# HR Insider Newsletter

Canada's guide to HR Compliance and Management

**DECEMBER 2026**



## This Month's Highlights

In this issue, we celebrate an incredible 28 years of dedication, contributions, and lasting impact at Bongarde. We also explore workplace privacy rights, including whether surveillance cameras cross the line. Read on for insights, and visit our site to access the full articles.

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# Goodbye Margaret

## 28 Years of Making Bongarde Better

*Celebrating Margaret Trent and a remarkable career built on dedication, integrity, and service.*

If you've called Bongarde at any point in the past decade, there's a good chance Margaret Trent was the first person you spoke to. For many of our members, partners, and colleagues, Margaret has been the familiar voice on the other end of the phone: patient, knowledgeable, dependable, and always willing to help.

At the end of November, Margaret retired after more than 28 years with Bongarde. And while we're excited for her and the adventures ahead, it's difficult to imagine our company without her.

Margaret joined Bongarde on August 31, 1998. Think about that for a moment. Twenty-eight years ago, the internet was still finding its way into most workplaces, email was replacing the fax machine, and much of what we take for granted in business today hadn't yet been invented.

**Bongarde was a very different company then, too.** We still published big binders of CDs that clocked in at over 10lbs.

Margaret started in our call centre, working directly with customers. From there, she moved into renewals, then support and administration, taking on new responsibilities as the company grew and changed. For the past ten years, she's been the person welcoming people to Bongarde, answering their questions, solving their problems, and making sure they reach someone who can help.

Through every change in our business, Margaret has been a constant.

But her contribution goes well beyond the jobs she's held or the years she's worked.

Margaret has always understood something fundamental about Bongarde: we're here to help people. Whether it's helping an employer build a safer workplace, supporting an HR professional through a difficult issue, or making sure a member gets the information they need, our work matters because of the people who rely on us.

She's never been shy about reminding us of that.

Margaret has been one of our members' strongest advocates. When something isn't working as well as it should, she'll tell us. When someone needs more attention or better service, she'll speak up. And when she believes we can do better, she'll challenge us to do exactly that.

Over the years, Margaret has also been a keeper of our institutional memory. She's reminded me where we came from, how much we've grown, what we've learned along the way and, sometimes, what we shouldn't forget.

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In a business that's constantly looking ahead, having someone who can keep us grounded in our history and purpose is invaluable.

Of course, 28 years is much more than a career. It's a substantial part of a life.

During her time at Bongarde, Margaret has raised two daughters and, more recently, welcomed a grandson. She's experienced all the personal milestones, challenges, and changes that come with nearly three decades of life, while remaining someone her colleagues could always count on.

Long careers with a single employer have become increasingly rare. People change jobs, companies change direction, and the world moves faster than ever. To spend nearly 30 years with one organization is remarkable. To do so with the consistency, loyalty, and integrity Margaret has shown is something even more special.

There are people who make an impression through grand gestures or extraordinary moments. And then there are people like Margaret, whose impact comes from showing up, day after day, doing the right thing, caring about the people around them, and taking genuine pride in their work.

That kind of contribution is easy to overlook when it's always there. You only begin to appreciate its full weight when you imagine what the place will be like without it.

Margaret, on behalf of everyone at Bongarde, and all of our members, partners, and those past companies we've helped along the way - thank you.

Thank you for your dedication, your integrity, and your grit. Thank you for standing up for our members, supporting your colleagues, defending our values, and helping us stay true to the mission that brought us together in the first place.

You've helped shape this company in ways that will endure long after your last day.

We'll miss your voice, your perspective, and your presence more than you know.

But after 28 years of looking after everyone else, you've more than earned the opportunity to spend more time doing whatever brings you happiness, especially with your family and that new grandson.

We wish you every happiness in this next chapter, Margaret. You've made a difference here, and we won't forget it.

*Richard Tobin*

*President & CEO, Bongarde*



# Do Workplace Surveillance Cameras Violate Employees' Privacy Rights?

Employers have a legitimate interest in using surveillance cameras, drones, artificial intelligence (AI) sensors, and other technologies to maintain workplace safety and security. However, the employee images and data that monitoring solutions capture are also deemed personal information protected by the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and provincial privacy laws. This scenario, which is based on an Ontario case, is an excellent illustration of where the lines are drawn.

## Situation

After a series of thefts and acts of vandalism, a railway installs six video surveillance cameras in its maintenance yards. Although used mostly to monitor comings and goings of the public, the cameras also capture some employee activity. The railway posts signs at entrances warning of the cameras. It tells employees that the cameras are the only feasible way to protect security and reassures them that it won't use the footage to monitor productivity or impose discipline. In fact, the cameras aren't monitored but used only to investigate incidents. Employees claim that the cameras are an invasion of privacy and demand their removal.

