



Termination of the contract during the trial period

The trial period is a probationary period at the start of the performance of a contract of employment. It allows the employer to make a judgment on the professional capacities of the employee and the employee to get an idea of the work he will have to perform. During the trial period, the employer and the employee may terminate the contract rapidly, easily and without compensation.

I. Contract termination methods during the trial period

Neither party may terminate the employment contract in the **first 2 weeks of the trial period except in the case of gross negligence**.

After these two weeks, the contract may be terminated at all times by either party to the contract. Such termination may be carried out by registered letter or by signature on the duplicate of the letter of termination.

A **period of notice** must be observed to that end. Said period shall be identical for both parties, i.e. in the event of dismissal by the employer or of resignation by the employee.

It shall vary depending on the length of the trial period initially stipulated in the employment contract. If the trial period is expressed in weeks, the period of notice shall comprise as many days as there are weeks in the trial period. Conversely, if the trial period is expressed in months, the period of notice shall be 4 days per trial month, with a minimum of 15 days and a maximum of 1 month. The period of notice shall be counted in terms of **calendar days**.

Trial period	Period of notice
2 weeks	Termination impossible, except for gross negligence
3 weeks	3 days
4 weeks	4 days
1 month	15 days
2 months	15 days
3 months	15 days

4 months	16 days
5 months	20 days
6 months	24 days
7 months	28 days
8 to 12 months	1 month

The main feature of the trial period is to be able to get out of the contract easily without having to go through the cumbersome ordinary redundancy procedure (applicable outside the trial period). Accordingly, the letter of termination shall be the sole essential element. The letter shall simply spell out the period of notice to be observed and indicate the exemption from notice where applicable. The employer doesn't need to provide reasons for dismissal during the period of notice. He actually has statutory discretion to terminate the contract during this period. Accordingly, even if the employee expressly so requests, the employer shall not be required to give any reasons. Furthermore, no prior interview has to take place.

Dismissal **effective immediately** nonetheless remains an option during the trial period. In such a case, the legal procedure for dismissal in the event of gross negligence shall be followed, and the reasons for termination shall in particular be indicated in the letter of dismissal.

II. Specific features of the period of notice during the trial period

In case of termination during the trial period, the notice period runs from **the day after** the day on which notice was given, i.e. the day after mailing the letter or delivery by hand.

Extreme care must be taken when calculating the period of notice, which must expire at **the latest on the last day of the trial period**. Thus, the trial period may not be exceeded under any circumstances, on pain of the contract being turned into a final contract.

Example: For an open-ended contract starting on 1 July 2019 with a 6-month trial period expiring on 31 December 2019, the period of notice shall be 24 days. The employer shall have to post his letter of termination at the latest on 7 December so that the period of notice ends on 30 December. In fact the period of notice must be calculated retroactively from the last day of the trial period.

If the letter of termination is sent after 9 December, the period of notice shall end after the last day of the trial period. The contract of employment shall then be considered as having been concluded definitively as of the day of entry into service. The employer shall have no other choice but to observe the ordinary redundancy procedure, i.e. with compliance of a two-month period of notice and the possibility for the employee to request the reasons for his dismissal.



The information published in this article is valid only on the date of publication of said article. As social legislation is frequently amended, please contact us concerning any question or intended use based on this article or a previously published article.

Pursuant to Article 2, §2 of the Act of 10 August 1991, as the Legal Department of SECUREX Luxembourg SA is not authorised to practice law, it shall limit its action at all times to disseminating information and documentation.

Such documentation and information thus provided under the legal subscription always constitute typical examples or summaries, are of indicative value, and lay no claim to being exhaustive. The addressee is solely responsible for the use and interpretation of the information or documentation referred to in this article, advice or acts he deduces as well as the results he obtains from them.