulates that FTC can be renewed twice (article 27 LC). If the second extension lapses, the labour relationship will be construed as an indefinite term agreement. Calculation (for EPL indicators): 3 (initial contract plus 2 renewals).

Item 12 Maximum cumulated duration of successive standard FTCs	No statutory limit in LC.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	No statutory regulation. However a draft regulation (Anteproyecto de Ley) is being considered by Parliament since 2009. This draft contains provisions regarding outsourcing, subcontracting and intermediation of workers. The objective of the future law is to protect employees under these types of employment.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation up to date. However a draft regulation is being considered by Parliament.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. However a draft regulation is being considered by Parliament.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation. However a draft regulation is being considered by Parliament.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	<p>No statutory definition of collective dismissal for economic reasons and no threshold involved. However, Nicaragua requires that employers, who definitively cease their industry, service or commerce due to economic reasons, get approval from the Ministry of Labour (article 41 letter d) LC). Only pending vacation pay and 13th salary must be paid (article 42 LC). This prior approval procedure is mandatory in case of establishment closure due to economic reasons.</p> <p>Standard procedures for individual dismissals can be applied to any other type of collective dismissals.</p> <p>In addition, there are certain situations which determine the suspension of the employment agreements (article 38 LC): a) lack of raw material, b) company's shut-down ordered by competent authority following preventive or corrective reasons of hygiene or security, c) temporary closing-up of the establishment due to economic or technical reasons, d) fortuity or force majeure. Prior approval from the Ministry of Labour is required. . Although this does not apply to permanent closures, if the employer subsequently re-opens the establishment he incurs the risk of being accused of violation of article 38 LC.</p> <p>Calculation (for EPL indicators): average of permanent closure of an establishment due to economic reasons (4) and standard procedures for individual dismissals (0): 2.</p>
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Article 41 letter d) requires approval from the Ministry of Labour for collective dismissals involving definitive termination of activities for economic reasons. For collective dismissals due to other reasons, standard procedures for dismissal without cause can be followed. Therefore there are no additional notification requirements. Calculation (for EPL indicators): average of permanent closure due to economic reasons (1) and standard procedures for individual dismissals (0): 0.5
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	In case of permanent closure of an establishment, prior approval from the Labour Ministry requires certain days of delays. Calculation (for EPL indicators): some delays in the case the permanent closure of establishment could be considered: <25
Item 21 Other special costs to employers in case of collective dismissals (i)	There are no other special costs involved. However authorisation is not necessarily granted Calculation (for EPL indicators): 0.5

PANAMA

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Written notification indicating the date and reasons for dismissals must be given to the employee. Any additional reason subsequently alleged and differing from the one set out in the notification letter is invalid (article 214 Labour Code – hereinafter LC).</p> <p>Prior authorization from the Labour Authority is required for dismissal (individual or collective) based on economic reasons (articles 213 Letter C, 215 and 216 LC). The employer must prove before the authority the just cause for dismissal due to economic reasons. Dismissals carried out without the fulfilment of said procedure is considered unjustified. However if after 60 calendar days, the Labour Authority has not issue its decision, the employer may proceed to dismiss.</p> <p>For dismissals based on other reasons – mainly related to employee’s conduct or capacity- (article 213 Letters A and B), the employer has the option to request prior authorization from the Labour Tribunal (article 217). However, in this case, authorization is not mandatory.</p> <p>Calculation (for EPL indicators): (average 1 for personal reasons and 3 for economic reasons): 2</p>
Item 2 Delay involved before notice can start	<p>The notice must be communicated in written to the employee, indicating the date and reasons for dismissal (article 214 LC). For dismissal based on economic reasons a (individual or collective) a procedure must be followed: the employer is obliged to request prior authorization from the Labour Authority, proving the just cause alleged. The Labour Authority has to inform the workers of said request, giving them a maximum of 3 days to present their case. The authority must examine the evidence within a reasonable period of time and issue an immediate decision granting or refusing the authorization. After being notified, the parties may appeal the decision before the competent authority (article 216 LC). It is worth noting that, according to article 215 LC, if Labour Authority does not issue its decision before a 60 day calendar period, the employer may proceed to dismiss.</p> <p>For dismissals based on personal reasons (article 213 Letters A and B) the employer has the option to obtain prior authorization, however, this authorization is not mandatory.</p> <p>Calculation (for EPL indicators): (average of 1 day for personal reasons and 60 days for economic reasons –maximum time period given to Labour Authority): 30.5 days</p>
Item 3 Length of notice period at different tenure durations (a)	<p>General rule: no statutory notice periods to be observed.</p> <p>Exception: 30 days prior notice is required to dismiss certain categories of workers, excluded from “just cause” rule (articles 211 and 212 LC) see Item 5. These workers can be dismissed without just cause provided prior notice is given and severance indemnity for unfair dismissal is paid: 1) Employees not exceeding 2 years tenure, 2) Domestic workers, 3) Permanent workers of small agricultural, fishing or manufacturing undertakings, 4) Seafarers serving on board vessels operating on international routes, 5) Apprentices, 6) Employees in retail sales establishments and in undertakings with five or fewer workers, except in the case of insurance establishments or real estate.</p> <p>Calculation (for EPL indicators): (average of general rule and exception in the case of workers with less than 2 years of tenure, 0 for other cases): 9 months tenure: 0.5; 4 years tenure: 0 month; 20 years tenure: 0 month.</p>
Item 4 Severance pay at different tenure durations (a)	<p>Dismissal with just cause related to personal reasons: no severance payment (articles 212, 213 A-B). Dismissal with just cause related to economic reasons: compensation equivalent to severance payment for unfair dismissal (articles 213 C, 215 and 225).</p> <p>According to article 225 LC severance payment for unjustified dismissal amounts: 3.4 w per year of service up to 10y 1 w per year of service > 10y</p> <p>Economic reason always determines severance payment for unjustified dismissal (be it with just cause or unjustified -when prior authorization is not requested-).</p> <p>Personal reason depends on whether just cause can be proved. If just cause is proved no severance payment. Otherwise, severance payment for unjustified dismissal</p> <p>A key aspect to consider regarding Panama’s legislation is that severance payment for unjustified dismissal is paid by the Severance Fund, article 229 LC (Fondo de Cesantia). The Severance Fund is a pool of capital that the employer is obliged to constitute through a trust. The employer must deposit or record on a quarterly basis, the amount of money corresponding to i) the seniority premium (“prima de antigüedad”) and ii) 5% of the monthly share of the compensation that each worker could be eligible in case of unjustified dismissal.</p> <p>Calculation (for EPL indicators): 0 months</p>

