

CCS Insights: Retrenchment 33 – Duty to submit particulars under PK Form applies to all employees

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The point is that employers must ensure that any retrenchment exercise in the company is conducted fairly. This includes: early consultation or warning affected employees of the impending retrenchment; and how the company chooses those employees who are considered redundant and the possibility of re-deployment within the Company.

The retrenchment exercise needs to clearly show that the employer has acted bona fide (good faith).

In West Malaysia, the main legislation on labour and employment relationship is the Employment Act 1955(EA). Pursuant to s 60J of the EA, the Employment (Termination and Lay-Off Benefits) Regulations were enacted in 1980. This regulation provides basic termination and layoff benefits for employees who have lost their jobs.

The states of Sabah and Sarawak have its own set of labour legislation, namely the Sabah Labour Ordinance (Cap 67)) and the Sarawak Labour Ordinance (Cap 76).

The Labour (Termination and Lay-Off Benefits) (Sarawak) Rules 2008 and The Labour (Termination and Lay-Off Benefits) (Sabah) Rules 2008 both provide for payment of termination, layoff and retrenchment benefits similar to the Regulation in the Peninsular.

Pursuant to a notification by Gazette under s 63 of the EA 1955, there is legal a requirement to submit the PK Form when the following actions are to be taken:

- (i) Retrenchment,
- (ii) Voluntary separation scheme (VSS),
- (iii) Temporary lay-off; and
- (iv) Salary reduction

Regardless of the monthly salary, all employers are responsible for submitting PK forms

It is also a requirement under The Labour (Termination and Lay-Off Benefits) (Sarawak) Rules 2008 and The Labour (Termination and Lay-Off Benefits) (Sabah)

Rules 2008 for the employers to report to the nearest Department before any of the following actions are to be taken:

- (i) Retrenchment;
- (ii) Voluntary separation scheme (VSS);
- (iii) Temporary lay-off; and
- (iv) Salary reduction.



重点是雇主主要确保公司中的任何裁员活动都是公平进行的。这包括里：提早咨询或警告受影响的员工，公司即将进行的裁员；以及公司采用什么方式选择出那些被认为是冗余的员工及公司内部整顿的可能性。

裁员活动需要明确的显示出：用人单位的这个行为是善意的（诚实的）。

在西马来西亚，有关劳资关系的主要立法是 1955 年劳工法令。援引劳工法第 60J 条文阐明，《就业（终止和遣散津贴）条例》在 1980 年被颁布，这个条例针对失去工作的员工，规定了基本的裁员和遣散津贴。

沙巴州和砂拉越州各别有着一套本身的劳工法，分别是《沙巴劳工条例》（第 67 章）和砂拉越劳工条例（第 76 章）。

2008 年砂拉越劳工（终止和遣散福利）条规和 2008 年沙巴劳共（终止和遣散福利）条规都规定了与西马劳工法相似的终止、遣散和裁员福利。

援引宪报道颁布，1955 年劳工法令第 63 条文阐明，在采取以下行动时，都需要提交 PK 表格：

- (i) 裁员，
- (ii) 自愿离职计划（VSS），
- (iii) 临时遣散；和
- (iv) 减薪

无论月薪多少，所有的雇主都有责任提交 PK 表格。

2008 年砂拉越劳工（终止和遣散福利）条规和 2008 年沙巴劳共（终止和遣散福利）条规也是有要求雇主在采取以下任何一项行动前，需要向最临近的劳工部门作出汇报报告 [提交与 PK 表格类似的表格]：

- (i) 裁员，
- (ii) 自愿离职计划（VSS），
- (iii) 临时遣散；和
- (iv) 减薪

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