# HRInsider Newsletter

Canada's guide to HR Compliance and Management

AUGUST 2026


## This Month's Highlights

Summer brings unique workplace challenges and opportunities. This edition explores substance use and cannabis policies, payroll remittance penalties, and ways to boost employee recognition, morale, and retention throughout the season. Read on for insights, and visit our site to access the full articles.

## Featured in This Edition:

# Addressing Substance Use and Cannabis Policies in Summer Workplaces

Summer brings unique challenges for employers across Canada. Longer daylight hours, seasonal workforces, outdoor job sites, and increased social activities can all contribute to heightened workplace safety risks. While cannabis has been legal for recreational use in Canada since 2018, its legalization has not diminished employers' responsibility to maintain safe workplaces. As a result, HR directors and workplace leaders should review substance use policies each summer to ensure they remain effective, compassionate, and legally compliant.

## Why Summer Can Increase Workplace Risks

Many industries experience increased activity during the summer months. Construction, agriculture, landscaping, transportation, tourism, and recreation sectors often rely on seasonal workers, extended shifts, and physically demanding outdoor work. These conditions can amplify the risks associated with impairment from cannabis, alcohol, prescription medications, or other substances.

For example, a construction worker operating heavy machinery, an agricultural employee handling equipment during harvest, or a commercial driver transporting goods may face serious safety hazards if their judgment, reaction time, or coordination is impaired. Summer heat can further complicate matters, as dehydration and heat stress may produce symptoms that resemble impairment or worsen the effects of certain substances.

In addition, seasonal employees may be younger workers with limited experience navigating workplace substance use expectations, making clear communication and training particularly important.

## Recognizing Early Warning Signs

Addressing substance use concerns early can help prevent incidents, injuries, and long-term employee health issues. However, employers should focus on observable workplace behaviours rather than attempting to diagnose substance use disorders.

Some signs that may warrant further observation or discussion include:

- Frequent lateness or unexplained absences.
- Sudden declines in performance or productivity.
- Difficulty concentrating or following instructions.
- Increased workplace errors or violations.
- Changes in mood, irritability, or unusual behaviour.
- Poor coordination, balance, or reaction time.
- Slurred speech or confusion.

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- Neglect of personal appearance or hygiene.
- Increased conflicts with colleagues.

It is important to recognize that many of these indicators may also result from stress, fatigue, mental health challenges, medical conditions, or personal issues. Managers should avoid making assumptions and instead focus on documented observations and workplace performance concerns.

## Creating a Compassionate Response

When a potential substance use issue arises, employers should approach the situation with professionalism, respect, and empathy. Substance dependence is often recognized as a disability under Canadian human rights legislation, which means employers may have a duty to accommodate employees to the point of undue hardship.

A supportive approach may include:

- Conducting private, respectful conversations.
- Focusing on observed workplace behaviours rather than suspected substance use.
- Referring employees to available support resources, such as Employee Assistance Programs (EAPs).
- Exploring accommodation options where appropriate.
- Encouraging employees to seek professional assistance.

Employees are generally more likely to seek help when they feel supported rather than punished.

## Developing an Effective Cannabis and Substance Use Policy

A strong workplace policy should clearly communicate expectations while balancing safety obligations and employee rights.

## Effective policies typically include:

**Clear definitions of impairment.** Employees should understand that impairment from cannabis, alcohol, medications, or other substances may create safety risks regardless of whether the substance is legal.

**Fitness-for-duty expectations.** Outline that employees must be fit to perform their duties safely throughout their shift.

**Reporting requirements.** Specify when employees must disclose medications or conditions that may affect their ability to work safely, while respecting privacy requirements.

**Investigation procedures.** Explain how concerns about impairment will be assessed and documented.

**Accommodation processes.** Describe how employees can request support or accommodation when substance use is linked to a disability or medical condition.

**Training and education.** Provide managers and workers with regular training on impairment recognition, reporting procedures, and available support resources.