<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Justified dismissal</u>: To terminate an employment relationship of indefinite duration, employers must allege a just cause for dismissal (article 211 LC). Just causes for dismissal (article 213 LC) are related to:</p> <ol style="list-style-type: none"> 1) Worker’s conduct (letter A “Naturaleza disciplinaria”) 2) Worker’s capacity & others (Letter B “Naturaleza no imputable”). Numerals 1 and 4 relate to worker’s capacity (inability or manifest inefficiency, mental or physical incapacity or professional inaptitude). The LC is very strict in the definition of dismissal related to incapacity as it requires inefficiency to be manifest. 3) Economic reasons (Letter C “Naturaleza económica”) related to proven reduction of activity (see Item 18). <p><u>Exclusion from the just cause requirement</u>: Certain categories of workers are excluded from the just cause rule. In those situations, employers can dismiss without alleging a just cause, provided notice period is respected and severance indemnity for unjustified dismissal is paid. This situation applies to: 1) Employees not exceeding 2 years tenure, 2) Domestic workers, 3) Permanent workers of small agricultural, fishing or manufacturing undertakings, 4) Seafarers serving on board vessels operating on international routes, 5) Apprentices, 6) Employees in retail sales establishments and in undertakings with five or fewer workers, except in the case of insurance establishments or real estate.</p> <p><u>Unjustified dismissal</u>: occurs when: 1) Just cause for dismissal cannot be proved by the employer - before the Labour Tribunal or the Board of Conciliation-, when challenged by the employee (article 218). 2) Employer’s failure to request prior approval for dismissal based on economic reasons (articles 215 and 225), 3) Termination of employment contract by the employee due to employers misconduct (article 223 LC).</p> <p>Calculation (for EPL indicators): 2 since poor performance per se is not a just cause for dismissal (incapacity should be manifest)</p>
<p>Item 6 Length of trial period (c)</p>	<p>Probationary period can only be stipulated when the worker requires certain aptitudes or special skills. The maximum period is of 3 months (article 78 LC). For other workers, no probationary period is admitted under LC. Calculation (for EPL indicators): (average of 3 months for jobs requiring certain aptitudes or skills, 0 for others): 1.5 months.</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>Under article 218 LC, if the Conciliation Board or the Labour Tribunal, finds that the just cause for dismissal is not proved by the employer, an order of reinstatement or the payment of severance indemnity for unfair dismissal will be awarded, depending on the employee’s request: 1)If the employee requests compensation, then severance payment for unjustified dismissal (article 225) and back pay will be ordered by the Tribunal. 2) If the employee requests reinstatement, the employer, however, may avoid such order by paying the employee: for workers hired after the enforcement of Act 44 of 12.08.1995, severance indemnity for unjustified dismissal, surcharges of 25% of said amount (only if the employer is currently not paying the Severance Fund (“Fondo de Cesantía”) and back pay. For those workers that were with the employer when Act 44 of 12.08.1995 entered into force, severance indemnity for unjustified dismissal, 50% surcharge plus backpay (cf. art. 34 of the act).</p> <p>Calculation (for EPL indicator): Average with and without a reinstatement order (assuming that a Court case takes 6 months and the workers has 20 years of tenure (hired on April 30, 1994): 6 months + (1/2)*50% of severance indemnity (44 weeks).</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>If just cause for dismissal is not proved at court, the employee can request for reinstatement or compensation for unfair (unjustified) dismissal (article 218 LC). However, if reinstatement is ordered by the court, the employer nonetheless can terminate the labour relationship by paying compensation for unfair dismissal, a surcharge of 25% or 50% (as applicable) and back pay (article 219 LC). According to EPL methodology, when employer can avoid reinstatement by paying compensation, value is 0. Calculation (for EPL indicators): 0</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>There are two statutory limits (article 221 LC)</p> <ol style="list-style-type: none"> 1) 60 days if the claim relates to reinstatement or the payment of severance pay for unfair dismissal 2) 1 year if the claims relates only to the payment of severance pay for unfair dismissal <p>Calculation (for EPL indicators) average: 7 months</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>FTC are permitted only in the following situations (article 75 LC): a) to provide a service or perform a work which in its nature is of limited duration, b) to substitute an employee on leave, on vacation, or due to temporary impediment; and c) in other cases provided for in the LC.</p>

<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>FTC must be expressed in written. <u>General rule:</u> The total duration of FTC cannot exceed 1 year (article 74). When the employee continues to render services beyond the date of termination, the contract shall be considered of indefinite duration (article 77). Succession of contracts are not allowed. <u>Services requiring special technical preparation:</u> A maximum duration of 3 years can be stipulated. In this case, if vocational training is provided by the employer, up to 2 renewals are permitted (article 74). <u>New companies or new activities:</u> successive FTC for a total of no more than 2 years are permitted only if the work is for a new company or activity (articles 74 and 77 A). In 2009 the Government of Panama issued two Executive Decrees to improve enforcement of LC protections for temporary workers. Executive Decree N° 19 of 2009 regulates article 77 A LC which exempts for 2 years “new companies” and “new activities” from article 77 limitation on the use of successive FTC. The Decree requires the employer to submit objective proof that they qualify for the article 77 A exemption when registering a contract with the Ministry of Labour and Workforce Development (MITRADEL). For a new activity employers must include a clause in each FTC describing the new activity. Employers must also acknowledge in each contract that if their justification for temporary status is not confirmed, the worker will be deemed permanent from the time he was first hired. In addition Executive Decree N° 24 of 2009 requires the MITRADEL to take specific steps to improve oversight of employer’s use of FTC, including targeted inspections of companies that use temporary workers to ensure compliance with article 77 and to conduct a random sampling of registered FTC. Calculation (for EPL indicators): average of general rule (1) and average of special situations, assuming 2 for new activities): $(1 + (3+2)/2) / 2 = 1.75$</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>General rule: 1 year. Services requiring special technical preparation: 3 years. New companies or new activities: 2 years. Calculation (for EPL indicators): (average of general rule and average of special situations): $(1 + (3+2)/2) / 2 = 1.75$ years</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>LC prohibits agreements, combinations or arrangements by which an employer provides workers to a third party for the performance of the latter’s core business activities (article 94 LC). However, prior approval of the Ministry of Labour and Workforce Development, the provision of workers by an employer to a third party is admitted only for the development of temporary services not exceeding 2 months and subject to prescribed rules: 1) Employees must receive the highest minimum wage of the district they are working at. 2) Both companies are jointly liable of the payment of the employee’s labour benefits, 3) Detrimental acts to the worker made by the third party are construed as being acts of the employer. Executive Decree N° 17 of 2009 establishes mechanisms to enforce the protection of workers against the improper use of this type of relationship and of subcontracting in general, including targeted inspections to determine the compliance of articles 94 and 95 LC. Calculation for EPL indicators: 2.</p>
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>No statutory regulation regarding the number of renewals or prolongations. Article 95 LC establishes maximum periods of 2 months.</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>2 months.</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>Prior authorization is required (article 95 LC, Executive Decree N° 17 of 2009).</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>Although the equal treatment principle is not explicitly expressed, it emerges from the rules established in article 95 LC.</p>
<p>Item 18 Definition of collective dismissal (b)</p>	<p>No statutory definition of collective dismissal. However, article 213 LC provides a definition of dismissal for economic reasons, applicable to individual or collective dismissals. The following are valid economic reasons for the termination of employment agreements: 1) bankruptcy or liquidation, 2) Closure of the company or final reduction of the activities due to the notorious and manifest uncosteability of the business or exhaustion of the substance exploited by the extractive industry, 3) Final suspension of the activities of the employer due to serious economic crisis or partial uncosteability of the business due to decline in production or as a consequence of innovations in the procedures or machinery or due to a revocation of an administrative concession or cancellaiton of sales or purchasing orders or any similar reason duly proven by the competent authority. Calculation (for EPL indicators): no additional regulation for collective dismissal. Same rules for individual redundancies apply.</p>

<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>No additional notification requirement. The same procedure applies for individual and collective dismissals for economic reasons (articles 213 and 215 LC). Calculation (for EPL indicators): no additional notification requirement: 0.</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>No additional delays involved. Same rules for individual dismissals apply to collective termination.</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>Costs are those of individual dismissals due to economic reasons. No other special cost involved.</p>

PARAGUAY

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	Dismissal must be notified to the employee in written (Articles 87 and 88 of the Labour Code – hereinafter LC-).
Item 2 Delay involved before notice can start	The notification must be communicated in written to the employee. Calculation (for EPL indicators): 1 day for written notice.
Item 3 Length of notice period at different tenure durations (a)	The length of the prior notice varies according to different tenure durations (Article 87 LC). a) 30 d < 1 y b) 45 d > 1 y < 5 y c) 60 d > 5 y < 10 y d) 90 d > 10 y
Item 4 Severance pay at different tenure durations (a)	No severance pay applies to dismissal with justified cause (causa justificada) which essentially corresponds to employee’s misconduct or poor performance (Articles 81 and 82 LC). However, if the just cause alleged by the employer cannot be proved at court, the employee is entitle to severance payment plus back pay until the date of court decision. This situation only applies when the employer alleges a just cause for dismissal which cannot be proved at court. If the employer dismisses without alleging a just cause, only severance payment is due. Severance pay for unjustified dismissal is equal to 15 daily wages for each year or fraction of year in excess of six months. Unjustified dismissal occurs when the employer dismisses without alleging a just cause or when the employee terminates the agreement due to the employer’s misconduct – constructive dismissal- (Articles 91 and 84 LC). Job stability: A special situation applies to employees with at least 10 years tenure. In this case, the employer is only permitted to dismiss with justified cause. If the employer is unable to prove just cause at court, the employee may choose between reinstatement or compensation equivalent to double dismissal indemnity (Articles 94 and 97 LC). Calculation (for EPL indicators): (averages just cause and without just cause): 9 months tenure: 0.25 month; 4 years tenure: 1 month; 20 years tenure: 0 month (as compensation is considered in Item 7).

