

Employment Law Update

Lorenz Employment Law Team

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New Dismissal Legislation Applicable As From January 1, 2012

Executive Summary

- The new dismissal rules apply to employment contracts which are executed as from January 1, 2012;
- The new notice periods for white-collar workers are mandatory and ends the use of the Claeys Formula;
- there is no possibility to negotiate between the parties (except for the highest white-collar workers at the latest at the entry into service); and
- The notice periods for higher white-collar workers are no longer determined in months, but in days.

Scope

General Rule

The new dismissal rules apply to employment contracts for blue and white collar workers whose work starts on or after January 1, 2012. The signing date of the employment contract is irrelevant.

Existing employment contracts executed before January 1, 2012 remain subject to the old dismissal rules.

Exception

In case an employment contract starts on or after January 1, 2012, but was preceded by another employment contract concluded between the same parties, and if the period between those two employment contracts is less than seven days, the old dismissal rules apply.

Overview Of The New Notice Periods For Blue- And White-Collar Workers

Blue-Collar Workers

Applicable Legislation	Seniority within the company	Notice given by the employer	Notice given by the employee
Legal notice periods	< 6 months	28 calendar days	14 calendar days
	6 months < 5 years	40 calendar days	14 calendar days
	5 years < 10 years	48 calendar days	14 calendar days
	10 years < 15 years	64 calendar days	14 calendar days
	15 years < 20 years	97 calendar days	14 calendar days
	20 years and more	129 calendar days	28 calendar days

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White-Collar Workers

Yearly Salary	Seniority within the company	Notice given by the employer		Notice given by the employee
Lower white-collar workers Up to 31.467 €	< 5 years	3 months		1,5 month
	5 years < 10 years	6 months		3 months
	10 years < 15 years	9 months		3 months
	(...)	(3 months per commenced period of 5 years of seniority)		
Higher white-collar workers From 31.467 € up to 62.934 €	< 3 years	<u>Notification dismissal as from 01.01.2012</u> (30 calendar days per commenced year of seniority with a minimum of 91 cal. days per commenced period of 5 years of seniority)	<u>Notification dismissal as from 01.01.2014</u> (29 calendar days per commenced year of seniority with a minimum of 91 cal. days per commence period of 5 years of seniority)	45 cal. days
	3 years < 4 years	91 cal. days	91 cal. days	45 cal. days
	4 years < 5 years	120 cal. days	116 cal. days	45 cal. days
	5 years < 6 years	150 cal. days	145 cal. days	45 cal. days
	6 years < 7 years	182 cal. days	182 cal. days	90 cal. days
	7 years < 8 years	210 cal. days	203 cal. days	90 cal. days
	8 years < 9 years	240 cal. days	232 cal. days	90 cal. days
	9 years < 10 years	270 cal. days	261 cal. days	90 cal. days
	10 years < 11 years	300 cal. days	290 cal. days	90 cal. days
	10 years < 11 years	330 cal. days	319 cal. days	135 cal. days (max.)
Highest white-collar workers > 62.934 €	< 5 years	Idem white-collar workers with yearly salary of 31.467 < 62.934 €		45 cal. days
	5 years < 10 years			90 cal. days
	10 years < 15 years	Unless agreement at the latest at the entry into service, with a minimum of the notice period of the lower white-collar workers.		135 cal. days
	15 years and more			180 cal. days (max.)

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Indemnity In Lieu Of Notice

When the employment contract of a blue or a white collar worker is terminated without complying with the relevant notice period, an indemnity in lieu of notice is due.

For white-collar workers, the new dismissal regulation foresees a formula to calculate the daily salary:

$\text{Daily gross salary white-collar worker} = \text{monthly gross salary} * 3/91$
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The monthly gross salary also includes the benefits obtained by virtue of the employment contract.

Feel free to contact us should you need any further information in this respect.

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