## Balancing Safety and Compliance

The most effective substance use policies recognize that workplace safety and employee well-being are not competing priorities. By establishing clear expectations, identifying concerns early, and providing access to support, employers can reduce risk while fostering a culture of trust and accountability.

As summer work ramps up across Canada, now is an ideal time for HR leaders to review policies, refresh training programs, and ensure their organizations are prepared to address substance use concerns fairly, consistently, and legally.

# Ask the Expert

## Vacation Carry-Over Policies in Ontario

A well-written vacation policy helps employers balance operational needs while remaining compliant with Employment Standards. Understanding the rules around vacation carry-over and payout can help reduce legal risk and employee confusion.

### Question

Can our vacation carry-over policy require employees to use vacation by March 31 of the following year, pay out any remaining balance afterward, and forfeit vacation above the statutory minimum if it isn't approved for carry-over?

### Answer

Your proposed policy is generally consistent with the Ontario ESA, but there are important areas to clarify. Statutory vacation time cannot simply be paid out if it has not been taken. The ESA requires employees to actually take their minimum vacation entitlement within 10 months of the end of the vacation entitlement year, except in limited circumstances.

### Explanation

Your policy should clearly distinguish between statutory vacation required under the ESA and any additional employer-provided vacation. While employers have greater flexibility with vacation beyond the ESA minimum, forfeiture provisions should only apply where employees had a reasonable opportunity to use the time and the policy is clearly communicated and consistently applied.

It is also advisable to reserve the right to schedule statutory vacation where necessary to ensure compliance with the ESA and to clearly outline the approval process for carry-over requests. These measures help reduce compliance risks while promoting fair and consistent vacation administration.

# Payroll

## Do Payroll Remittance Errors Justify Waiver of CRA Tax Penalties?

Threshold 2 employers that don't remit payroll deductions to the Canada Revenue Agency (CRA) through a bank are subject to strict penalties under the Income Tax Act. However, the Act authorizes the agency to waive tax penalties in special situations, such as when an employer exercises "reasonable care" to comply.

Consider the following scenario, which comes from an actual case.

### Situation

A Threshold 2 employer sends a courier to the bank with a cheque for the full remittance amount ($105,000) on the day it's due. But the courier misplaces the remittance form, and the teller refuses to accept the cheque. The courier then rushes to the CRA Tax Services Office. He explains the situation to the cashier who agrees to accept the cheque without a remittance form and issues a receipt. The courier gives the receipt to the company's payroll administrator who heaves a sigh of relief. A week later, CRA assesses the company a $10,500 penalty for not remitting payment to a bank. The company explains what happened and asks CRA to waive the penalty. CRA refuses. So, the company appeals.

### Question

Should the company win the appeal?

> *A. No, because a court can't reverse CRA's decision not to grant a waiver*
>
> *B. No, because failure to remit through a bank is a "strict liability" offence*
>
> *C. Yes, because the company's failure to remit was due to "extraordinary circumstances"*
>
> *D. Yes, if the company can show it exercised reasonable care to comply*

### Answer

**D. The company should win the appeal and get a waiver if it can persuade CRA that it acted with reasonable care to prevent the violation.**

### Explanation

Section 220(3.1) of the Act gives CRA discretion to waive or cancel all or any portion of a tax penalty. *CRA Information Circular IC07-1R1* lists guidelines the agency considers in deciding whether to grant a waiver. One factor is whether the employer "exercised a reasonable amount of care and has not been negligent or careless in conducting their affairs under a self-assessment system."

In this case, it was unclear if the company did exercise "reasonable care." There was evidence it did and evidence it didn't. However, the agency didn't even consider the issue in refusing the waiver. Consequently, the court reversed the decision and ordered CRA to reconsider in light of how reasonably the company behaved. So, D is the right answer [*McNaught Pontiac Buick Cadillac Ltd. v. Canada (Canada Customs and Revenue Agency)*, 2006 FC 1296 (CanLII)].

Visit HRInsider to read why the wrong answers are wrong.

