

Employment law 'top issues' survey 2021

Employers still nervous about Holidays Act reform but equally concerned about Covid-related employment issues

In August 2021 we ran the fourth edition of our survey of employer clients, asking them to identify their top employment law issues, and received over 120 responses.

Respondents were invited to select their top three employment issues. The findings show that Holidays Act reform is still a top 'business critical' issue for employers. However, the range of employment issues thrown up by Covid-19 and related disruptions are also looming large.

Top issues – Holidays Act reform and Covid knock-on effects for workplaces

In our previous surveys, simplification of the Holidays Act 2003 was the top concern by a significant margin. It was again the top concern this year, but by a much slimmer margin (53% of respondents selected it as a main issue compared to 82% last year).

Specifically, respondents had reservations over whether the Holidays Act Taskforce recommendations will lead to the Holidays Act being simplified or only add to the existing complexity and cost.

A respondent commented:

"While there are some bits in the Holidays Act recommendations that make sense (and reflect what a good employer should do anyway), the key issues are not addressed (eg ongoing hours/ days/ weeks muddle, various complicated leave payment calculations, etc)".

It's no surprise that Covid-19 related employment law issues were the second most selected survey option (chosen by 51% of respondents). Issues such as whether employee vaccinations can be compulsory or mandated, shortages of skilled workers, and scarce MIQ availability are creating ongoing headaches for many employers.

One respondent commented:

"Getting wide spread vaccination is critical for NZ".

Another respondent commented:

"health and safety - risk assurance when the borders open, and Covid arrives, the changing circumstances with Covid and burnout stress and fatigue after 18 months of a pandemic".

Other key issues

Fair Pay Agreements – Just over a third of respondents (34%) identified the setting of minimum standards for all employees and employers in a particular industry or occupation as a key issue.

Bullying and harassment – Greater guidance on what is bullying and harassment and how to manage it was a concern for 24% of respondents (down from 30% in 2020).

Fixed Term Agreements – 21% of respondents want the Government to make it simpler to employ staff for a valid fixed term period.

Comment

Simplification of the Holidays Act has been the top concern for respondents in all three of our previous surveys, and now again in 2021. It remains a key issue for employers who are concerned that the Holidays Act Taskforce recommendations, rather than leading to the Holidays Act being simplified, will increase complexity and cost.

The fact that concerns about the Holidays Act still rank as the number one critical issue facing employers in the current environment shows the legislation needs an overhaul beyond that recommended by the Taskforce and adopted by the Government. There needs to be a simple accrual methodology for annual holidays.

Not surprisingly, the ongoing impact and issues arising from Covid-19 are at the forefront of everyone's mind. The issues are broad and topical at the moment, given the current Delta outbreak and lockdown, and include compulsory vaccinations for all employees, closed borders, MIQ availability and recruitment of skilled workers.

Next steps

We'll be inviting the Minister of Workplace Relations and Safety to meet with us to discuss the survey findings, along with the key themes and priorities for workplaces over the next two years.

We will also continue our campaign for simplification of the Holidays Act 2003. The continued uncertainty and compliance cost in this area is not serving employers or employees well, and we will be ready to comment on the new draft legislation when the Bill is released and goes to Select Committee.

Summary of all results

Respondents were asked to indicate their top three employment law issues from the options below (plus a write-in option).

Holidays Act Taskforce recommendations – will the recommendations lead to the Holidays Act being simplified or increase complexity and cost



Covid 19 – ‘compulsory or mandated’ vaccinations, recruiting skilled workers or MIQ availability



Fair Pay Agreements – the setting of minimum standards for all employees and employers in a particular industry or occupation



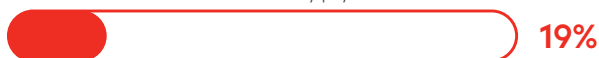
Bullying and harassment – greater guidance on what is bullying and harassment and how to manage it



Fixed Term Agreements – making it simpler for employees to employ staff for a valid fixed term period



Bonuses/Incentives – allowing employers and senior executives to expressly agree that discretionary incentives/bonuses can be excluded from holiday pay calculations



Increases in minimum entitlements - minimum wage, sick leave and a new public holiday, Matariki



90 day trial periods – repealing these or reintroducing for employers with more than 20 employees (please specify in the comments below)



Pay Equity and Equal Pay – equal pay for equal value



Privacy – greater guidance for employers on what constitutes “serious harm” and when breaches need to be notified



Other



Independent Contractors – the new category of dependent worker being considered



Triangular employment relationships – being liable for a personal grievance as a controlling third party when an employer does not employ the employee directly



METHODOLOGY

This research draws on 126 responses from HR professionals in the Simpson Grierson database. The survey was carried out over a three-week period in August 2021. We provided a list of 12 potential employment concerns, with the option to identify other areas of concern.

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