

**The LAW of DECEMBER 28, 1989
on the Special Rules of Termination of Employment
Contracts for Reasons Arising from the Employers
and on Amending Other Laws**
(Journal of Laws of January 27, 1990, No. 4, item 19)

Article 1

1. Provisions of this law shall apply to employing institutions where the personnel is reduced for economic reasons or due to organizational, production, or technological changes, including the situations where such changes are aimed at improvement of the working conditions or the natural environment, if they result in the need to dissolve, on one occasion or within a period of up to 3 months, the employment contracts with a group of at least 10 per cent of the staff in institutions employing up to 1000 persons, or of at least 100 persons in institutions employing more than 1000 persons.

2. Provisions of this law shall also apply to employing institutions that go bankrupt or are liquidated.

3. Provisions of this law shall apply to persons employed part time provided their wages earned in the employing institution mentioned in Paras 1 and 2 are their only source of maintenance or have been indicated by the person concerned as the basic source.

Article 2

1. Manager of the employing institution shall inform the factory trade union organization in writing about the need to dissolve the employment contracts with employees for the reasons specified in Art. 1 Paras 1 and 2 not later than 45 days before the date of execution of notices to terminate employment, informing at the same time about the reasons justifying the need to effect the intended terminations of employment contracts and specifying the number of employees and the professional groups designed for dismissal.

2. On reception of the notification mentioned in Para 1, the factory trade union organization shall have the right to demand from the manager of the employing institution information about that institution's economic and financial situation and the plans concerning the level and structure of its personnel ; that organization shall also have the right to submit to the manager, within 14 days at the latest after having been notified of the intended dismissals, its suggestions aimed at a reduction of the extent of those dismissals. In that case, the manager shall be obliged to assume an attitude towards such suggestions within 7 days, and to publish his attitude for the personnel's information.

Article 3

The manager of an employing institution is also obliged to inform about the intended dissolution of employment contracts with workers for the reasons mentioned in Art. 1 Paras 1 and 3 the employment agency of the basic level, not later than 45 days before the date of execution of notices terminating employment.

Article 4

1. The manager of an employing institution and the factory trade union organization shall conclude an agreement within 30 days after the notification mentioned in Art. 2 Para 1. The agreement shall specify the procedure in cases concerning the employees designed for dismissal, and in particular the criteria for selection of employees to be dismissed, the order and dates of execution of dismissals, and the employing institution's duties to the extent that proves necessary to decide in other employees' matters related to the intended dismissals.

2. At an employing institution where more than one factory trade union organization operates, the manager shall conclude a joint agreement with all the trade union organizations.

3. In case the agreement cannot be concluded due to the parties' inability to adjust its contents, the principles of procedure in cases of employees designed for dismissal shall be defined by the manager of an employing institution by way of rules and regulations, with due consideration to adjustments made with the trade union organization in the course of adjusting the agreement.

4. At an employing institution where no factory trade union organization operates, the procedure in cases of employees designed for dismissal shall be defined by the manager of that institution by way of rules and regulations, having consulted the personnel according to the procedure accepted in that institution.

Article 5

1. The termination of employment contracts with notice for the reasons specified in Art. 1 Para 1, shall not follow the procedure specified in Art. 38 of the Labour Code and the provision of Art. 41 of that code, with the stipulation of exceptions provided in Paras 2—4, and also special provisions concerning the protection of employees against termination with notice of employment contracts, with the stipulation of exceptions specified in Art. 4.

2. When terminating with notice employment, and also the conditions of work and payment, provisions of Art. 38 of the Labour Code shall be applied in case of a failure to conclude the agreement mentioned in Art. 4.

3. The termination with notice of employment in the situations specified in Art. 41 of the Labour Code shall not be admissible during a leave of up to 3 months, and also during another exculpated absence from work of the employee concerned, provided the period entitling the employing institution to dissolve the employment contract without notice has not yet been accomplished.

4. In the situations specified in Art. 41 of the Labour Code, the employing institution may notice, if necessary, the termination of conditions of work and payment of an employee. In case this results in a cut in wages, that employee is entitled, for up to 6 months, to a salary differential calculated according to the principles regulated by provisions passed on the grounds of Art. 297 of the Labour Code.

5. In the situations specified in Art. 1 Para 1, employment contracts concluded for a definite period or for the period necessary to perform a definite work may be dissolved by any of the parties by a two-weeks' notice of termination.