# Employee Vacation Scheduling

## 9 Best Practices to Avoid Conflict & Coverage Gaps

Employee vacation scheduling is a perennial challenge for HR directors. This is particularly true during peak vacation periods, when employees want to take off the same weeks. In addition to conflict and tension, these competing requests stretch limited staffing resources and raise liability risks under employment standards and other laws.

Here are 9 Best Practices HR directors can follow to carry out vacation planning in a way that's fair, balanced, seamless, protective of employee morale, and legally compliant.

### 1. Implement Clear, Written Vacation Policies

Ambiguous vacation policies breed scheduling conflicts. Employees get frustrated when they don't understand how the organization makes vacation decisions. And so do managers charged with making those decisions. **Strategy**: Ensure your vacation policy clearly and specifically addresses:

- Vacation request timelines.
- Any peak periods or blackout dates.
- Procedures for vacation requests.
- Roles and responsibilities of employees and managers in the vacation request process.
- Rules for determining priority when multiple employees request the same time off.

### 2. Ensure Vacation Policies Comply with Employment Standards Requirements

Employment standards vacation rules vary by province and are constantly changing. **Strategy**: Monitor what's going on in your province and periodically review your organization's vacation policies to ensure they align with current requirements for minimum vacation entitlements, vacation pay requirements, vacation scheduling rules, notice obligations and carryover restrictions.

### 3. Perform Vacation Planning Earlier

Organizations often wait until spring or early summer before discussing summer vacation plans. This can create bottlenecks when numerous employees want the same weeks off. **Strategy**: Starting the process sooner can reduce scheduling conflicts. Early visibility helps managers identify potential coverage gaps before they become operational issues. It also gives employees greater confidence that you're considering their preferences fairly.

### 4. Establish Fair Rules for Prioritizing Competing Vacation Requests

Eventually, conflicts will occur. Two or more employees may request the same time period when operational requirements make approving all requests impossible. **Strategy**: Rather than seeking to avoid conflict altogether, the objective should be to anticipate it and ensure there's a fair and objective process for resolving it when it does arise.

### 5. Build Scheduling Flexibility into Workforce Planning

Vacation conflicts become more severe when organizations operate with little staffing flexibility. **Strategy**: HR directors can reduce operational pressure by creating additional capacity through:

- Cross-training employees
- Developing internal talent pools
- Maintaining temporary staffing relationships
- Creating backup coverage plans
- Building succession and role redundancy.

### 6. Train Managers How to Consider Requests for Time Off

Managers sometimes view vacation requests as isolated decisions rather than operational planning activities. **Strategy**: Train managers how to handle vacation requests:

- Wrong question: Can we approve this request?
- Right question: How will work continue during this absence if the request is approved?

### 7. Require Managers to Create Vacation Coverage Plans

Require managers to create vacation coverage plans to reduce last-minute scrambling and stress. **Strategy**: Vacation coverage plans may involve:

- Delegating responsibilities
- Adjusting project timelines
- Reassigning tasks
- Creating temporary workflows
- Preparing transition documentation.

### 8. Use Technology to Increase Visibility

Spreadsheets, email chains, disconnected calendars, and other manual scheduling methods can create problems to the extent they limit visibility into approved absences and staffing levels. **Strategy**: Consider using workforce scheduling systems capable of helping the organization:

- Track vacation requests in real time.
- Identify coverage gaps.
- View department-wide availability.
- Automate approval workflows.
- Improve reporting and forecasting.

Technology should support decision-making, not replace management judgment, but greater visibility often prevents conflicts before they escalate.

### 9. Avoid Creating a Culture that Discourages Employees from Taking Vacation

Operational demands sometimes unintentionally create pressure for employees to delay or avoid vacation use. Over time, this can increase burnout risk and reduce engagement. **Strategy**: HR directors can diagnose these problems by monitoring for red flags like large unused vacation balances, frequent cancellation of approved time off, employees consistently working during vacations or teams with unusually low vacation utilization.