<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Fair dismissal</u>: Article 81 LC provides an exhaustive list of reasons for dismissal with justified cause, which are related to the employee’s misconduct or poor performance. Amongst others: a) dishonest acts related to the submission of false certificates to obtain a position in the company, b) theft, robbery or crimes against property of persons committed by the employee at the workplace, c) acts of violence, serious breaches of discipline, insults and disrespect addressed to the employer, members of his family, representatives, senior staff of the company, committed at the workplace, d) the commission of the same acts against co-workers, e) the commission of said acts (literal c), outside the workplace against c) and d) members, f) deliberate damage to buildings, plant, works, machinery, instruments, documents, raw materials and other goods belonging to the enterprise, g) immoral acts committed by the employee at the workplace, h) disclosure of confidential information or trade secrets to third parties, i) imprudent or inexcusable acts that compromise safety of the enterprise or of the persons thereof, j)) concurrence to the workplace under the effect of alcohol or drugs or carrying dangerous weapons , k) criminal conviction, l) breach of the safety and health rules prescribed by legislation or by the employer to prevent professional illnesses or work related accidents, ll) systematic failure to comply with the indications made by the employer or its delegates to improve employee’s efficiency and productivity , m) work slowdowns or intentional reduction in work performance, inciting other workers for the same purpose, n) if the employer lost confidence in an employee exercising managerial supervision, surveillance, audit or other similar functions , ñ) negotiation by the worker, without express permission of the employer, if it constitutes an act of competition to the latter, o) participation in a strike declared illegal by the competent authority, p) repeated lateness, q) work stoppage , r) repeated lateness, s) interruption of the tasks without justified cause, t) disobedience to the orders given by the employer or its representatives, u) chronic or contagious disease, mental disorders that inhibit the development of the employee’s current tasks, v) gross violation of the fundamental terms of the employment contract or of the internal regulations of the company.</p> <p>No severance payment in these cases of dismissal with justified cause.</p> <p>However, the employer can always dismiss employees without justifying a reason (despido sin justa causa) provided notice periods are respected and severance indemnity is paid (except in the case of employees of at least 10 years tenure).</p> <p><u>Redundancy</u>: In case of closure of the company, if the employer re-initiates activities within 1 year, he is obliged to re-employ the workers. Failure to comply, determines the payment of severance indemnity for unfair dismissal. In case of suspension of the employment agreement due to: 1) exhaustion of raw material, 2) excess of production in relation to the needs of the market, 3) unprofitability of the company, after a 90 days period of suspension, the employee can choose to wait for the reactivation of the company or claim the indemnity for unfair dismissal.</p> <p><u>Unfair dismissal</u>: when the employer alleges a just cause for dismissal that cannot be proved at Court or when the employee terminates the employment agreement due to the employer’s misconduct – constructive dismissal (Articles 91 and 84 LC).</p> <p>Calculation for (EPL indicators): average of cases of less than 10 years of service - 0 (as employer can always dismiss without just cause by paying the corresponding indemnity) – and more than 10 years of service 2.</p>
<p>Item 6 Length of trial period (c)</p>	<p>According to article 58 LC, the trial period is of:</p> <ul style="list-style-type: none"> a) 30 days for unqualified employees or domestic workers. b) 60 days for qualified workers or apprentices. c) Not legally specified: for highly qualified employees the trial period is agreed by the parties. Not a common practice in Paraguay. <p>Calculation (for EPL indicators). Assumption of 6 months trial period for highly qualified workers. Average of 3 situations: 3 months.</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>20 years tenure employee (enjoying job stability) can only be dismissed with justified cause proved at court (Article 94 LC). If the employer is unable to prove the just cause alleged, the employee (who chooses not to be reinstated) is entitle to receive double severance payment plus 3 months pay in lieu of notice (Article 96 LC).</p> <p>Calculation (for EPL indicators): 3 month’s payment in lieu of notice plus double severance pay, in the case the worker chooses of not being reinstated (20 months): 23 months</p>

<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Yes for employees of at least 10 years tenure. The employee, who worked continuously for the same employer, acquires job stability at 10 year tenure (Article 94 LC). In such case, the employer is only allowed to dismiss for just cause following a judicial procedure. If the employer is unable to prove at court the just cause alleged, the employee can decide between reinstatement plus back pay or the payment of double severance indemnity for unfair dismissal plus pay in lieu of notice.(articles 96 and 97).</p> <p>Reinstatement option also applies to certain union representatives defined in article 318 LC which acquire the status of job stability. In such case, these employees can only be dismissed if the employer proves at court a just cause for dismissal.</p> <p>Calculation for (EPL indicators): Less than 10 years tenure: no reinstatement option, 10 years tenure or more: reinstatement option: Average of 0 and 3: 1.5</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>60 days (Article 400 LC).</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>FTC is only permitted for objective and material reasons (Article 49 LC). The LC authorizes FTC for a limited term, to perform a specific service or to conclude a specific task. Contracts to develop services of a permanent nature are considered of indefinite duration, despite the fact of being agreed as FTC (Article 50 LC). Thus FTC is the exception.</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>FTC can't exceed 1 year for labourers (obrero) or 5 years for employees (empleados). However, they can be renewed (article 49 LC).</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>No limitation.</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>No statutory regulation.</p>
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>No statutory regulation. FTC rules apply to FTC between agency and the worker.</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>No statutory regulation.FTC rules apply to FTC between agency and the worker.</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>No statutory regulation.</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>No statutory regulation.</p>
<p>Item 18 Definition of collective dismissal (b)</p>	<p>There is no statutory definition of collective dismissal for economic reasons nor a specific number of employees involved . However, there are certain situations that determine the termination of all the employment agreements (Articles 78 to 80 LC):</p> <ul style="list-style-type: none"> a) Closure of the company or final reduction of the activities. A prior administrative procedure is required which involves a communication to the Labour Authority and the participation of the employees, before the corresponding administrative decision. b) Exhaustion of the substance exploited by the extractive industry. c) Fortuity or force majeure that permanently inhibits the continuation of the employment agreements (unless there is an insurance to cover this risk) See Item 21. d) Bankruptcy or liquidation proceedings. <p>Calculation (for EPL indicators): (average of 4 for closure/final reduction, 0 for other cases): 2</p>
<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>For closure of the company or final reduction of the activities, a procedure is needed which involves: a written communication to the Labour Authority and a brief participation of the workers, before the Authority issues the final resolution (Article 78 Literal h). If the employer fails to comply with this procedure, severance indemnity must be paid to the workers. (Article 80 final LC).</p> <p>Calculation (for EPL indicators): (average 1 for closure of the company or final reduction of the activities, 0 for other cases): 0.5</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>In case of closure of the company or final reduction of the activities, the required communication to the Labour Authority, the summary participation of the workers and the final decision will determine certain days of delay.</p> <p>Law 4986/2013 states, on a general basis, that, the duration of the procedures for closure of a company cannot exceed 30 days, after the required documents are presented.</p> <p>Calculation for (EPL indicators): (average of 30 days for closure of the company/final reduction and 0 for the other cases) = 15 days.</p>

<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>In case of closure of the company or final reduction of the activities, no severance indemnity must be paid, (except for workers enjoying job stability who must receive double severance indemnity -article 99 LC-). However, if the employer fails to comply with the procedure stated in Items 18 and 19, ordinary severance indemnity must be paid (as stated in item 19). Re-employment is mandatory if the employer re-initiates activities within one year (failure determines the payment of severance indemnity (Article 80 LC).</p> <p>In case of fortuity or force majeure, if the insurance covers the risk, the company should re-initiate activities. If the employer decides not to do, indemnities to the employees should be paid: a) After trial period up to 5 y tenure: 1 monthly salary; b) >5y to 10y tenure: 2 monthly salaries; c) >10y tenure: 3 monthly. This indemnity also applies to bankruptcy-liquidation proceeding and exhaustion of the substance exploited by the extractive industry (Articles 79 and 80 LC).</p> <p>Calculation (for EPL indicators): 0 (as fortuity/force majeure and re-hiring are not counted for EPL)</p>
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Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>In case of dismissal for justified cause related to the employee's conduct or capacity, a prior written notification procedure is required (Articles 31 and 32 Law on Productivity and Labour Competitiveness -hereinafter LPCL). The notification letter has to specify the cause of dismissal and the date of the effective termination. The employee has the right to present a written defense of the charges alleged by the employer. Once the letter is delivered, the employer may not invoke a different reason than the one referred to in the notification letter. Dismissal can also be without justification (despido arbitrario), article 34 LPCL. However, despite the letter of the law, the Constitutional Tribunal has construed that dismissal without just cause (article 34 LPCL) entitles the employee to claim reinstatement following a special procedure (see Item 5).</p>
Item 2 Delay involved before notice can start	<p>The written notification letter must be sent directly to the employee. If the employee refuses to receive said letter, it can be handled by a notary public or by a Judge (Article 32 LPCL). The employee has a minimum of: a) 6 days in case of misconduct to present a written defense of the charges alleged by the employer; b) 30 days if the reason is related to the employee's capacity, so that the worker can demonstrate its capacity.</p> <p>The 6 day period applies to the case of fault, therefore it is not considered for EPL indicators.</p> <p>Calculation (for EPL indicators): average of dismissal with justified cause related to capacity or low performance (30 days plus 1 day for the notification letter) and arbitrary dismissal (1 day for the notification letter): 16 days</p>
Item 3 Length of notice period at different tenure durations (a)	<p>Warning procedures prior to dismissal due to employee's conduct or capacity were mentioned in Item 2 (6 days in case of misconduct, 30 days in case of capacity).</p> <p>In case of dismissal without justified cause, there is no statutory provision regarding notice period.</p>
Item 4 Severance pay at different tenure durations (a)	<p>No severance pay in case of dismissal for justified reason (causa justa) related to the employee's conduct or capacity (article 34 LPCL).</p> <p>Severance pay for arbitrary dismissal is equivalent to <u>1.5 monthly salaries per each full year of service up to a maximum of 12 monthly wages</u>. Fractions of years are paid in proportion to the months (1/12) and days (1/30) worked for the employer (articles 34 and 38 LPCL).</p> <p>A special regime applies to dismissals in Peru (see Item 5). Following this regime, the option between severance payment or reinstatement will depend on the way the employer dismisses an employee, on the remedy chosen by the latter and on the procedure followed by the worker (Labour Court or Acción de amparo). Given the system described in Item 5, for EPL purposes severance payment is reflected under Item 7 (compensation following unfair dismissal) and Item 8 (reinstatement).</p> <p>Therefore, values corresponding to severance payment were set to 0, despite the fact that dismissals may end by paying severance indemnity.</p> <p><u>Additional compensation:</u> According to article 21 of the Compensation for the Length of Service Law (hereinafter CTSL), a special compensation is paid to the employee, upon termination of the employment contract, irrespective of the reason or cause of termination. This payment -called "<u>Compensación por Tiempo de Servicio</u>"- is equivalent to one monthly average salary per year of service. This amount is deposited to a bank chosen by the employee each semester. As it can be assimilated to an additional social security contribution and do not represent a specific burden to employers at the time of dismissal, this additional compensation is not considered for EPL purposes.</p> <p>Calculation (for EPL indicators): 0 (as severance payment is reflected in Items 7 and 8).</p>