Article 6

If for the reasons specified in Art. 1 Para 1 it proves impossible further to employ in their former positions the employees mentioned in Art. Art. 39 and 177 of the Labour Code, and also employees who are members of the board of the factory trade union organization or of the workers' council of a state enterprise—during their term of office and within one year after its expiry—the employing institution may only notice the termination of those employees' conditions of work and payment. If this results in a cut in wages, the employee concerned shall be entitled to a salary differential till the end of the period in which he comes within the special protection of job security ; the amount of that differential shall be calculated according to the principles regulated by provisions passed on the grounds of Art. 297 of the Labour Code.

Article 7

In the case of termination of the employment contract with notice, for the reasons specified in Art. 1 Paras 1 and 2, the employing institution may reduce the employee's statutory term of notice according to the principles specified in Art. 36¹ of the Labour Code.

Article 8

1. An employee with whom the employment contract has been dissolved for the reasons specified in Art. 1 Paras 1 and 2 shall be entitled to : 1) a severance pay, and 2) a salary differential.

2. The severance pay shall be due to the amount of :

a) one-month's wages if the employee has worked for the total of less than 10 years ;

b) two-months' wages if the employee has worked for the total of at least 10 years but less than 20 years ;

c) three-months' wages if the employee has worked for the total of at least 20 years.

3. The severance pay shall not be due to an employee who is entitled to an unreiterated severance pay in connection with retirement or a grant of a disability pension.

4. The salary differential shall be due to an employee who takes up a job at another employing institution and earns less than the wages received at the institution where his contract of employment has been dissolved for the reasons specified in Art. 1 Paras 1 and 2.

5. The salary differential shall be paid by the employing institution where the employee has taken up a job, for 6 months from the day of dissolution of the employment contract for the reasons specified in Art. 1 Paras 1 and 2, to the amount of the difference between the wages in the former and present employing institutions. The related expenses shall be borne by the Labour Fund.

6. The details of calculation of the salary differential shall be specified by way of an ordinance by the Minister of Labour and Social Policy in consultation with the all-national inter-trade union organization and the national trade union representing the employees of most employing institutions.

Article 9

The payment of severance pays to employees with whom the institution terminates employment contracts for the reasons specified in Art. 1 Paras 1 and 2 during their leave or another exculpated absence from work, or while they do not perform work on the grounds of separate provisions, shall take place according to the rules, that concern the whole of employees affected by dismissals.

Article 10

1. Provisions of this law, to the exception of Art. Art. 2—4, shall also apply respectively in cases where the manager of an employing institution takes individual decisions to dismiss employees for the reasons specified in Art. 1 Para 1, provided those reasons are the only cause of termination of the employment contract, and dismissals that take place in the period of not longer than 3 months do not concern more than 10 per cent of the staff in institutions where up to 1000 persons are employed, and not more than 100 persons in institutions with the staff of over 1000 persons, with the stipulation of provisions of Paras 2—5.

2. In cases of notices to terminate employment contracts and also the conditions of work and payment, provisions of Art. 38 of the Labour Code shall apply with the stipulation of provisions of Para 3.

3. A termination of employment contracts with notice with the employees whose employment is subject to special protection against notice or dissolution by force of provisions of the Labour Code or special provisions may only take place under the stipulation that the factory trade union organization does not lodge an objection within 14 days after the receipt of a notification about the intended dismissal. In case the factory trade union organization fails to lodge an objection within that time-limit, the manager of an employing institution shall decide on the dissolution of employment contract.

4. In the case of employees mentioned in Para 3, the manager of an employing institution may notice the termination of conditions of work and payment if their further employment in the previous posts proves impossible for the reasons specified in Art. 1 Para 1.

5. If a notice of termination of conditions of work and payment results in a cut in the wages of the employees mentioned in Para 4, those employees shall be entitled to a salary differential to the amount and according to the principles provided in Art. Art. 5 Para 4 and 6.

Article 11

Provisions of this law shall apply respectively in cases of dissolution of the employment contract for the reasons specified in Art. 1 Paras 1 and 2 by force of an agreement of the parties.

Article 12

An employing institution should reemploy an employee with whom it dissolved the employment contract for the reasons specified in Art. 1 Para 1 in the case of new employment of employees from the same professional group, if that employee informs that institution of his intention to be reemployed within one year after the dissolution of employment contract.

Article 13

In cases of unjustified or illegal notices to terminate employment contracts, provisions of Section 4, Chapter II, Part Two of the Labour Code shall apply respectively.

Article 14

Provisions of this law shall not concern employees transferred to a new employing institution created as a result of organizational and legal transformations of a former institution or part thereof.

Article 15

1. In justified cases, on motion of an employment agency, an all-national inter-trade unions organization or a national trade union representing employees of most employing institutions, the Minister of Labour and Social Policy may, in consultation with the Minister of Finance, suspend for a period of up to 3 months the execution of an intended decision of the manager of an employing institution concerning the reduction of staff at that institution in the situation specified in Art. 1 Para 1.

