

Temporary Employment Contract Elements

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Received: 10.09.2024

Revised: 18.10.2024

Accepted: 24.11.2024

ABSTRACT

A temporary employment contract is one of the forms of employment that responds to the needs of the modern labor market, as it depends on providing labor for a specific period of time based on a prior agreement between the worker and the employer. This type of contract is highly flexible, allowing business owners to meet their changing labor needs without committing to long-term employment relationships temporary employment contract represents a worker with an opportunity to obtain employment at certain times, but it also reflects a degree of instability and a lack of long-term guarantees provided by a permanent employment contract.

Keywords: permanent, instability, employment, long-term

INTRODUCTION

A temporary employment contract is a form of employment that responds to the needs of the modern labor market, as it relies on providing labor for a specific period of time based on a prior agreement between the worker and the employer. This type of contract is characterized by high flexibility that allows employers to meet their changing labor needs without committing to long-term employment relationships. In contrast, a temporary employment contract represents an opportunity for the worker to obtain work at specific times, but it also reflects a degree of instability and a lack of long-term guarantees provided by a permanent employment contract. To conclude a temporary employment contract, basic elements must be present that make it valid and legal according to the applicable regulations. These elements include consent, eligibility, subject matter, and location

Consent is the first element of a temporary employment contract, as there must be agreement between the will of the worker and the employer regarding the terms of the contract. Consent must be clear and explicit and cover all aspects of the contractual relationship, including the nature of the work, the wage, and the duration of the contract

Consent is a crucial element, as any defect in consent can lead to the contract being invalid or subject to challenge. Capacity The second element is capacity, which means the ability of both parties to enter into a legal contract. Both the worker and the employer must have the legal capacity necessary to conclude the contract. In many legal systems, it is required that both parties be of legal age and have full legal capacity. In the case of temporary contracts, this element is of utmost importance as the worker is often in a precarious situation, making legal capacity vital to ensuring the rights of both parties

Subject Matter The subject matter is the third element of the contract, and refers to the work that the worker will have to do. The subject matter of the contract must be lawful and not contrary to public order or morals. In temporary employment contracts, the subject matter is often more precisely defined since the work is often for specific tasks that require a short period of time or are seasonal. Clarity of the subject matter of the contract is essential to ensure that the parties understand clearly what is expected of them.

The fourth pillar is the place, which means the wage or consideration that the worker will receive in exchange for his work. The place must be legitimate and clearly defined in the contract. In temporary employment contracts, the place may take different forms depending on the nature of the work and the duration of the contract, and it must be fair and in compliance with applicable labor laws to ensure the protection of the worker's rights.

Another important aspect that distinguishes temporary employment contracts is the need to clearly define the time period. This period must be specific and known to both parties, as the essence of the temporary contract depends on the nature of the work during a specific period of time. In addition, it is important that the contract includes clauses related to rights and duties, and mechanisms for terminating the contract before its expiration if there are legal justifications for that.

Research Problem

The research problem is to understand how to conclude a temporary employment contract in a way that guarantees the rights of both parties (employer and worker) according to the applicable legal systems. What are the basic pillars that must be available to make a temporary employment contract valid and productive, and how do these pillars affect labor relations and workers' rights in light of changing labor market conditions?

The importance of this research: lies in shedding light on the concept of temporary employment contract and its basic pillars, which helps to identify the legal dimensions related to this type of employment. Understanding the pillars of the contract can also contribute to developing a more effective legal framework to regulate temporary work, and enhance the protection of the rights of workers and employers alike. In addition, the research shows how temporary employment contract can play a positive role in providing job opportunities and enhancing market flexibility.

Research objectives

1. **Identify the pillars of the temporary employment contract:** Clarify the four basic pillars (consent, capacity, subject, and place) necessary to conclude a temporary employment contract legally.
2. **Analyze the legal implications:** Study the legal implications of each pillar of the contract and its impact on the rights and duties of both the worker and the employer.
3. **Highlight the challenges:** Clarify the challenges faced by workers in temporary employment contracts, such as instability and lack of social guarantees.
4. **Suggest improvements:** Provide recommendations to improve the legal and regulatory frameworks governing temporary employment contracts in a way that achieves a balance between the economic interest of the employer and the rights of the worker.