Item 5 Definition of unfair dismissal (b)

Fair dismissal: Justified reasons for dismissal are defined in articles 22 to 28 LPCL. These reasons are related to employee's conduct and capacity. In those cases, no severance indemnity is due. Reasons connected to the capacity of the worker (art. 23 LPCL): deterioration of the physical or mental faculties or an acquired incapacity having a major effect on his or her performance on the job; inadequate output in relation to the worker's capacity or in comparison to the average output for similar work under similar conditions; or unreasonable refusal on the part of the worker to undergo a previously agreed or legally required medical examination in the context of the employment relationship, or to follow medical treatment or preventive measures prescribed by a doctor in order to avoid illness or accident. Reasons related to the worker's conduct (art. 24 LPCL): conviction for a crime involving fraud (by a decision not subject to appeal); disqualification of the worker imposed by judicial or administrative authorities to carry out his or her job at the workplace for three months or more; and any serious misconduct as defined in 25 LPCL: a violation of the fundamental terms of the contract which makes the continuation of the employment relationship unreasonable, as follows: a) failure to comply with employment obligations in such a way that the breakdown of good faith in the employment relationship may be presumed; the repeated opposition to orders relating to the work; repeated and untimely stoppage of work when this has been found to be the case by the competent authority; or the failure to observe work regulations or occupational safety or health regulations; b) deliberate and repeated deterioration in output, or in the volume or quality of production; c) appropriation or attempted appropriation of goods or services belonging to the employer or for which the worker is responsible, or unjustified retention or utilization of the same; d) the use or transfer to a third party of information reserved for the employer; the unauthorized removal or use of documents belonging to the enterprise; providing false information to the employer with the intention of causing harm or obtaining an advantage; or unfair competition; e) repeated attendance at work in a state of drunkenness or under the influence of drugs or narcotics, and even if it is not repeated, where because of the nature of the work, such condition is exceptionally serious; f) acts of violence, serious breaches of discipline, insults and disrespect in oral or written statements addressed to the employer, his or her representatives, senior staff or other workers, whether they take place inside or outside the workplace; g) deliberate damage to buildings, plant, works, machinery, instruments, documents, raw materials and other goods belonging to the enterprise, or in its possession; h) failure to appear at the workplace for more than three consecutive days; unjustified absence for more than five days over a period of 30 calendar days, or more than 15 days over a period of 180 days, irrespective of whether any disciplinary action is taken in either case; repeated lateness where attention has been drawn to this by the employer, and where disciplinary sanctions such as written warnings and suspensions have already been applied.

Regime applicable to unfair and other types of dismissals: in Peru, two different regimes co-exist regarding dismissals:

- 1) Dismissals ruled by the Law: LPCL and Supreme Decree N° 001-96 TR which define the figures of:
 - a) Dismissal with just cause (articles 22 to 28, 31 to 34 LPCL) related to employee's conduct or capacity as stated above.
 - b) Arbitrary dismissal (article 34 and 38 LPCL): occurs when: 1) no just cause is alleged: in this case the employer is obliged to pay severance indemnity within 48 hours of dismissal. 2) just cause alleged cannot be proved at court. In this case, according to the law, the employee has to file a lawsuit before the Labour Court claiming the payment of severance indemnity for arbitrary dismissal.
 - c) Null dismissal (articles 29, 34, 40 to 42 LPCL, Law N° 26626 and Law N° 27050): when dismissal is based on the following grounds: a) affiliation to a union or participation of union activities, b) status or former status of employee's representative, c) filing a complaint against the employer, d) discrimination based on sex, race, religion, political opinion or language, e) Pregnancy or recent mother, f) dismissal due to worker suffering from HIV, g) dismissal due to worker suffering from an incapacity. In this case, according to the law, the employee can claim reinstatement plus back pay before the Labour Court.
 - d) Indirect or constructive dismissal (articles 30, 35 and 38 LPCL): occurs when the employee terminates the employment agreement due to employer's misconduct. In this case the employee has to claim before the Labour Court either the cease of the employer's hostility or the payment of severance indemnity for arbitrary dismissal.

	<p>2) <u>Dismissals ruled by Constitutional Tribunal</u> (Leading Cases: Expediente N° 1124-2001-AA/TC, Telefónica del Perú, Expediente N° 976-2001-AA/TC Eusebio Llanos Huasco and Expediente N° 206-2005-PA/TC Cesar Antonio Baylón). The Constitutional Tribunal (hereinafter TC) has played an important role in incorporating new cases of dismissals, in addition to the ones defined by the law. The key issue of this types of dismissals is the fact that the employee must claim the remedy following a special procedure called “acción de amparo” before the TC and not before the Labour Court, being the remedy the reinstatement of the worker. If the employee claims before a Labour Court (except in the case of null dismissal where reinstatement is available), the remedy would be the payment of severance indemnity (not reinstatement).</p> <p>a) <u>Dismissal without cause</u>: no cause is alleged by the employer when dismissing an employee.</p> <p>b) <u>Fraudulent dismissal</u>: when the employer alleges a cause that is false or dismisses a worker in a disloyal, hostile or perverse manner.</p> <p>c) <u>Dismissal in breach of fundamental constitutional rights</u>: when the employer dismisses an employee breaching a fundamental constitutional right, different from the ones listed in article 29 LPCL, including generic breaches of the right to work. However, the reason of redundancy is unlikely to be considered a breach to the right to work.</p> <p>Calculation (for EPL indicators): 2</p>
Item 6 Length of trial period (c)	<p>According to article 10 LPCL, on a general basis, probationary period is of three months, at the end of which the employee is entitled to the severance payment in case of unfair dismissal. However, the parties may agree in writing to extend the probationary period when the work to be undertaken requires a period of training and adaptation or when the nature of the work or responsibility entailing such extension may be justified. This extension may not exceed:</p> <ul style="list-style-type: none"> - six months in total in the case of skilled workers and employees in positions of trust, - one year in total for managerial personnel. <p>Calculation for EPL indicators (average between the first situation and the average of the last two situations): $(3 + (6+12)/2) / 2 = 6$ months.</p>
Item 7 Compensation following unfair dismissal (d)	<p>See Items 4 and 5. Following unfair dismissal (arbitrary and others), the employee can choose severance payment as compensation. Severance payment amounts to 1.5 monthly salaries per each full year of service up to a maximum of 12 monthly wages. Fractions of years are paid in proportion to the months (1/12) and days (1/30) worked for the employer (articles 34 and 38 LPCL).</p> <p>Calculation for EPL indicators (employee 20 years tenure): 12 months.</p>
Item 8 Reinstatement option for the employee following unfair dismissal (b)	<p>See Item 5. Reinstatement option is available in case of: 1) null dismissal (before the Labour Court), 2) dismissal without cause, 3) fraudulent dismissal and 4) dismissal in breach of constitutional rights. In these last 3 cases if claimed by the employee before the TC.</p> <p>Reinstated employees are entitled to back pay (article 40 LPCL for null dismissal). For other types of dismissals, although reinstatement is claimed before TC, the latest has no jurisdiction to grant back pay. Up to date, employees have been claiming back pay before a Civil Court. A project of law is being considered by Parliament (Proyecto de Ley N° 2581-2013) to include these types of dismissals in article 40 LPCL, allowing back pay.</p> <p>Calculation (for EPL indicators): 2</p>
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	<p>30 calendar days after its occurrence. This provision is applicable only to claims for arbitrary dismissal, null dismissal and indirect dismissal (article 36 LPCL).</p> <p>Under Law N° 27.321, labour claims related to employment issues (different from the ones stated above) have an expiry term of 4 years.</p>
Item 10 Valid cases for use of standard fixed term contracts	<p>According to articles 53 and 57 LPCL, valid reasons for the use of standard FTC are: a) objective and material reasons, b) launch of a new activity. In effect, articles 53 to 71 LPCL contain a list of the valid reasons for the use of FTC, which fall within 3 categories:</p> <p>1) <u>Temporary reasons</u> (article 54 LPCL):</p> <ul style="list-style-type: none"> * commencement or launching of a new activity (maximum duration: 3 years) * increase in market demand (maximum duration: 5 years) * restructuring of the enterprise in response to the replacement, modification, extension or, in general, any technological change (maximum duration: 2 years) <p>2) <u>Incidental reasons</u> (article 55 LPCL):</p> <ul style="list-style-type: none"> * transitory needs different from the normal activity (maximum duration: 6 months in one year), * replacement of a worker (maximum 5 years) * emergency contract to cover needs arising from an unforeseen event or force majeure (duration of emergency and maximum: 5 years) <p>3) <u>Specific piece of work or service</u> (article 56 LPCL):</p> <ul style="list-style-type: none"> * performance of a specific piece of work or service (maximum 5 years) * intermittent service contract (maximum 5 years) * seasonal contracts (maximum 5 years)
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	<p>No limitation.</p> <p>Renewals are allowed within the maximum duration specified in item 10 for each contract (Article 74 LPCL). A combination of different contracts subject to special conditions is possible provided however that the total cumulative duration does not exceed 5 years.</p>

