

A Legal Study on Rights of Civil Servants Under the Contractual Based Employment

By

Harold Emparak ak. Kerebo (2007143843)

Aza Hartini bt. Abdul Razak (2007144045)

Nur Nabiha bt. Mohd Azizi (2007144177)

Siti Nooraishah bt. Geoffrey (2007144207)

Siti Anis bt. Habibullah (2007144205)

Submitted in Partial Fulfillment of the Requirements for the Bachelor in Legal Studies (Hons)

Universiti Teknologi MARA

Faculty of Law

April 2010

The students/ authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ACKNOWLEDGEMENTS

This project paper was never an individual effort because it involves many to accomplish it. First and foremost we would like to extend our greatest thank you to our supervisor, Mr. Helmi Ibrahim for his guidance throughout the completion of this project paper.

Deepest gratitude and thanks to our families and friends for their encouragement and support in completing this project paper. Without their encouragement, this project paper would not be completed. Last but not list we would like to wish special thanks to whom we might not mentioned, who contributed directly or indirectly towards the completion of this project paper. Once again thank you.

ABSTRACT

The purpose of this study are to highlight and examine problems faced by civil servants on contract based employment and to discover possible solutions to the problem faced by the contract based employees. Employment of contract based employees are sometimes needed due to the fact that the service is needed only for a short duration and nature of work are more suitable by contract employees and not permanent employees. The findings show that employees under contract of service are granted benefits similar to permanent basis employees such as medical allowance, housing allowance and travelling allowance. The denial of such employment benefits are only for employees whom are under for service.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Contents	iv
List of Cases	vi
CHAPTER ONE: INTRODUCTION	1
1.1 Problem Statement	8
1.2 Objective of Research	9
1.3 Scope of Research	9
1.4 Methodology	9
CHAPTER TWO: LITERATURE REVIEW	10
CHAPTER THREE CONTENTS OF THE CONTRACT	13
3.1 Public Policy	14
3.2 Requirements for Appointment	14
3.3 Determination of Starting Salary and Annual Salary Increment	16
3.4 Rewards and EPF Contribution	16
3.5 Validity Period of the Contractual Appointment	17
3.6 Effective Date of Appointment	17
3.7 Termination of Contract	17
3.8 Act and Law Regarding Employment In Malaysia	17

3.9 Contract Services	18
3.9.1 Termination of the contract	20
3.9.2 Provision for Termination of Contract	20
3.9.3 Reason for Termination of Contract	21
3.9.4 Capability or Qualification	21
3.9.5 Misconduct	22
3.9.6 Dismissal	23
3.9.7 Retrenchment	24
3.9.8 Statutory Bar	24
3.9.9 Resignation	24
3.10 Retirement	24
3.11 Notice of Termination of Contract	24
3.12 Termination of Contract with Notice	25
3.13 Termination of Contract without Notice	25
3.14 Termination of Contract for Special Reason	26
3.15 Contract Deemed to be broken by Employer and Employee	27
CHAPTER FOUR: FINDINGS	28
CHAPTER FIVE: CONCLUSION AND RECOMMENDATION	43
5.1 CONCLUSION	43
5.2 RECOMMENDATION	44
REFERENCES	45
APPENDIXES	