## Takeaway

Vacation scheduling challenges are rarely caused by employee requests alone. They typically stem from unclear policies, insufficient planning, and limited workforce flexibility. Organizations that manage vacations effectively generally follow the same principles:

- Establish transparent rules
- Plan early
- Prepare coverage strategies
- Maintain consistent decision-making practices.

# Month-In-Review

A roundup of new legislation, regulations, government announcements, court cases, and arbitration rulings. Visit HRInsider.ca for the complete Month-In-Review. Now available by jurisdiction to keep you focused on what's been happening in your area including legal alerts, law announcements, and recent cases.

## Federal

**Health & Safety:** Effective through August 29, Canadian citizens, permanent residents, and foreign travelers seeking to enter Canada who've been in the Congo, Uganda, or South Sudan within the previous 21 days must undergo assessment for Ebola upon arrival. While in the country, they must have access to a location where they can safely stay for 21 days.

## Alberta

**Workplace Violence:** Effective June 1st, Alberta licensed childcare facilities must post on-site notices of high-risk, potentially criminal incidents reported involving their programs within one business day (or as soon as reasonably possible) after incidents are reported, in areas visible to parents. A notice must also be posted on alberta.ca listing the program name and incident report date.

## British Columbia

**Minimum Wage:** British Columbia raised its general minimum wage 40 cents to $18.25 per hour on June 1st. The same 2.1% increase applied to minimum wages for resident caretakers, live-in home-support workers, and live-in camp leaders. The app-based ride-hailing and delivery-service minimum wage increased to $21.89. Increases to minimum piece rates for hand-harvested crops will take effect on December 31.

## Manitoba

**Overtime:** Manitoba passed *Bill 26* authorizing a ban on mandatory overtime for nurses. Exception: Health systems may still require overtime: (a) in a present or imminent situation that requires prompt action to avoid or limit loss of life or harm to health; or (b) when required by a law enacted to deal with a public disaster or emergency.

## New Brunswick

**Leaves of Absence:** Newly passed *Bill 26* gives employees with 90 days of continuous service 27 weeks' unpaid long-term illness and injury leave. Employees must notify employers "without delay" of the anticipated start date and duration and take leave in periods of at least one week. Employers may require certification from a medical practitioner, nurse practitioner, or midwife.

## Newfoundland and Labrador

**Workers' Compensation:** Effective June 1st, Newfoundland & Labrador workers diagnosed by a physician, nurse practitioner, psychologist, or psychiatrist with a psychological injury due to workplace harassment will be eligible for workers' compensation benefits. WorkplaceNL *Policy EN-18* already covers psychological injuries due to traumatic events, including presumptive coverage for post-traumatic stress disorder (PTSD) in certain occupations.

## Northwest Territories

**Discrimination:** Indigenous employees made up 32% of the GNWT's overall workforce and 25% of management positions, according to a new *government report* for 2024 to 2025. During that period, 67% of departments reported over 25% workforce Indigenous representation.

## Nova Scotia

**Workers' Compensation:** With injury rates at a record low and a funding surplus of 117%, WCB Nova Scotia announced its first rate cut in over 20 years. Specifically, the agency is proposing to reduce 2027 average employer premiums 15%, from $2.65 to $2.25 per $100 of assessable payroll.

## Nunuavut

**New Laws:** Agnico Eagle Mines Ltd. is going ahead with a $2.4-billion redevelopment of its Hope Bay gold mine in Nunavut. The project is expected to create over 2,000 jobs.

## Ontario

**Privacy:** New Digital Security *regulations* take effect requiring Ontario public hospitals, schools, and other public sector entities to implement cyber security programs that include: i. appointment of employee primary points of contact; ii. annual cyber security maturity assessments; iii. submission of cyber security maturity assessment summaries; and iv. "critical cyber security incident"

## Prince Edward Island

**Leaves of Absence:** *ESA 2.0* increases unpaid sick days from three to four for employees with at least 30 days' service. Employers can't require doctor's notes unless employees are absent at least five consecutive days. Employees also get paid sick leave of one day after one year, two days after two years, and three days after three years.

