
General election employment law wish list:

Employers still overwhelmingly call for overhaul of the Holidays Act 2003

In July 2020 we ran the third edition of our pre-election survey of employer clients, asking them to identify the top three employment law concerns that they would like the incoming government to focus on.

Among the results is a resounding confirmation that Holidays Act reform is still the top 'business critical' issue for employers.

Top concern – employers crying out for change to the Holidays Act 2003

As with our previous surveys, by a significant margin the most important employment concern for respondents is the simplification of the Holidays Act 2003 (selected by 82% of respondents).

In our 2017 and 2014 surveys, Holidays Act reform was also the top priority for employers, with 88% (2017) and 77% (2014) of respondents calling for change. These numbers confirm that this legislation has remained a persistent headache for employers and reform is long overdue.

One respondent commented, "The Holidays Act and calculating holiday pay- it is just so complicated and does not need to be", and another said "The Holidays Act needs to be re-written".

Other key employer concerns

Excluding bonuses and incentives from holiday pay under the Holidays Act – Allowing employers and senior executives to expressly agree that discretionary incentives/bonuses can be excluded from holiday pay calculations is a key priority for 41% of respondents.

90-day trial periods – A third of respondents want 90-day trial periods reintroduced for employers with more than 20 employees, with one respondent commenting that trial periods "allowed us to give people a chance that we now won't".

Bullying and harassment – Greater guidance on what is bullying and harassment and how to manage it was a concern for 30% of respondents.

Administrative burden – There were a number of concerns about the administrative burden of having to provide new employees covered by a collective agreement with a form to indicate if they intend to join a union. One respondent referred to it as being "an administrative burden ... particularly difficult in organisations that have wide coverage".

Comment

Simplification of the Holidays Act has been the top concern for respondents in all three of our pre-election surveys. In 2020 the second ranked concern was also related to the application of the Holidays Act; discretionary incentives/bonuses being excluded from calculations of Holiday pay.

Interestingly, despite being in the Covid-19 recovery environment, the option of wanting government assistance to get business back on track ranked lowest in the 2020 survey. The fact that concerns related to the Holidays Act ranked number 1 and 2 in the current environment demonstrates that an overhaul of this anachronistic piece of legislation is urgent and there needs to be a simplified accrual methodology for annual holidays. This would provide clarity for businesses and workers alike, and would reduce complexity and cost.

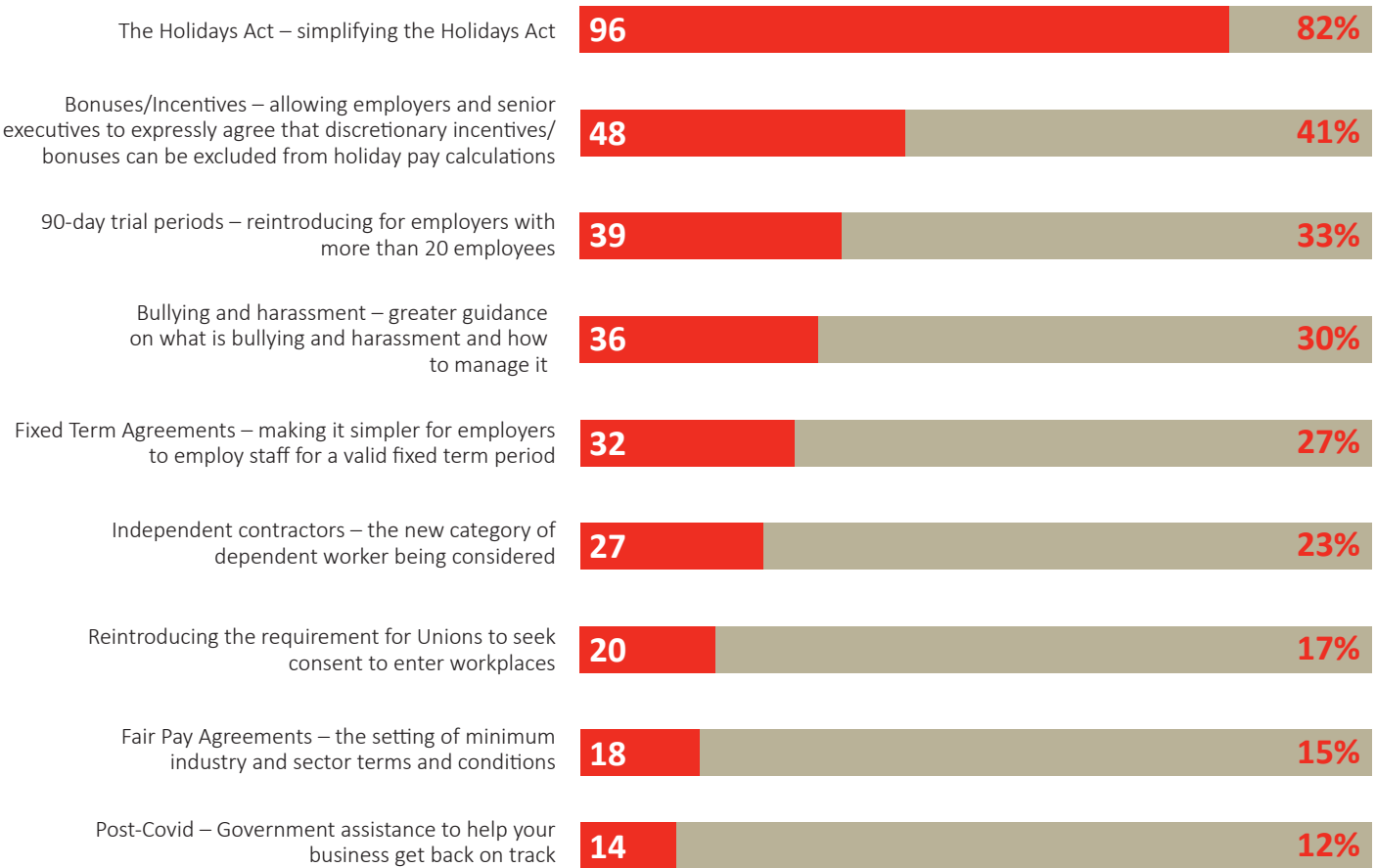
Next steps

Once the Government has appointed its Minister of Workplace Relations and Safety, we intend to raise the results of this survey so that there can be further discussion and consideration of what change is desirable and achievable. The Holidays Taskforce reported back to the Minister in November 2019, who has been considering the recommendations.

We will continue our campaign for simplification of the Holidays Act 2003 and remain of the view that this legislation is overly complex and that repeal is overdue. The continued uncertainty and compliance cost in this area is not serving employers or employees well.

Summary of all results

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



METHODOLOGY

This research draws on 117 responses from HR professionals on the Simpson Grierson database. The survey was carried out over a two-week period in July 2020. We provided a list of nine potential employment concerns, with the option to identify other areas of concern.

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