Item 12 Maximum cumulated duration of successive standard FTCs	5 years. As stated in item 10 FTC fall under 3 categories. For each category, a different maximum period is specified within each category. Calculation (for EPL indicators): average of within category averages of maximum periods: $\frac{((3+5+2)/3)+((0.5+5+5)/3)+5}{3} = 3.94$ years or 47.33 months
Item 13 Types of work for which temporary work agency (TWA) employment is legal	According to article 3 of Law 27.626, TWA employment is only legal to provide services that are of temporal, complementary or of specialized nature. TWA employee's are not allowed by law to perform the permanent tasks related to the core activities of the User firm. TWA contracts are not permitted to replace striking workers at the User firm or after a collective layoff.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory limitation. In effect, restrictions on renewals are not specifically ruled by the law. Notwithstanding, as TWA contracts are only permitted to perform temporal, complementary or highly specialized services, it can be construed that renewals are admitted on these extraordinary cases.
Item 15 Maximum cumulated duration of TWA contracts (f)	The duration depends on the extraordinary cases where this TWA contracts are permitted. The maximum cumulated duration of seasonal, temporal and emergency contracts under LPCL is of 5 years. Assignments fall under these exceptional situations, thus the 5 year period is applicable.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	According to articles 14 and 18 Law 27.626 and Supreme Decree N° 003-2002-TR (articles 7 to 10); the set-up of a TWA requires authorization and registration. Reporting requirements, on a 3 months period, are required by the Ministry of Labour and Employment Promotion http://www.mintra.gob.pe/mostratContenido.php?id=826&tip=9#
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	Equal treatment of regular workers and agency workers (Article 7 of Law 27.626).
Item 18 Definition of collective dismissal (b)	Under LPCL, provisions of collective dismissal grounded on economic, technological and structural reasons apply when it involves at least 10% of the employees.
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Under LPCL, in case of collective dismissal grounded on economic, technological and structural reasons, when it involves at least 10% of the employees, the employer is obliged to file the following proceedings: a) Notify the union or workers' representatives and provide them with the relevant information regarding the reasons of the retrenchment and the names of the affected workers. A communication must be sent to the Labour Administrative Authority to open the corresponding file. b) The union or workers' representatives and the employer must undertake a negotiation in order to determine the conditions in which the employment contracts will be terminated or on the possible alternatives to avoid dismissals (suspension, reduction of working hours). c) After consultations with the trade unions, the employer is obliged to file an application before the the Labour Administrative Authority based on an expert report justifying the need for the dismissal grounded on economic, technological or structural reasons. Once the employees or their representatives have reviewed the report sent by the Labour Administrative Authority (within 48 hours), they have 15 days to present their own expert report. d) A meeting between the employer and the unions or workers' representatives under the auspices of the Labour Administrative Authority must be held in order to find agreement on the retrenchment's modalities. The parties must try to reach to an agreement within 3 days. e) In the absence of agreement on the modalities of the retrenchment, the Labour Administrative Authority must issue a binding decision within 5 days. f) However, the parties can appeal the decision within 3 days. The Labour Administrative Authority must issue the final decision within 5 days. Employment Promotion Law and Supreme Decree N° 001-96-TR, articles 62 to 74, rule the procedures regarding collective dismissals due to cause fortuity and force majeure. This procedure is very similar to the one required in case of collective dismissal grounded on economic, technological and structural reason. A procedure before the Labour Administrative Authority is mandatory, together with a communication to the union or worker's representatives. The employer is also required to present before the Labour Administrative Authority an expert opinion of the reasons of the closure. This opinion will be delivered to the union or workers representative. A meeting to reach an agreement between the employer and the union will be convoked by the Labour Administrative Authority. If there is no agreement, the parties may decide to submit the dispute to arbitration. Otherwise, the Labour Administrative Authority will submit its final decision, which can be appealed by the parties.
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	The additional days of delay are those of the duration of the administrative procedure required to proceed to collective dismissals. Calculation (for EPL indicators): approximately 44 days (60 days minus 16 days –item 2)

Item 21 Other special costs to employers in case of collective dismissals (i)

No special costs involved. According to article 52 LPCL, no severance payment applies for collective termination due to economic, technological and structural reasons, cause fortuity or force majeure. However, the workers have preferential rights to be reinstated if the employer decides to hire, directly or through third persons, new staff to fill similar posts, within a year of the collective dismissal. In the event of non-compliance, the worker is entitled to request, through legal channels, corresponding severance payment in accordance with the law. Re-hiring is not considered for EPL purposes. Calculation (for EPL indicators): 0

DOMINICAN REPUBLIC

Items	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	<p>Individual termination: The Labour Code (hereinafter LC) distinguishes between: Dismissal (article 87 LC) and 2) Desahucio (article 75 LC). 1) Dismissal: is defined as the unilateral termination of the labour agreement by the employer. It is justified when the employer proves the existence of a just cause (article 88 LC). On the contrary, it is unjustified (article 87 LC). 2) Desahucio is defined as the termination of the employment agreement -by either party- without alleging a cause. For purposes of this analysis also termed as dismissal without cause.</p> <p><u>Dismissal with cause:</u> employer has to notify the worker and within 48 hours of the dismissal, the former is required to give written notice to the Labour Department (or the local authority exercising such duties) and to the employee indicating the cause of dismissal (article 91 LC). Notification is a key issue: if the employer fails to comply with said procedure, dismissal is considered without cause (article 93 LC, Supreme Court of Justice N° 24 of 1999).</p> <p><u>Dismissal without cause or Desahucio:</u> written notice must be given to the employee and within 48 hours of such notice, a written communication to the Labour Department (or the local labor authority exercising such duties) must also be delivered (article 77 LC).</p> <p>Calculation (for EPL indicators): 2</p>
Item 2 Delay involved before notice can start	<p>Dismissal with cause: employer must exercise the right to dismiss with cause within 15 days of the knowledge of the fault committed by the employee (article 90 LC). This is an expiry term for the employer to allege the just cause for dismissal. Supreme Court of Justice understands that if the term expires, dismissal is considered unjustified (Supreme Court of Justice N° 12 of 2000 and N° 2 of 2001).</p> <p>For dismissal with or without cause: written notification to employee and Labour Department is required.</p> <p>Calculation (for EPL indicators): 2 days (written notification to employee and Labour Authority).</p>
Item 3 Length of notice period at different tenure durations (a)	<p>Dismissal with cause: There is no advance notice period required. However if the court understands that the just cause for dismissal is not proved, pay in lieu of notice (amongst other payments) will be ordered.</p> <p>Dismissal without cause: The following notice periods must be given (article 76 LC):</p> <ul style="list-style-type: none"> d) 7 d > 3 m up to 6 m e) 14 d > 6 m up to 1y f) 28 d > 1y <p>Calculation (for EPL indicators): dismissal without cause: 9 months tenure: 14 days, 4 years tenure: 28 days, 20 years tenure: 28 days.</p>
Item 4 Severance pay at different tenure durations (a)	<p>Dismissal with cause: No severance pay (articles 87 and 88 LC).</p> <p>Dismissal without cause or Desahucio: Severance payment ("auxilio de cesantía) varies according to different tenure durations (article 80 LC):</p> <ul style="list-style-type: none"> d) > 3m < 6m: 6 days´ salary e) 6m < 1y: 13 days´ salary f) 1y < 5 y: 21 days´ salary per year of service g) > 5y: 23 days´ salary per year of service <p>Calculation (for EPL indicators): dismissal without cause: 9 months tenure: 13 days; 4 years tenure: 84 days; 20 years tenure: 460 days</p>