## Québec

**Workplace Violence:** Québec published new *OHS regulations* requiring employers to implement specific measures to prevent workplace sexual violence (SCV): i. give workers written information about SCV risks at the particular workplace; ii. ensure workers receive SCV prevention training from a competent person; and iii. implement SCV reporting, complaint, and investigation procedures. Effective date: May 27, 2027.

## Saskatchewan

**Drugs and Alcohol:** The newly effective *Response to Illicit Drugs Act* allows Saskatchewan's government and individual victims to recover costs from drug producers, traffickers, and traders. The Act also authorizes the province to void appointments, grants, and agreements to individuals or entities convicted of offences involving fentanyl, methamphetamine, heroin, morphine, cocaine, codeine, and other Schedule 1 drugs.

## Yukon

**Health & Safety:** The Yukon Workers' Safety and Compensation Board's began implementing its new administrative monetary penalties *policy* with penalty amounts for OHS violations ranging from $1,000 to $20,000 depending on seriousness of the offence and whether it's a first, second, or third/subsequent violation. The agency will also publish the names of companies who receive AMPs.

# Case Alerts

## Termination: Employee Who Signs Severance Release Can't Sue Union

Told that her job was in peril due to repeated complaints about her conduct, an Education Assistant (EA) with 20 years of service expressed her preference to resign instead. The union negotiated and the EA signed a release awarding her pension and other benefits and indicating, at her request, that she was resigning due to disability to help her CPP application. She later claimed that she was coerced into signing the release and sued the union for not fairly representing her. The court ruled that the EA understood and accepted the release terms and dismissed the case. The New Brunswick Court of Appeal upheld the ruling finding that the judge made no "palpable and overriding error." It also ordered the EA to pay $2,500 to cover the union's legal costs for the appeal [*Black v. CUPE Local 2745*, 2026 NBCA 55 (CanLII), May 28, 2026].

Action Point: Be sure to advise employees to consult their lawyers before they sign a written release. Use the HRI template to draft an enforceable severance release agreement.

## Termination: CEO Text Order to Turn in Laptop & Card Key Is Constructive Dismissal

An energy company Chief Operating Officer and co-founder claimed he was constructively dismissed via text message. The company denied the charge and contended that the COO was terminated for cause for refusing a direct order from the CEO to relocate. The COO moved for summary judgment, but the Alberta court said no, finding that the conflicting evidence and credibility issues on both sides made a trial necessary to determine what really happened. The appeals court reversed the ruling citing the texts from the CEO directing the COO to turn in his laptop and key cards and advising that the legal department would prepare his termination package. Viewed objectively, these and other texts, constituted an immediate termination and, despite what the lower court said, there was no evidence to contradict it. As a result, the court should have granted the COO judgment without a trial [*O'Donoghue v Fluid Energy Group Ltd*, 2026 ABKB 428 (CanLII), June 5, 2026].

Action Point: The moral of the O'Donoghue case is that the things you say to employees in the heat of a moment might cross the line of constructive dismissal even if that's not the intent. Find out about the 13 most common constructive dismissal liability pitfalls and what to do to manage each one.

## Discrimination: High Court Affirms Working Parents' Case for Family Status Discrimination

Because of their work hours, two employees couldn't get home until 30 minutes after their respective young children walked home from school and stayed in the house alone. Both employees requested adjustments to their work hours to adjust their parental needs. Both requests were denied. So, the union filed a grievance. The arbitrator ruled the employees had a valid claim for family status discrimination and that they had no duty to self-accommodate. After an unsuccessful appeal, the employer took the case to the province's highest court. Result: The Alberta Court of Appeal agreed that the employees had a valid claim for failure to accommodate and dismissed the appeal [*EPCOR Utilities Inc v International Brotherhood of Electrical Workers*, 2026 ABCA 191 (CanLII), June 12, 2026].

Action Point: Family status discrimination complaints against employers over scheduling issues have become increasingly common. Find out how far employers must go to accommodate the scheduling needs of working parents.

