

MAY 2024 MONTH IN REVIEW

# Federal

## **LAWS & ANNOUNCEMENTS**

### **New Laws**

May 23: [Bill C-50](#), which just passed Second Reading in the Senate, would create a new federal agency called the Sustainable Jobs Partnership Council to foster creation of sustainable jobs in the net-zero economy that Canada is in the process of implementing to combat climate change.

### **Labour Relations**

May: The Assembly passed new legislation ([Bill C-58](#)) to ban the use of replacement workers during strikes or lockouts and increase potential penalties to up to \$100,000 per day. Exceptions would apply for certain emergencies and any work that employers and unions agree must continue during the job action. The Bill still has to pass the Senate.

### **Payroll**

May 2: The Senate is just one step away from passing [Bill C-241](#), which has already completed Third Reading in the House, to amend the *Income Tax Act* to allow tradespersons and indentured apprentices to deduct from their income amounts expended for travelling where they were employed in a construction activity at a job site that is located at least 120 km away from their ordinary place of residence.

### **Employment Benefits**

Apr 30: The Assembly voted not to adopt [Bill C-318](#) proposing to amend the *Employment Insurance Act* by creating a new EI attachment benefit of 15 weeks for

adoptive and biological parents of children conceived through surrogacy.

## **Employment Benefits**

Apr 30: Newly tabled [Private Member Bill C-387](#) would amend the *Canada Pension Plan* to provide that at least two thirds of the provinces that don't have a comprehensive pension plan must provide consent before a province may adopt such a plan.

## **Workplace Harassment**

May 15: The Canadian Human Rights Commission and Canadian Armed Forces announced a first-of-its kind [human rights settlement](#) designed to drive systemic change and better protect CAF members, allowing them to report incidents directly to the Commission. Other terms include availability of forensic kits and the presence of qualified medical personnel during overseas deployments, support and treatment for members who experience sexual assault and ongoing commitment to sexual misconduct prevention training.

**Action Point:** Find out [how to protect your employees](#) from the risk of workplace domestic violence

## **New Laws**

May 3: From now through July 31, the federal government will hold [public consultations](#) on [potential changes](#) to improve the *Employment Equity Act* to better represent diverse populations, adding Black people and 2SLGBTQI+ to the designated groups and updating terms to be more inclusive. The changes are part of efforts to align the EEA with modern standards, including the United Nations Declaration and the *Accessible Canada Act*.

**Action Point:** Find out more about [accessibility laws across Canada](#)

## **Privacy**

May 9: The Office of the Privacy Commissioner of Canada presented its 2024-25 budget, focusing on [protecting privacy amid technological changes](#), with special attention to AI and children's privacy rights. Key investigations included Aylo, TikTok, and OpenAI, checking their compliance with Canadian privacy laws.

**Action Point:** Implement a legally sound [Personal Data Removal Policy to Prevent Privacy Breaches at Your Company](#)

## CASES

### Drugs & Alcohol: For Cause Testing of Erratically Behaving Flight Attendant Can Proceed

Air Canada required a flight attendant to submit to reasonable cause hair follicle drug testing after one crew member reported that he was acting strange and had made some disturbing remarks about hijacking a plane and another suggested he was smoking marijuana. After grudgingly giving their consent to collecting the sample and sending it to the lab, the flight attendant and union sued to prevent the company from relying on the test results. The federal arbitrator denied the cease-and-desist order, finding that the company had legitimate safety concerns about the flight attendant and that follicle testing was the least intrusive mode available in the circumstances. The union could file a grievance later once the test results came back and the company decided what, if any, discipline to impose [[Air Canada v CUPE, Air Canada Component](#), 2024 CanLII 46083 (CA LA), May 21, 2024].

**Action Point:** Find out [how to create a legally sound drug testing policy](#) at your workplace

### Discrimination: Refusal to Promote Mechanic Post-Injury Is Not Disability Discrimination

An assistant mechanic who had missed nearly 3 years of work due to work-related injuries was able to return and work another 7 years. But he was frustrated at not being promoted during that time. Air Canada contended he didn't have enough work hours to qualify for the promotion because of the time he had missed when he was injured. Excluding time missed with a work injury was disability discrimination, the union claimed. The federal arbitrator ruled that the union didn't meet its burden of proving that disability discrimination had occurred and dismissed the grievance without a trial [[International Association of Machinists and Aerospace Workers, district 140 c Air Canada](#), 2024 CanLII 44877 (CA SA), May 15, 2024].

**Action Point:** Help managers avoid [accommodations](#) mistakes that can create discrimination liability

### Telecommuters: Mandatory Vaccination Not Reasonable for Exclusively Remote Workers

Was it reasonable for Canada Post to apply its mandatory COVID-19 vaccination policy to employees who work remotely during the pandemic? The federal arbitrator said no, at least with regard to those who worked **exclusively** from home and thus not expected to come to the office to do any of their job duties. The arbitrator cited

other federal cases finding that mandatory vaccination is unreasonable for fully remote work but reasonable for those occupying jobs requiring occasional in-person attendance for meetings, training or other specific employment functions [Union of Postal Communications Employees (PSAC) v Canada Post Corporation, 2024 CanLII 38829 (CA LA), May 6, 2024].

**Action Point:** Find out how to implement a legally sound telecommuting policy at your workplace