## Question

**Does the railway have a right to keep the surveillance cameras installed?**

A. No, because the railway didn't get employees consent to install the cameras.

B. Yes, because the cameras are necessary and used only for security purposes.

C. No, because the cameras record employee activity, which is protected personal information.

D. Yes, because it owns the property and can place surveillance cameras wherever it wants.

## Answer

**B. The railway can keep the cameras because they're necessary to serve a legitimate security purpose.**

## Explanation

The Ontario court ruled that the cameras could stay because:

- The railway notified employees about them (monitoring is harder to justify when it's surreptitious).
- The cameras were used principally to monitor visitors for security rather than employees for productivity or disciplinary purposes.
- Footage was accessible only to "responsible management" and the police in response to actual incidents.
- The cameras were placed in public areas where expectation of privacy was minimal.

- Less privacy-invasive alternatives such as fencing or security guards were ineffective and infeasible.

*Eastmond v. Canadian Pacific Railway*, 2004 FC 852 (CanLII)

## Why Wrong Answers Are Wrong

**A is wrong** because privacy laws allow for using, collecting, and disclosing personal information without consent for limited, legitimate purposes, such as deterring theft or vandalism or protecting security and safety.

**C is wrong** because it's okay to collect personal information, including tapes of employee activity, if, as in this case, it serves legitimate purposes, less privacy-invasive alternatives aren't feasible, and the use, collection, and disclosure of personal information is limited to the minimum amount necessary to accomplish the legitimate purpose.

**D is wrong** because courts, arbitrators, and privacy tribunals have repeatedly found that PIPEDA and other privacy laws ban employers from installing video cameras or other privacy-invasive monitoring technology on their own property for disciplinary purposes or to monitor employee productivity.

## Model Policy on Cameras in the Workplace Policy

**Purpose**

[Company Name] prohibits employee use of audio and video recording in the workplace, including camera-equipped phones, tablets and other devices, when necessary to secure patient/client privacy and/or to protect trade secrets and other proprietary business information.

**Restrictions on Employee Recording**

1. Employees are prohibited from bringing audio or video recording devices into areas where patient or client privacy may be compromised.

2. Employees are prohibited from bringing audio or video recording devices into areas and/or meetings where company trade secrets or proprietary business information could be disclosed.

3. Employees may record workplace activities that are not prohibited by law or do not compromise confidential information as described above.

**Company Monitoring**

[Company Name] reserves the right to install security cameras in work areas for specific business reasons, such as security, theft protection or protection of proprietary information.

1. [Company Name] may find it necessary to monitor work areas with security cameras when there is a specific job- or business-related reason to do so. The company will do so only after first ensuring that such action is in compliance with provincial and federal laws.

2. Employees should not have any expectation of privacy in work-related areas.

3. Employee privacy in nonwork areas will be respected to the extent possible. [Company Name]'s reasonable suspicion of onsite drug use, physical abuse, theft or similar circumstances would be possible exceptions. Legal advice will be sought in advance in such rare cases where nonwork-area privacy must be compromised.

Employees should contact their supervisor or the human resource (HR) department if they have questions about this policy.

# Pay Equity Reporting Compliance Game Plan

Reporting requirements are a staple of pay equity laws requiring employers to ensure that men and women receive equal pay for work of equal value. Pay reporting is also part of newfangled pay transparency laws. In the pay equity context, pay reporting is most useful when it doesn't simply identify but also explains gender-based pay gaps. Thus, a report showing that women and men receive different average compensation also reveals whether the difference reflects job classification, starting salaries, promotion practices, incentive-pay rules, or inconsistent salary adjustments.

**Compliance Strategy:** HR directors in pay equity jurisdictions should establish a reporting process that identifies the underlying causes, distinguishes legally significant disparities from statistical differences, and assigns responsibility for corrective action. Here's an 8-step Compliance Game Plan.

## Context: The Nondiscrimination-Pay Equity Continuum

Paying women less than men for the same work because of their sex is a form of employment discrimination banned in all parts of Canada. But pay equity takes pay equality to another dimension. It requires that employers not only refrain from discriminating but also adopt proactive and systematic measures to identify and eliminate sex-based pay gaps.

Canadian jurisdictions fall into different places along this nondiscrimination to pay equity continuum:

- All provinces and territories have human rights laws banning employment discrimination, including basing pay on sex, race, religion, age, and other characteristics.
- Seven provinces and territories—Manitoba, New Brunswick, Nova Scotia, Ontario, Québec, Saskatchewan, and Yukon—have also incorporated parallel nondiscrimination/equal pay requirements into their employment standards laws.
- Three provinces—British Columbia, New Brunswick, and Newfoundland/Labrador—have moved beyond nondiscrimination to a middle stage known as pay transparency that requires employers to collect and annually report compensation data that may reveal pay gaps, such as how much they pay employees in "male" and "female job classes".
- Next come the five provinces—Manitoba, New Brunswick, Newfoundland/Labrador, Nova Scotia, and Prince Edward Island—that have enacted limited pay equity laws that apply only to public-sector employers.
- Farthest along the continuum are Ontario, Québec, and the federal jurisdiction where both public- and private-sector employers are required to adopt systematic plans to identify and eliminate wage gaps and achieve and maintain equity in pay.