## Overtime: Pilots Not Entitled to Overtime for Cancelled Training Session

The union claimed that airline pilots who agreed to take flight simulator training on their day off were entitled to overtime pay for the day even though the session was canceled. The federal arbitrator disagreed and tossed the grievance. The compensatory allowance provided for in the collective agreement to offset the inconvenience of having to sacrifice a day of rest to perform a task at the employer's request only applies when an employee actually works, the arbitrator reasoned. But the pilots were released from the simulator session before their scheduled work began. Since they didn't work, they weren't entitled to increased pay [*Airline Pilots Association v. Air Transat AT Inc*., 2026 CanLII 52452 (CA SA), June 1, 2026].

Action Point: Find out about the rules governing whether employees are entitled to be paid for training time.

## Workplace Violence: Supreme Court Recognizes New Intimate Partner Violence Tort

In a 6-3 ruling, the Supreme Court of Canada recognized a new tort allowing victims of intimate partner violence to sue their abusive partners for money damages. The case upholds an Ontario trial court decision awarding $100,000 to the wife who suffered physical assault, humiliation, intimidation, and conduct intending to inflict emotional distress from her husband over the course of her 16-year marriage. Unlike the Ontario high court, the Supreme Court concluded that currently existing torts aren't adequate to compensate the harms domestic violence victims suffer. To win damages under the new intimate partner violence tort, the claimant must show abusive conduct by which one intimate partner coerces and controls the other, thus depriving them of their autonomy, which may include egregious acts of physical and psychological violence, tactics of isolation, manipulation, humiliation, surveillance, economic abuse, sexual coercion, and intimidation that can control and entrap [*Ahluwalia v. Ahluwalia*, 2026 SCC 16 (CanLII), May 15, 2026].

Action Point: Intimate partner violence becomes an OHS compliance issue when it happens at the victim's workplace. Find out how to implement an effective Workplace Domestic Violence Prevention Plan to protect your own workers.

# Retention Through Recognition

## Summer Morale Boosters

For HR directors, summer is an ideal time to refresh employee appreciation strategies. Recognition does not need to be expensive or complicated. The most effective approaches are timely, sincere, inclusive, and connected to the realities of the workplace.

### Recognition Across All Types of Workplaces

Every sector can benefit from intentional appreciation. In office environments, this may include highlighting project milestones, celebrating teamwork, or recognizing employees who support colleagues during vacation coverage. In construction or manufacturing, recognition may focus on safety, reliability, customer service, mentorship, or performance during physically demanding conditions. The key is to recognize contributions that matter in that specific workplace. A generic "great job" is less meaningful than acknowledging a crew that maintained safety standards during extreme heat, a supervisor who trained seasonal workers effectively, or an administrative employee who kept operations running while others were away.

### Low-Cost and Practical Morale Boosters

Summer recognition can take many forms. Employers may consider team lunches, coffee cards, handwritten thank-you notes, flexible start times, early closures before long weekends, peer-nominated awards, extra break time, casual dress days, or public recognition in team meetings.

Small seasonal gestures can also have a big impact. Providing cold drinks, shaded rest areas, sunscreen, cooling towels, or healthy snacks for outdoor workers shows appreciation while supporting health and safety. For indoor teams, summer-themed appreciation days, wellness challenges, or social events can help maintain connection. Recognition should also include remote and hybrid employees. Virtual shout-outs, mailed notes, digital gift cards, and recognition during online meetings can help ensure off-site workers are not overlooked.

### How to Implement Recognition Fairly

HR leaders should ensure recognition programs are transparent, consistent, and accessible. Employees should understand what behaviours or contributions are being recognized and how decisions are made. Recognition should not always go to the loudest, most visible, or most senior employees. Managers can be encouraged to build recognition into regular routines, such as weekly check-ins, safety meetings, shift huddles, or monthly newsletters. Peer recognition programs can also help identify behind-the-scenes contributions that managers may miss. It is also important to consider equity. Not every employee wants public praise. Some may prefer a private thank-you, a development opportunity, or flexibility. Offering different types of recognition helps make appreciation more inclusive.