<p>Item 5 Definition of unfair dismissal (b)</p>	<p><u>Fair dismissal:</u> Article 88 LC sets out just causes for dismissal which are related mainly to workers misconduct. Inefficiency and lack of capacity (numeral 2) as a just cause for dismissal expires after 3 months' employment. Just causes: 1) if the worker deceived the employer by means of false letters of recommendation or certificates when the contract was concluded. 2) If the employee executes his tasks in a way that demonstrates his inability and inefficiency. This cause is no longer valid after the employee has been providing services for a period longer than three months. 3) If the employee has acted with lack of integrity and honor during the execution of tasks and has incurred in slander, acts of violence and mistreatment against the employer or the relatives of the latter who are under his watch. 4) If the employee commits any of the aforementioned acts against one of his fellow co-workers, causing an alteration to the workplace's order. 5) If during non working hours the employee commits any of the acts mentioned in numeral 3 against the employer, relatives or the top officials of the company. 6) If the employee willingly causes material losses during the execution of tasks or as a consequence of it to the buildings, machinery, constructions, equipment, raw materials, products and any other objects related to their works. 7) If the employee causes the serious damage mentioned in numeral 6 unwillingly, but with negligence or recklessness. 8) If the employee commits acts of dishonesty in the workplace. 9) If the employee reveals manufacturing secrets or exposes confidential matters to the detriment of the company. 10) If the employee carelessly or recklessly jeopardizes the security of the workshop, workplace or of the people inside them. 11) If the employee does not attend work during two consecutive days or two days in one same month without the due authorization from the employer or his representative, or without notifying the cause in the term established under article 58 (within the 24 hours). 12) If the employee is absent from work, does not notify the cause and is in charge of a task or machinery that if stalled, necessarily implies a disturbance to the company. 13) If the employee exits the workplace during working hours without an authorization from the employer or his representative and without previously notifying the employer or his representative the reasons for leaving the workplace. 14) If the employee disobeys the employer or his representatives, provided that the disobedience is related to the service provided. 15) If the employee refuses to adopt preventive measures or follow procedures established by law, the competent authorities or the employer, in order to avoid accidents or illnesses. 16) If the employee violates any of the provisions established under numerals 1, 2, 5 or 6 of article 45. 17) If the employee violates any of the provisions established under numeral 3 and 4 of article 45 after the Labour Department, at the requirement of the employer, has issued warnings for committing the same error. 18) If the employee has been sentenced to prison by irrevocable judgment. 19) If the employee lacks commitment in the execution of the tasks he has been hired for and/or fails to comply any other obligations established under the employment agreement.</p> <p><u>Unfair or Unjustified dismissal:</u> In accordance with Article 87 LC, unjustified dismissal occurs when no just cause can be proved. In this case the employer is obliged to pay: prior notice, severance indemnity (auxilio de cesantía) plus back pay until the date of court decision, with a ceiling of 6 months (article 95)</p> <p>However, under Dominican's LC, the employer can always dismiss an employee without cause (Desahucio) provided prior notice is respected and severance payment (auxilio de cesantía) is paid (article 75 and 76 LC). Thus dismissal on personal grounds and redundancy is always possible.</p>
<p>Item 6 Length of trial period (c)</p>	<p>LC does not establish explicitly a trial period. However, it should be noted that an employee has no right to prior notice (or payment in lieu of notice) or severance unless he has been employed for a period of at least 3 months (articles 76 and 80 LC). Moreover, inefficiency and inability as a just cause for dismissal expires after (3) months' employment (article 88/2).</p>
<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>In case of unfair dismissal (article 87), the court will require the employer to pay the employee: 1) notice period, 2) severance payment (auxilio de cesantía), 3) back pay as from the date of the claim until court's decision (with a ceiling of 6 months' salary).</p> <p>Calculation (for EPL indicators): 20 years' tenure employee: 6 months' salary as back pay.</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>No reinstatement option following an unfair dismissal.</p> <p>Reinstatement has been allowed at the employee's request in very limited scenarios, such as pregnant employees or members of a trade union (fuero sindical). These situations are not considered for EPL purposes.</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>The maximum time period to claim for unfair dismissal is of 2 months (article 702 LC).</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>FTC are permitted only in the following situations (articles 31 and 33 LC): a) to provide a service or perform a work which in its nature is of limited duration, b) to substitute an employee on leave, on vacation, or due to temporary impediment; and c) If a FTC furthers the interests of the employee.</p> <p>Calculation (for EPL indicators): 1 (as FTC can be used in situations of employee's needs).</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>LC does not establish a maximum duration for FTCs. However, when an employee continues to render services for an employer beyond the date of termination, the contract shall be considered of indefinite duration as from the initial date (articles 31, 34, 35 and 73).</p> <p>Calculation (for EPL indicators): 1 for initial contract. (Renewal turns the contract into one of indefinite duration)</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>No limit is established by law. However the duration of FTCs is that of the task to be performed, which is in itself of fixed duration.</p> <p>Calculation (for EPL indicators): 1</p>

Item 13 Types of work for which temporary work agency (TWA) employment is legal	No statutory provisions.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker. If assignments are of fixed-term, the duration of assignments and contracts typically coincide.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. FTC rules apply to FTCs between the agency and the worker.
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	No statutory regulation.
Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?	No statutory regulation.
Item 18 Definition of collective dismissal (b)	No statutory definition of collective dismissal for economic reasons. However there are certain situations that determine the termination of all the employment agreements (article 82 numerals 4 and 5: a) Exhaustion of the substance exploited by the extractive industry, b) bankruptcy that determines the total cease of the business, c) closure of the company or final reduction of its staff, d) uncosteability of the business and any other similar situations. Prior approval from the Labour Department is required (article 82 num LC remits to article 56 LC- procedure for suspension of the employment agreements-). On the other hand, article 24 of the Rulings for the Application of the Labor Code states that in the event a company needs to reduce its personnel, the employer must give prior notice to the Labour Department, who will verify compliance with Articles 141 and 142 LC (priority rules for dismissal).
Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)	Article 82 numeral 5 LC requires the employer to follow the pocedure of article 56 LC (suspension of the employment agreements). The employer must communicate the cause of termination to the Labour Department for its approval. Calculation (for EPL indicators): 0 (as there are no additional notification requirements on top of those requirements applying to individual dismissals).
Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)	According to article 56, the Labour Department must analyse the cause for termination and issue its resolution in a maximum period of 15 days. Calculation (for EPL indicators): 15 days (minus item 2 and item 3): 0
Item 21 Other special costs to employers in case of collective dismissals (i)	Article 82 states that if the employer ends the employment agreements due to the causes referred to in Item 18, the following "economic assistance" must be paid: a) 5 days' salary if the employee worked more than 3 months but less than 6 months; b) 10 days' salary if the employee worked from 6 months to less than 1 year; c) 15 days' salary per each of service if the employee worked from 1 year onwards. Calculation (for EPL indicators): 0 (as costs to employers are lower for collective dismissals in comparison to individual ones in the situations referred to in article 82 numerals 4 and 5).