Research Methodology

The researcher adopted the inductive analysis method through analyzing and inducting the relevant laws in the provisions of temporary work.

Research Structure

The researcher divide the research into two sections as follows:

The first section: Determining the duration.

The second section: The existence of contractors.

Section One: Determining the Term

A temporary employment contract is one of the common forms of employment that meets the temporary needs of both employers and employees. In this type of contract, determining the term is one of the most important pillars that must be clearly defined. Determining the term is an essential condition to guarantee the rights of both parties and to define the scope of obligations and duties. Although this type of contract provides a degree of flexibility to employers, determining the term must be done in a way that respects the rights of workers and ensures that they are not exploited.

Determining the duration of a temporary employment contract means specifying the period of time during which the worker is obligated to provide his services to the employer. This duration must be clearly defined from the beginning to avoid any ambiguity or future disputes between the two parties. When the duration of the contract is clear, both parties can prepare to terminate the contractual relationship or consider renewing the contract if necessary. In a legal context, not specifying the duration accurately is one of the defects that may lead to the contract being considered illegal or being challenged

Determining the duration is not limited to specifying the beginning and end of the contract, but also extends to include the rights of the worker during that period. For example, the worker must know the length of his work period and when the contract is expected to end. This directly affects the financial and social stability of the worker. In the case of temporary employment contracts, the duration is determined based on the employer's need, but this must be done while taking into account the worker's rights to obtain a reasonable period of time to achieve his personal and professional goals

On the other hand, setting the duration is also a means of protecting the employer. The employer can plan his projects and manage his workforce more effectively when he knows exactly how long the worker will be working. In addition, the employer can avoid taking on long-term commitments if the need for work is temporary in nature. Therefore, setting the duration is a crucial element in temporary employment contracts because it provides clarity for both parties and sets the framework of the contractual relationship.

Legal legislation in many countries requires that temporary employment contracts be of a fixed duration. For example, in some countries, the maximum duration of a temporary employment contract is set to avoid exploitation of workers through continuous renewal of contracts. In this context, legislation plays a pivotal role

in protecting workers' rights and ensuring that temporary employment contracts are not used as a means of avoiding the provision of social protection and other rights provided by permanent employment contracts.

In some cases, there may be exceptional circumstances that lead to an extension or shortening of the contract duration. For example, in the event of unforeseen circumstances such as economic crises or health emergencies, the parties may agree to amend the contract duration. These amendments must be based on mutual agreement between the parties and take into account local laws governing temporary employment contracts.

The first requirement: specifying the duration in the legal system of the temporary employment contract in Iraq

The temporary employment contract is considered one of the important forms of contractual relations between the worker and the employer, and it gains great importance in the context of the Iraqi legal system because it meets the temporary needs of employers and provides workers with job opportunities that may be temporary but necessary in their career path. Specifying the duration is one of the essential pillars of the temporary employment contract, which determines the scope of the relationship between the two parties and gives it an acceptable legal character. In the Iraqi legal system, the temporary employment contract requires a precise determination of the duration during which the worker will continue to provide his services, in accordance with the applicable laws and guaranteeing the rights of both parties

Article (38) of Iraqi Law No. 37 of 2015 stipulates that

"First: A fixed-term employment contract shall be concluded to carry out a specific work or provide a specific service related to a work or project that ends on a specific date or on an expected date, provided that the contract period does not exceed one year.

Second: The contract period may not be specified in work of an ongoing nature unless work requirements require the use of additional workers for a specific period and for a specific period.

Third: A worker with a fixed-term employment contract enjoys the same rights as a worker with a permanent employment contract.

Fourth: The employment contract becomes indefinite if it is renewed more than once."

Thus, specifying the period in a temporary employment contract is an essential element because it clearly defines the framework of the contractual relationship between the worker and the employer. In Iraq, the law requires that this period be explicitly and clearly specified from the beginning to ensure clarity of obligations and expectations between the two parties. Specifying the period helps determine the end of the contract, thus avoiding any potential disputes between the two parties that may arise due to the lack of clarity of the agreed-upon work period. Failure to clearly specify the duration may result in it being classified as a permanent employment contract, which entails additional obligations on the employer.

