

Labour Law - Brazil

<p>Is it a legal requirement that employees must receive an employment contract?</p>	<p>A formal agreement is not necessarily required, an oral employment contract is fully valid. In any event, however, it is essential that the employment contract be recorded in the Work and Social Security Card – CTPS of the employee.</p>
<p>What factors constitute a fair dismissal i.e. legally justifiable reasons to terminate employment without the need to pay compensation?</p>	<p>If the employee is dismissed for good cause, he/she will be entitled only to the compensation corresponding to the days already worked during the month (“outstanding salary”), accrued vacation and the additional one-third bonus in respect of the accrued vacation. The law establishes what can be considered a good cause, such as dishonesty; improper conduct or lack of self-restraint; sloth in the execution of his/her duties, violation of trade secrets, any act of indiscipline or insubordination; etc.</p>
<p>What is good practice with regard to dismissal procedures to minimise the risk of claims for unfair dismissal?</p>	<p>A good practice from the employer in order to minimise these risks is to pay the right compensation to the employee (“outstanding salary”). It is also required that the employer notifies the employee of the dismissal in a minimum of eight days if the payment is done weekly; or thirty days in case the employee receives his/her salary every two weeks or monthly.</p>
<p>If an employee is dismissed unfairly what is the financial range of compensation that can be made to employees?</p>	<p>The employee shall have the following rights:</p> <ul style="list-style-type: none"> a) outstanding salary for the days worked during the month; b) 30 days' prior notice; c) proportionate 13th salary (calculated based on the salary earned during the last month of employment); d) vacation or double vacation, if any; e) one-third bonus in respect of vacation; and f) release of the FGTS deposits, with a fine of 40% of the total amounts deposited in the employee's FGTS account, during the employment contract.
<p>Do employees have the right to be members of a trade union?</p>	<p>The Brazilian Federal Constitution in its article 8 (eight) establishes that everyone is free to gather in a professional association or a trade union.</p>
<p>Is there any legal requirement for an employer to contribute to a pension for employees?</p>	<p>According to the Federal Constitution, the FGTS system became automatic and compulsory for all employees. Under the FGTS system, every month the employer deposits the equivalent of 8% of each employee's compensation for the previous month in a blocked bank account in the name of the employee. Every employee must be officially enrolled at the Social Security System. Social security in Brazil is sponsored by monthly contributions from employees, employers and the State. After a certain period of enrollment and contributions, the employee is entitled to receive social security benefits.</p>
<p>What are standard maternity rights?; What are parental leave rights (including paternity leave)?</p>	<p>The law grants to expectant mothers, employment stability from the moment pregnancy is notified until 4 months after the birth. The employee has also the right to remunerated with a maternity leave of 120 days to be granted to the period closest to the childbirth, which can be extended to 180 days in exchange of certain tax benefits to the employer. The law also provides a five-day paid paternity leave.</p>
<p>When are employees eligible for redundancy payments?</p>	<p>The employees have the right to earn a double salary whenever the employer does not provide the vacation in time. The employee also has the right for redundancy payment when working extra hours. The employee also has the right to an extra payment by the end of the year that correspond to the amount of his/her salary (13th salary).</p>
<p>Can existing employees</p>	<p>Yes, but an indemnification must be paid.</p>

be dismissed if you buy a business with employees?	
---	--