URUGUAY

	Regulations in force on 31 December 2013
Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract	No legal requirement. However, although not mandatory, consultation with worker's representative is recommended and a common practice in Uruguay. Calculation (for EPL indicators): 1.5
Item 2 Delay involved before notice can start	No delays involved. Oral notification. Calculation (for EPL indicators): 1 day for verbal notice.
Item 3 Length of notice period at different tenure durations (a)	No legal requirements.
Item 4 Severance pay at different tenure durations (a)	Dismissal on personal grounds 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 proof gross misconduct. Failure to prove, determines the payment of ordinary severance indemnity. Calculation (for EPL indicators): 9 months: 1; 4 years: 4 months; 20 years: 6 months
Item 5 Definition of unfair dismissal (b)	<u>Fair dismissal</u> : on a general basis, dismissal is allowed without justifying any cause, provided that severance indemnity is paid. Inclusive there is no obligation of a notice prior to dismissal. <u>Unfair dismissal</u> : In Uruguay there is no legal definition of unfair dismissal. Doctrine and jurisprudence (although not a source of law in Uruguay) 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 at a labour court). 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. <u>Special dismissals for certain categories of workers which can be considered as unfair dismissal</u> : 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. <ul style="list-style-type: none"> • Sickness: Double severance indemnity for an employer who dismisses an employee during sick leave or after 30 days of his return to work. • 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. • 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. • Sexual harassment: an employee, who suffered from sexual harassment, can terminate the employment agreement and claim the general severance indemnity plus 6 monthly salaries.
Item 6 Length of trial period (c)	No statutory regulation in Uruguay. 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.
Item 7 Compensation following unfair dismissal (d)	Compensation following unfair (abusive) dismissal : 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. Calculation (for EPL indicators): worker of 20 years tenure, generally Tribunals order the payment of 2 times the severance indemnity: 12 months (in addition to the ordinary severance indemnity). In effect, this employee will receive in Uruguay 18 months indemnity (6 corresponding to ordinary severance payment, 12 corresponding to unfair dismissal).
Item 8 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. Calculation for EPL indicators: 0.5
Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)	1 year (Law 18.091).

Item 10 Valid cases for use of standard fixed term contracts	There is no legal regulation. However our doctrine and jurisprudence understand that FTC is only permitted for objective or material reasons, when the task to be performed is of limited duration.
Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)	There is no legal regulation. However our jurisprudence understands that successive FTC is construed as a unique contract of indefinite duration.
Item 12 Maximum cumulated duration of successive standard FTCs	There is no legal regulation. However, common practice is that the maximum duration of 1 FTC is of 6 months, thus if only 1 renewal is allowed by jurisprudence, the maximum cumulated duration would be of 12 months.
Item 13 Types of work for which temporary work agency (TWA) employment is legal	TWA are only allowed to perform services on a temporal and exceptional basis.
Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (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.
Item 15 Maximum cumulated duration of TWA contracts (f)	No statutory regulation. No limit but services should be on a temporal basis (cf. Item 13)
Item 16 Does the set-up of a TWA require authorisation or reporting obligations?	Yes. Both authorization and reporting obligations are required.
Item 17 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).
Item 18 Definition of collective dismissal (b)	The law does not provide any definition of collective dismissal. However, it is advisable to take additional notification steps and several pay and social plans are common practice. Calculation for EPL indicators: average of 0 and 4 = 2
Item 19 Additional notification requirements (compared to Item 1) 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. Calculation (for EPL indicators): 0.5 (as it is advisable to make a communication to the Labour Ministry- not mandatory. Communication to the trade union was already considered in Item 1).
Item 20 Additional delays involved (compared to Item 2) 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 1 day for verbal notice (item 2): 14
Item 21 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. Calculation 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).

VENEZUELA

Items	Regulations in force on 31 December 2013
<p>Item 1: Notification procedures in the case of individual dismissal of a worker with a regular contract</p>	<p>Articles 85 and 86 of the Venezuelan Organic Labor Law for Workers – Decree 8938 of April, 30th 2012 (OLLW), grant job stability. Only dismissal for just cause is admitted. Article 89 OLLW states that when the employer dismisses one or more employees a written notification must be sent to the Substantiation, Mediation and Execution Judge of the corresponding jurisdiction, explaining the causes which justify the dismissal, within the next following 5 days as of when the dismissal takes place. In case the employer does not notify the Judge, it should be considered that the dismissal was unfairly executed.</p> <p><u>However</u>, the dismissal regime in Venezuela has been amended by several Presidential Decrees enacted at regular intervals since 2002, with one year validity. For year 2013, Presidential Decree N° 9.322 of December, 27th 2012, grants job stability (In Spanish “Inamovilidad Laboral”), during the period January 1st 2013 – December 31st 2013, for employees of the private and public sector, excluding workers with less than one month tenure, employees in management position, seasonal and occasional workers. As a result of this immunity decree, employees may not be dismissed or transferred, nor may their employment conditions be worsened, without a just cause (article 79 OLLW) previously approved by the Labour Inspector following the procedure established in article 422 OLLW (see Item 2)..</p> <p>Dismissal without case is not possible due to the immunity decree, except for workers with less than 1 month tenure, employees in managerial position, seasonal and occasional workers.</p> <p>Calculation (for EPL indicators): 3 for all workers, except the limited categories excluded from the immunity decree. For the latest an oral statement is enough.</p>
<p>Item 2 Delay involved before notice can start</p>	<p>Delays are those of the procedure of prior approval by the Labour Inspector (Presidential Decree N° 9.233 and article 422 OLLW). The procedure is as follows: the employer must request prior approval from the Labour Inspector within 30 days of the occurrence of a just cause for dismissal. Within 3 days, the Labour Inspector must notify the employee compelling him to appear at a hearing that must be held within the following 2 days. During the hearing, the Labour Inspector will attempt conciliation: If it fails, the Inspector must order an 8 day evidentiary period, where the parties must present the corresponding proof. Within 2 days of the conclusion of the evidentiary stage, the parties must prepare and submit their allegations. Finally, within a maximum period of 10 days, the Labour Inspector must issue its decision. Therefore, if the employer plans to dismiss an employee protected by the immunity decree, he must follow the procedure stated above requesting the Labour Inspector to authorize the dismissal because a justified cause exists, and during the time while this procedure lasts, the employee must continue to work for the employer and may not be separated from his job, until de Labour Inspector authorizes the dismissal.</p> <p>Dismissal without just cause is not possible due to the immunity decree (except for workers with less than one month tenure, employees in managerial position, seasonal and occasional workers).</p> <p>Calculation (for EPL indicators): 25 days</p>
<p>Item 3 Length of notice period at different tenure durations (a)</p>	<p>The OLLW does not establish a notice period when the employer dismisses the employee with just cause, other than the procedure and delays mentioned in Items 1 and 2.</p> <p>Calculation (for EPL indicators): 0 days</p>

<p>Item 4 Severance pay at different tenure durations (a)</p>	<p><u>Dismissal with just cause:</u> No severance pay in case of dismissal with just cause (“justa causa”), which corresponds to employee’s misconduct (article 79 OLLW). Employee’s capacity is not a just cause for dismissal.</p> <p><u>Dismissal without just cause:</u> is not possible under immunity decree, except for workers with less than one month tenure, employees in managerial position and seasonal and occasional workers).</p> <p><u>Termination benefits, regardless the reason:</u> Under article 142 of the OLLW, employees are entitled to the following termination benefits, regardless the reason:</p> <ol style="list-style-type: none"> Each quarter, the employer must deposit the equivalent to 15 days of salary in favour of each employee, calculated on the basis of the last salary earned, as a guarantee of the termination benefits. The right to this deposit is acquired at the time when the quarter begins. In addition, after the first year of service, the employer will deposit in favour of each employee 2 days of salary per year, accumulative up to thirty days of salary. When the employment relationship terminates for any reason whatsoever, the termination benefits will be calculated on the basis of 30 days per year of service or fraction of six months, calculated with the last salary. The worker will receive, on account of termination benefits, the higher of the total of the guarantee deposited according to letters a) and b) and the calculation made upon termination according to letter c). If the employment relationship terminates before the first three months, the payment will amount to 5 days of salary per month of work or fraction thereof. <p><u>Termination due to dismissal:</u> Under article 92 of the OLLW in the case of termination of the employment relationship for reasons beyond the worker’s control or in case of dismissal without any reasons justifying the same, if the employee states his will not to bring a proceeding to obtain reinstatement, the employer must pay him an indemnity equivalent to the amount corresponding to termination benefits. Likewise, if after bringing the proceeding, the employee voluntarily receives double payment, the proceeding must be concluded with the additional payment of salaries accrued and not paid.</p> <p><u>For employees not covered by the immunity decree,</u> severance payment would amount to: 9 months tenure: higher of letter a or 30 days (letter c); 4 years tenure: higher of letters a and b or 120 days (letter c); 20 years tenure: higher of letters a and b or 600 days (letter c).</p> <p><u>However,</u> the above mentioned rule does not apply to workers covered by the immunity decree (all workers except employees with less than one month tenure, employees in managerial position and seasonal and occasional workers). Under said decree, employees can only be dismissed for a just cause previously approved by the Labour Inspector. Failure to comply entails mandatory reinstatement.</p> <p>Calculation (for EPL indicators): 0 days</p>
<p>Item 5 Definition of unfair dismissal (b)</p>	<p>Fair dismissal: Article 79 OLLW provides a limited list of reasons for dismissal with justified cause, which are related to employee’s misconduct: Capacity is not a just cause for dismissal.</p> <ol style="list-style-type: none"> Dishonesty; Physical violence, unless exercised in self-defence; Any immoral act in offense to the employer, his representatives, or to members of his family who live with him; Intentional acts or with gross negligence which seriously affect the security or hygiene of the workplace; Omissions or imprudence which seriously affect the security or hygiene of the workplace; Unjustified absences during 3 working days in a one month period; Material damages, intentionally inflicted or with grave negligence, on the work machinery, tools or instruments, work equipment, raw material or manufactured products; Disclosure of trade secrets or procedures; Any act which constitutes a serious violation to the obligations imposed by the labour relationship; Abandonment of work, Sexual or labour harassment; <p><u>Unfair dismissal:</u> when dismissal occurs without a just cause (article 77 OLLW) or when the employer breaches its obligations (constructive dismissal, article 80 OLLW).</p> <p>Therefore, as a result of the immunity decree, it is not possible for an employer to dismiss an employee (except for the excluded workers) for a reason other than a conduct related just cause (article 79 OLLW). Redundancy is not a just cause for dismissal.</p>
<p>Item 6 Length of trial period (c)</p>	<p>OLLW does not establish a trial period (except for employees who have been upgraded to a higher category, article 80 OLLW).</p> <p>Although immunity decree does not apply to employees during the first month of service (article 5 Presidential Decree N° 9.322), termination benefits are applicable as from the first month (article 142 OLLW).</p> <p>Calculation (for EPL indicators): 1 month</p>