Iraqi law requires that temporary employment contracts be specified for a clear and specific period, and prohibits the renewal of these contracts more than once unless justified by an urgent need. These laws aim to protect the worker from exploitation and ensure that he obtains his rights in full, and also seek to maintain a balance between the interests of the employer and the worker. Law No. 37 of 2015 is one of the main laws regulating employment contracts in Iraq, as this law specifies how to organize temporary employment contracts and requires that the period specified in the contract be consistent with the nature of the temporary work.

Specifying the period in a temporary employment contract in Iraq is one of the decisive factors that guarantee the worker his legal rights. Once the specified period ends, the worker is entitled to all his rights stipulated in the contract and the law, such as end-of-service benefits or any other compensation. On the other hand, the employer can terminate the contract upon the expiration of the period without the need to provide additional reasons, unless there is an agreement to extend the contract or convert it to a permanent contract.

Despite the clarity of the legal texts regarding the determination of the duration of temporary contracts, the Iraqi legal system faces several challenges in implementation. Among these challenges is the lack of strict adherence by some employers to specifying the duration accurately, or attempts to manipulate the law by continuously renewing temporary contracts to avoid converting them into permanent contracts. In addition, some workers lack awareness of their legal rights, which makes them vulnerable to exploitation.

The second requirement: Determining the duration in the legal system of the temporary employment contract in Iran

The temporary employment contract is one of the contracts that is of great importance in the Iranian legal system, as it is a legal tool through which the contractual relationship between the worker and the employer is regulated for a specific period. Determining the duration is one of the basic pillars of the temporary employment contract, as it determines the time frame within which the contract is implemented and ends the contractual relationship upon its expiration. This determination gives both the worker and the employer clarity about the duration of mutual obligations, which contributes to regulating the relationship between the two parties in a way that achieves a balance between the rights and duties of each of them.

The Iranian law stipulates, in Article 11 of the Labor Law, according to the Labor Law, that the duration of the trial period must be specified in the employment contract. This maximum period is one month for unskilled and semi-skilled workers and 3 months for highly experienced skilled workers.

Determining the duration in the temporary employment contract is considered a vital element that ensures the stability of the contractual relationship between the two parties and avoids potential disputes. Specifying the duration helps avoid ambiguity that may arise if the duration is not explicitly specified, and ensures that the contract will not become a permanent contract except by agreement of both parties or by repeated renewal of the temporary contract under certain conditions. Iranian law pays great attention to specifying the duration in temporary contracts to ensure the rights of both the worker and the employer.

Article (11) of the Labor Law stipulates that by mutual agreement, the two parties may determine a period of time called the probationary period. During this period, each party has the right to terminate the employment relationship without prior notice and without being required to pay compensation. If the employer terminates the employment relationship, he will be required to pay all wages for the probationary period, and if the worker terminates this relationship, he will only be entitled to receive the salary for the entire duration of the employment.

The Iranian legal system is characterized by precise controls regarding the determination of the duration in temporary employment contracts. According to the applicable laws, the temporary contract must be specified with a clear duration from the beginning, and this duration may not be extended or the contract renewed except under specific conditions stipulated in the law. These laws aim to prevent excessive exploitation of temporary contracts by employers and to ensure that workers enjoy legal protection even in cases of temporary employment.

Iranian law, through labor regulations, emphasizes that any unjustified renewal of a temporary contract may lead to its conversion into a permanent contract, which entails additional obligations on the employer.

Setting the duration in temporary contracts in Iran is not limited to setting a time frame for the end of the contract, but also aims to protect workers' rights in general. By setting a specific duration for the contract, workers can know when the contractual relationship ends and what their rights are at the end of the term, such as receiving end-of-service compensation or other rights related to the period of employment. Setting the duration also gives workers clarity about the duration of their commitment to the contract, which helps them plan their careers better.