2. During the period of that suspension, the wages of employees who have not been dismissed owing to the fact that the manager's decision was suspended shall be financed from the Labour Fund.

Article 16

Provisions of this Law shall not violate the rights of the workers' self-management organization that follow from separate provisions.

Article 17

Provisions of this Law shall not apply to nominated employees. Those employees are however entitled to pecuniary allowances provided in Art. 8, if their contract of employment is dissolved in the circumstances specified in Art. 1 Paras 1 and 2 and the provisions that regulate their rights and duties fail to provide for such performances.

Article 18

In the Law of June 30, 1970, on the military service of soldiers in professional service (*Journal of Laws*, No. 16, item 134 ; of 1972, No. 52, items 341 and 342 ; of 1974, No. 24, item 142, and No. 47, item 282 ; of 1979, No. 15, item. 97 ; of 1983, No. 16, item 78 ; and of 1989, No. 20, item 104, No. 34, item 178, and No. 35, item 192), Art. 79¹ is hereby added following Art. 79 which reads :

“Art. 79¹. A soldier may be dismissed from professional military service if for important personal reasons he fails to consent to take up another corresponding or higher post in the situation where, due to an armed forces reform, the military unit where he has been serving is disbanded or its staff reduced.”

Article 19

In the Law of April 10, 1974 : The Housing Regulations (*Journal of Laws* of 1987, No. 30, item 165, and of 1989, No. 10, item 57, No. 34, item 178, and No. 35, item 192), the following changes are hereby introduced :

1) Art. 57, Part 3, Point 2 shall read :

“2) dissolution of the employment contract by force of an agreement of the parties”,

2) following Art. 57, Art. 57^a shall be added which reads :

“Art. 57^a 1) In the case of a merger of employing institutions, the service apartments previously administered by those institutions shall become service apartments of the newly-created institution.

2) In the case of partition of an employing institution, an agreement should be negotiated concerning the taking over of the individual service apartments by the institutions created as a result of that partition.

3) To tenants with whom employment contracts have been dissolved in connection with a merger or partition of employing institutions and who have not been employed at the newly-created institutions, the respective provisions of Art. 57 Para 1 Point 1 and Para 3 Point 1 (a) shall apply.

4) In the case of liquidation of an employing institution or an announcement of its bankruptcy, the service apartments administered by that institution shall lose their former character ; the tenants of such apartments shall maintain for an indefinite period the rights acquired by force of the contract of lease.

5) Provision of Art. 4 shall apply respectively to tenants of apartments in buildings turned over by employing institutions to the municipal authorities.”

Article 20

In the Law of June 26, 1974 : The Labour Code (*Journal of Laws*, No. 24, item 141 ; of 1975, No. 16, item 91 ; of 1981, No. 6, item 23 ; of 1982, No. 31, item 214 ; of 1985, No. 20, item 85, and No. 35, item 162 ; of 1986, No. 42, item 201 ; of 1987, No. 21, item 124 ; of 1988, No. 20, item 134 ; and of 1989, No. 20, item 107, and No. 35, item 92), the following changes are hereby introduced :

1) Art. 41¹ paras 3 and 4 are deleted,

2) in Art. 177 para 4, first sentence, the wording “liquidation of the employing institution” is replaced with “announcement of bankruptcy or liquidation of the employing institution,”

3) Art. 196 point 2 shall read :

“2) announcement of bankruptcy or liquidation of the employing institution.”

Article 21

1. The allowances provided in Art. 8 shall also be due to employees whose contracts of employment have been dissolved for the reasons specified in Art. 1 Paras 1 and 2 in the period from September 1, 1989 till the day of coming into force of this Law.

2. The provision of Para 1 shall apply respectively if the dissolution of employment contract takes place after the day of coming into force of this Law as a result of a notice given before that date.

Article 22

Provisions of this Law shall not apply to employees whose employment contracts have been dissolved due to the bankruptcy or liquidation of a State enterprise on the grounds of Art. 1 point 2 (c) of the Law of May 11, 1988, on extraordinary rights and powers of the Council of Ministers (*Journal of Laws*, No. 13, item 98), or on

the grounds of Art. 4 Para 3 of the Law of February 1989, on same conditions of consolidation of the national economy and on changes of some laws (*Journal of Laws*, No. 10, item 57), if the announcement of bankruptcy or liquidation of the enterprise took place before September 1, 1989.

Article 23

This Law shall enter into force on the day of its publication.