

DETERMINATION  
OF CONTRACTOR'S EMPLOYMENT UNDER PWD 203A (REV. 2007) AND  
PAM 2006 STANDARD FORMS OF CONTRACT

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## ABSTRACT

All standard forms of construction contract contain clauses for determination of contracts. For example, PAM forms, PWD 203A forms, etc. PAM has introduced a new set of standard form entitled PAM 2006 to replace the PAM 1998 to suit the current situation. It is the same with the PWD 203A form where the PWD 203A (Rev. 10/83) has been replaced by the PWD 203A (Rev. 2007). However, based on a preliminary study that had been conducted for the research, it has been found out that both of the employers and contractors may not actually realize their rights, procedures and effects in determining the contractor's employment under the new forms. Hence, this study will focus on the general rights, procedures and effects as a result of determination of the contractor's employment under the new forms. Furthermore, this study was carried out by referring to previous law cases which were collected from the Malaysia Law Journal through Lexis-Nexis Legal Database and all the cases were between the years of 1966 to 2009. However, since there were no cases based on the new forms of contract had been recorded, the analysis would be carried out based on the judgment of the cases which deliberated on the old version of standard forms of contract compared with the provisions which had been stated in the new forms of contract. Finally, the results showed that the new forms PWD 203A (Rev. 2007) and PAM 2006 (With Quantity) are more complex, flexible and more accurate to be used in Malaysia if compared with the old forms PWD 203A (Rev.10/83) and PAM 1998 (With Quantity) in term of general rights, procedures and effects due to the determination of contractor's employment.

## ABSTRAK

Semua jenis borang kontrak setara mengandungi klausa penamatan kontrak. Contohnya, borang kontrak setara PAM 2006, borang kontrak setara JKR 203A dan sebagainya. Tambahan pula, PAM telah memperkenalkan satu set borang kontrak setara yang baru, iaitu PAM 2006 bagi menggantikan PAM 1998 demi kesesuaian situasi kini. Begitu juga dengan borang kontrak setara JKR 203A di mana JKR 203A (Semakan 10/83) telah digantikan oleh JKR 203A (Semakan 2007). Walau bagaimanapun, berdasarkan kajian awal yang telah dijalankan untuk penyelidikan ini, didapati bahawa tidak kira majikan atau kontraktor sebenarnya tidak menyedari hak mereka, prosedur dan kesan dalam penamatan pengambilan kerja kontraktor di bawah borang kontrak setara yang baru. Oleh itu, fokus kajian ini adalah hak-hak umum, prosedur-prosedur dan kesan-kesan dalam penamatan pengambilan kerja kontraktor di bawah borang kontrak setara yang baru. Kajian ini telah dilaksanakan dengan merujuk kepada kes-kes perundangan yang dikumpul dari *Malaysia Law Journal* dengan menggunakan Lexis-Nexis Legal Database dan semua kes perundangan adalah dalam lingkungan tahun 1960 sehingga 2009. Namun demikian, analisis ini dijalankan dengan mempertimbangkan penghakiman terhadap kes-kes dalam versi lama borang kontrak setara dibandingkan dengan peruntukan-peruntukan yang dinyatakan dalam borang kontrak setara yang baru kerana tidak terdapat kes-kes berdasarkan borang kontrak setara yang baru telah dicatatkan. Kesimpulannya, didapati bahawa borang kontrak setara yang baru adalah lebih kompleks, fleksibel dan lebih tepat digunapakai di Malaysia jika dibandingkan dengan borang kontrak setara yang lama dalam hak-hak umum, prosedur-prosedur dan kesan-kesan penamatan pengambilan kerja kontraktor.