Article 7 of the Iranian Labor Law states: "The maximum temporary duration of work that is not continuous in nature will be determined by the Ministry of Labor in the Labor and Social Affairs Law and will be approved by the Council of Ministers." Although the Iranian legal system provides a clear framework for determining the duration of temporary employment contracts, there are challenges facing the practical application of this legislation. Among these challenges is the lack of full commitment by some employers to specify the duration accurately or attempts to manipulate the law by continuously renewing temporary contracts to avoid converting them into permanent contracts. In addition, the lack of awareness of workers' rights sometimes makes them vulnerable to exploitation by employers who may exploit legal loopholes to gain additional profits.

Section Two: The Existence of Contracting Parties

A temporary employment contract is considered a contract of a special nature in the field of work, and differs from a permanent contract in that it is of a fixed term and ends at the end of the agreed-upon term or at the end of the task that was agreed to be implemented. This contract is of great importance in providing flexibility for both the worker and the employer in determining their contractual relationship based on the need for work or the special circumstances of both parties. To form a temporary employment contract, certain pillars must be present that determine the validity of this contract, and one of these basic pillars is the presence of the contractors, i.e. the worker and the employer.

The presence of the contractors is considered one of the essential pillars of a temporary employment contract, as it is impossible to imagine a contract without at least two parties agreeing on the mutual obligations and rights between them. The worker in this contract represents the first party, as he offers his services to perform a specific job in exchange for a specific wage, and expresses his explicit will to accept the terms included in the contract. While the employer represents the second party, as he provides the job opportunity and determines the wage and other conditions that govern the contractual relationship.

The existence of the contracting parties must be real and based on free and unblemished will, meaning that both parties must be fully aware of all the terms of the contract and agree to them voluntarily without coercion or fraud. Each of them must also have the legal capacity that enables them to conclude the contract. The employee and the employer must be adults, sane, and mature, and have full legal capacity to contract. If one of the parties lacks this capacity or is a minor from a legal standpoint, the contract may be voidable.

Legal capacity also requires that both the employee and the employer have reached the legal age of majority specified in national laws. For example, the legal age for employment varies from country to country, and some

laws may require the consent of parents or guardians if the employee is a minor. In some cases, the employee must obtain special licenses to practice certain professions that require specific qualifications.

It is worth noting that legal capacity varies depending on the type (natural person or legal person) and the legal nature of each party. Legal persons, such as companies and institutions, must have the legal powers that allow them to conclude employment contracts in accordance with their articles of association and local laws. If the contract is concluded without these powers, the contract may be considered void or voidable.

In addition, the will of the parties must be clear and explicit in expressing their agreement to the terms, as any ambiguity or lack of clarity may lead to legal disputes in the future. The will must also be free from any defects that affect the validity of the contract, such as error, fraud, or coercion, because the presence of any of these defects may make the contract voidable at the request of the affected party.

The presence of the contracting parties with full capacity and free will enhances the stability of the contractual relationship and limits disputes that may arise due to the lack of clarity or failure of one of the parties to express his will. Each party's understanding of his duties and rights through a well-drafted temporary employment contract based on sound legal foundations helps avoid disputes and leads to the implementation of the contract in a way that achieves the benefit of both parties. Accordingly, the presence of the contracting parties is not merely a formal element, but rather an essential element that reflects on the legitimacy of the contract and its legal effect.

First requirement: The presence of contractors in the legal system of the temporary employment contract in Iraq

The temporary employment contract is one of the legal tools used by companies and institutions to meet their temporary needs for manpower under certain circumstances. The presence of contractors is one of the basic pillars of the temporary employment contract in the Iraqi legal system, as the law requires the presence of two basic parties in the contract: the worker and the employer. This basic pillar plays a pivotal role in establishing the contractual relationship and determines the mutual obligations and rights between the two parties.

In the Iraqi legal system, the presence of contractors is an indispensable basis for the validity of the temporary employment contract. Without the presence of two contracting parties, there can be no legally valid contract. Iraqi law requires that both parties (the worker and the employer) have full legal capacity to contract, which means that they are adults, sane, and able to understand their obligations and rights. The presence of contractors clearly helps avoid legal disputes that may arise later, especially in the event of differences in the interpretation of the terms of the contract or in the event of premature termination of the contract.