<p>Item 7 Compensation following unfair dismissal (d)</p>	<p>Under article 92 of the OLLW in the case of termination of the employment relationship for reasons beyond the worker's control or in case of <u>dismissal without any reasons</u> justifying the same, if the employee states he/she will not to bring a proceeding to obtain reinstatement, the employer must pay him/her an indemnity equivalent to the amount corresponding to termination benefits. Likewise, if after bringing the proceeding, the employee voluntarily receives double payment, the proceeding must be concluded with the additional payment of salaries accrued and not paid. <u>However</u>, under immunity decree N° 9.322, article 3, in case of unfair dismissal of a worker protected by job stability, the employee can request before the Labour Inspector, within 30 days, reinstatement, back pay plus the benefits he should have received, had the relationship not ended. Calculation (for EPL indicators): 20 year tenure employee: 40 months plus 6 months of back pay</p>
<p>Item 8 Reinstatement option for the employee following unfair dismissal (b)</p>	<p>Under Presidential Decree N° 9.322, employees of the private and public sector are protected by job stability (except workers with less than one month tenure, employees in managerial position and seasonal and occasional workers). Reinstatement option is always available.</p>
<p>Item 9 Maximum time period after dismissal notification up to which an unfair dismissal claim can be made (e)</p>	<p>10 years (article 51 OLLW).</p>
<p>Item 10 Valid cases for use of standard fixed term contracts</p>	<p>According to article 64 OLLW, FTCs are only permitted: a) if so required by the nature of the service, b) for a temporary and lawful replacement of an employee, c) for contracts concluded with Venezuelan nationals to perform services abroad.</p>
<p>Item 11 Maximum number of successive standard FTCs (initial contract plus renewals and/or prolongations)</p>	<p>Only initial contract plus one renewal is admitted (article 62 OLLW). Calculation (for EPL indicators): 2 (initial contract plus 1 renewal).</p>
<p>Item 12 Maximum cumulated duration of successive standard FTCs</p>	<p>FTC must not exceed 1 year. Same time limit applies to renewal (article 62 OLLW). Calculation (for EPL indicators): 24 months</p>
<p>Item 13 Types of work for which temporary work agency (TWA) employment is legal</p>	<p>According to article 47 OLLW, outsourcing ("Tercerización") is understood as the simulation or fraud committed by employers with the purpose of distorting, failing to acknowledge, or hindering the application of the labour legislation. The administrative or judicial entities with competence over labour matters will establish the liability of the employers in the event of simulation or labour fraud under the law. Article 48 OLLW states that outsourcing is prohibited. Therefore, the following will not be permitted:</p> <ol style="list-style-type: none"> 1. Agreements with entities to execute permanent works or services within the facilities of the contractor, related to its productive process. 2. Hiring of workers through intermediaries to evade the obligations derived from the labour relationship of the hiring entity. 3. Work entities created by the employer to evade the obligations to the workers. 4. Fraudulent contracts or agreements intended to simulate a labour relationship, through the use of juridical forms of civil or mercantile law. 5. Any other form of labour simulation or fraud. <p>In the above mentioned cases, the employers will comply with all their obligations derived from the labour relationship according to the law and will include the outsourced employees in the payroll of the hiring entity. Said outsourced workers will be covered by job stability up to the time when they are actually incorporated into the hiring entity. Thus, provision of workers for the development of non-core activities at the user firm is prohibited, since that may be considered hiring of workers through intermediaries in order to evade the obligations derived from the labour relationship of the hiring entity.</p>
<p>Item 14 Are there restrictions on the number of renewals and/or prolongations of TWA contracts? (f)</p>	<p>TWA contracts are prohibited by law.</p>
<p>Item 15 Maximum cumulated duration of TWA contracts (f)</p>	<p>TWA contracts are prohibited by law.</p>
<p>Item 16 Does the set-up of a TWA require authorisation or reporting obligations?</p>	<p>TWA employment is illegal</p>
<p>Item 17 Do regulations ensure equal treatment of regular workers and agency workers at the user firm?</p>	<p>TWA employment is illegal</p>

<p>Item 18 Definition of collective dismissal (b)</p>	<p>Article 95 OLLW defines mass dismissal when it affects: a) 10% of employees of an entity of more than 100 workers; b) 20% of employees of an entity of more than 50 workers; c) 10 employees of an entity of less than 50 workers within a period of 3 months or more if the circumstances make dismissals critical. However, Ministry of Labour may stop dismissals issuing a special resolution. Article 148 OLLW states that if technological or economic reasons might determine job loss, workforce reduction or changes in working conditions, the Ministry of Labour might intervene in the process to avoid job loss. During the procedure, with the participation of workers, unions and the employer, the Ministry of Labour will grant job stability to employees. The above mentioned rules do not apply to workers covered by the immunity decree, who can only be dismissed for a just cause previously approved by the Labour Inspector. However, article 3 of the immunity decree 9.233 reserves the right of employers and employees to conclude agreements to carry out redundancies or modify working conditions, through collective bargaining.</p>
<p>Item 19 Additional notification requirements (compared to Item 1) in cases of collective dismissal (g)</p>	<p>OLLW was enacted on April, 30th 2012, repealing the previous Organic Labour Law (OLL) amended on June, 18th 1997. Although a parcial regulation of OLLW was enacted on April, 30th 2013, it refers to working conditions. No regulation up to date referring to mass dismissal or reduction of workforce. Therefore, there is no information available on procedures and notification requirements. However, under immunity decree mass dismissal is illegal as it grants job stability to workers covered by its provisions. Yet, article 3 of the immunity decree 9.233 reserves the right of employers and employees to conclude agreements to carry out redundancies or modify working conditions, through collective bargaining. Calculation (for EPL indicators): 1</p>
<p>Item 20 Additional delays involved (compared to Item 2) in cases of collective dismissal (h)</p>	<p>No information available. However, under immunity decree mass dismissal is illegal as it grants job stability to workers covered by its provisions. Yet, article 3 of the immunity decree 9.233 reserves the right of employers and employees to conclude agreements to carry out redundancies or modify working conditions, through collective bargaining.</p>
<p>Item 21 Other special costs to employers in case of collective dismissals (i)</p>	<p>No information available. However, under immunity decree mass dismissal is illegal as it grants job stability to workers covered by its provisions. Yet, article 3 of the immunity decree 9.233 reserves the right of employers and employees to conclude agreements to carry out redundancies or modify working conditions, through collective bargaining. These agreements are likely to include some advantages for the workers (e.g. termination payments). As the outside option is no dismissal, employees are in a strong bargaining position. Calculation (for EPL indicators): 1</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.