A temporary employment contract in Iraq is a type of contract that is characterized by a specific period of time, as it is used in certain cases such as temporary projects or work that requires additional labor for a limited period. A temporary employment contract in Iraq is subject to Labor Law No. 37 of 2015, which regulates the rights and duties of workers and employers. The law stipulates that all workers, including temporary workers, enjoy certain rights such as fair wages and appropriate working conditions.

Contractors' rights include receiving wages commensurate with the work performed, registering in the social security system, and claiming legal rights such as vacations, rest, and a safe and healthy work environment. Contractors' duties include adhering to the terms of the contract, providing notice upon termination of the contract, and submitting the required documents.

Accordingly, Iraqi law stipulates several criteria to ensure the clarity of the identity of contractors and the definition of their roles in a temporary employment contract. The contract must include accurate information about the identity of both the worker and the employer, including the full name, address, and legal location of each party. In addition, the law requires clarification of the legal capacity of both parties, as both parties must be legally qualified to enter into an employment contract. This attention to detail enhances the protection of the rights of both parties and contributes to reducing the risks associated with legal disputes.

Despite the clarity of Iraqi laws regarding the existence of contractors, there are some challenges that may face the application of this element. These challenges may relate to documenting the contract and accurately identifying the contractors, especially in cases where the contract is made orally or in cases of informal work. This may lead to problems in proving the existence of a contractual relationship between the two parties in the event of a dispute. Therefore, Iraqi law recommends that all employment contracts be officially documented and registered with the relevant authorities to ensure the rights of both the worker and the employer.

The presence of contractors in a temporary contract has a significant impact on the continuity and termination of the contract. In the Iraqi legal system, the presence of contractors is a decisive factor in determining the terms of termination of the contract. If one party fails to fulfill its obligations, this may lead to the unexpected termination of the contract, resulting in compensation or legal penalties.

Therefore, Iraqi law is keen to ensure that the terms of the presence of contractors are clear and understood by both parties before signing the contract. To enhance the clarity of the presence of contractors and avoid potential legal disputes, Iraqi law emphasizes the importance of documenting the contract with the relevant authorities. This documentation includes registering the contract with the Ministry of Labor and Social Affairs, and

providing copies of it to both parties. It is also advisable to sign the contract in the presence of witnesses or through a legal entity to ensure that it has the required legal force. This documentation helps protect the rights of contractors and enhances trust between the two parties.

The second requirement: The presence of contractors in the legal system of temporary employment contracts in Iran.

A temporary employment contract is one of the contracts that many institutions rely on to meet their changing and diverse needs, especially in dynamic economic environments. One of the basic pillars of a temporary employment contract is the "presence of contractors", that is, the presence of two main parties, the worker and the employer, who agree on the terms and conditions of work for a specific period of time.

The presence of contractors constitutes the basic foundation on which a temporary employment contract is built. Without the presence of these two parties and their agreement on the terms, there can be no contract at all. This pillar is very important in determining the rights and obligations of each party towards the other during the contract period. The worker represents the party that provides the services or specific work, while the employer is the party that undertakes to provide the financial compensation for these services.

Article 10 of the Iranian Labor Law stipulates that the employment contract must include the following:

1. The type of work or profession that the worker will perform.
2. The basic salary and its allowances.
3. Working hours, holidays and vacations.
4. The place of work.
5. The date of concluding the contract.
6. The duration of the contract if it is specified for a specific period.
7. Any other cases required by custom or occupational practice.

The importance of the presence of contractors in a temporary employment contract lies in the clarity of the legal relationship between the two parties. Through the presence of contractors, the obligations of each party are documented, which ensures the protection of the rights of both parties during the term of the contract. In this context, identifying the worker and the employer and clarifying the role of each is an essential element to avoid potential disputes. A contract that does not accurately specify the presence of contractors may lead to legal disputes regarding who is responsible for implementing the agreed-upon obligations.

In the legal system of temporary employment contracts in Iran, the presence of contractors is considered an essential part of regulating the labor market. Temporary employment contracts are regulated by local laws, which aim to protect the rights of workers and define the duties of employers. A temporary employment contract is an agreement between a worker and an employer under which the worker is employed for a specific period of time, and is usually used to meet temporary or seasonal work needs.

Iranian laws include several provisions related to temporary employment contracts, as these contracts must include clear terms regarding the duration, wages, and rights of both parties. Arbitration agreements are also permitted in the event of disputes between the parties, which enhances the protection of the rights of contractors. Contractors in Iran enjoy several rights, including fair wages, social security, and the right to terminate the contract.

Despite the existence of laws, contractors in Iran face challenges in implementing these rights. There may be instances of exploitation or non-compliance by employers, which calls for greater oversight by the relevant authorities. In general, the presence of contractors in the legal system of temporary employment contracts in Iran is considered part of the efforts to regulate the labor market and protect workers' rights, despite the challenges they may face. In the Iranian legal system, the presence of contractors is emphasized as a fundamental element to ensure the validity of the temporary employment contract. Iranian laws stipulate that the identity of both the worker and the employer must be clearly and in detail specified in the contract. This includes details such as the full name, address, and legal identity of each party. Furthermore, both the worker and the employer must be legally capable of entering into this contract, i.e. have the necessary legal capacity. The presence of contractors clearly in the contract helps determine who bears legal responsibility in the event of any dispute or breach of the agreed terms.

Although the legal legislation is clear regarding the existence of contractors, there are some challenges that may face the application of this pillar in temporary contracts. Among these challenges is the manipulation of information related to contractors, as inaccurate or incomplete information may be provided by one of the parties. In some cases, the worker may face difficulty in proving the existence of a clear contractual relationship with the employer if the contract is not properly documented or if there are differences in the interpretation of the clauses related to the existence of contractors. Therefore, the Iranian legal system emphasizes the importance of accurate and detailed documentation of the relationship between contractors to ensure the protection of the rights of both parties.

The documentation process plays a pivotal role in enhancing the clarity of the contractual relationship between contractors. Documentation is not limited to writing the contract only, but also includes keeping records and

ensuring that the contract is signed by both parties with witnesses if necessary. The existence of contractors becomes clearer and stronger when there is comprehensive documentation of everything that has been agreed upon, which contributes to reducing the chances of disputes and ensuring respect for mutual obligations. In the Iranian context, it is recommended that the notarization be done in the presence of witnesses or through official bodies to ensure that the contract has full legal force.

CONCLUSION

This study addressed the pillars of the temporary employment contract, explaining the legal dimensions necessary to ensure the validity of this contract. The temporary employment contract represents a flexible mechanism for employment that keeps pace with the changing needs of the labor market, but at the same time it imposes challenges related to workers' rights and the degree of their professional stability. By reviewing the pillars of this contract, it became clear that consent, eligibility, subject matter, and location constitute the foundations that must be adhered to ensure that the contract is consistent with the legal texts stipulated. Despite the benefits of temporary employment contracts, there remains an urgent need to enhance the legal protection of workers in these employment patterns.

RESULTS

1. Identifying the basic pillars: Four main pillars of the temporary employment contract were identified: consent, capacity, subject matter, and subject matter, which ensure the legal validity of the contract.
2. Associated challenges: Workers in temporary employment contracts face risks, most notably job instability and lack of social security, which negatively affects their ability to plan for the future.
3. Legal awareness: There is a lack of awareness of workers' rights related to temporary employment contracts, which hinders their ability to defend their rights and achieve justice in the work environment.

Recommendations

1. Enhancing legal understanding: It is recommended to conduct awareness campaigns to raise awareness among workers and employers about the pillars and rights of temporary employment contracts.
2. Improving legal frameworks: Current laws related to temporary employment contracts should be reviewed to ensure better legal protection for workers, including social guarantees and improved working conditions.
3. Enhancing oversight: Oversight mechanisms should be strengthened to monitor the implementation of laws related to temporary employment contracts, to ensure workers' rights and provide the necessary protection.
4. Providing support to workers: It is suggested to establish support and assistance centers for temporary workers, aiming to provide legal advice and assistance in cases of disputes with employers.
5. Studying the social impact: It is recommended to conduct future studies on the social and economic impact of temporary employment contracts, which will help in a deeper understanding of the challenges and opportunities in the labor market.

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