## Step 1. Build a Jurisdiction-Specific Pay Equity Compliance Calendar

**Problem:** Because pay equity rules vary by jurisdiction, you can't have a one-size-fits-all compliance plan.

**Solution:** Determine which pay equity laws apply to your company and adjust your compliance calendar accordingly. Example: An annual gender pay-gap calculation won't work in Ontario where employers must continually assess and maintain pay equity in accordance with a gender-neutral comparison system as compensation practices change rather than just once a year. Best Practice: Maintain a compliance matrix for each legal entity, identifying the applicable statute, employee-count threshold, pay equity plan or audit required, reporting or publication obligations and deadlines, responsible executive, and required documentation of completion.

Review the matrix whenever the company acquires a business, crosses an employee threshold (for example, grows from eight to 11 employees), or changes its operating structure.

## Step 2. Reconcile Payroll Data Before Calculating Pay Gaps

**Problem:** Pay equity reporting errors often result from inconsistent definitions of compensation across different parts of the organization. Thus, one business unit may include bonuses in its salary figures, while another excludes them; one may annualize part-time earnings, while another compares actual annual totals. The resulting differences can be misleading.

**Solution:** Create a documented data dictionary before extracting the figures. Key terms to define include "base salary", "hourly wages", "bonuses", "commissions", "overtime", "shift premiums", "paid hours", "job categories", "employee status", and "reporting date". Record how the team handles employees who joined or left during the year, employees on leave, part-time workers, and employees whose compensation changed during the reporting period.

## Step 3. Go Beyond Payroll Data

**Problem:** Payroll data alone may not be enough to maintain pay equity, especially under Ontario, Québec, and federal laws requiring analysis using job-classification, work-value, and compensation-comparisons. Employers can't verify compliance with those requirements simply by producing a reliable company-wide gender pay-gap statistic.

**Solution:** Use payroll and HR analytics to reconcile the reporting extract against payroll totals. Keep a record of exclusions, conversions, assumptions, and corrections. Maintain the job descriptions, job evaluations, and compensation comparisons needed for the applicable pay equity process. Such calculations should be reproducible, and the legal analysis should be documented separately.

## Step 4. Identify the Pay Gaps that Averages Conceal

**Problem:** While it may be a useful indicator, a company-wide gender pay gap is not a diagnosis. A gap may reflect the concentration of men in senior or highly paid technical positions, differences in access to bonuses, unequal pay within comparable work, or several factors operating together.

**Solution:** Supplement required reports with targeted internal analysis. Compare compensation within meaningful job groups and levels, and examine starting salaries, merit increases, promotions, acting assignments, overtime opportunities, and incentive-pay eligibility. Where data permit, look at both average and median compensation—recognize that a small number of highly paid executives can materially affect an average.

*Read the next 4 steps and learn what you should take away from this game plan by visiting the HRInsider site.*

# 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

**Labour Relations:** To minimize labour disruption during business transitions, Bill C-39 allows for existing bargaining rights, obligations, and proceedings to continue despite a change in the contracting parties. Historically, so-called successor rights under the Code have been limited to situations involving the sale of a business. The Bill extends successor rights to a wider range of transition situations.

## Alberta

**Employment Benefits:** The Alberta Superintendent of Pensions officially increased the annual pension plan filing fee rate for the 2026 – 2027 fiscal year by 25 cents to $2.75 per plan member, effective today. The increase applies to all private plans registered in Alberta.

## British Columbia

**New Laws:** With the U.S. trade war heating up, British Columbia paused its planned expansion of the Provincial Sales Tax (PST) to professional services. The measure will save affected businesses, local governments, and residents in the province an expected $260 million in 2026-27.

## Manitoba

**Workplace Violence:** Earlier this year, the Supreme Court of Canada recognized a new tort of intimate partner violence. Now the Manitoba Assembly is getting set to pass legislation (Bill 58) to eliminate the statute of limitations for that tort. Translation: Victims of intimate partner violence will have unlimited time to sue for money damages in civil court.

## New Brunswick

**Workers' Compensation:** WorkSafeNB is keeping 2027 average assessment rates at $1.10 per $100 assessable payroll. That's the lowest rate in agency history and among the lowest in Canada. WorkSafeNB will also distribute $151 million in 2026 performance rebates to eligible employers. Refunds above $1,000 will be issued by cheque while smaller refunds will be credited to employers' accounts.

## Newfoundland and Labrador

**Health & Safety:** Newfoundland/Labrador revised its OHS regulations to clarify that PPE must be: i. Selected and used in accordance with "recognized standards"; ii. Properly fitted to the worker; iii. Compatible so that one item of PPE doesn't compromise the effectiveness of the other; and iv. Kept in sanitary and good working order.

## Northwest Territories

**New Laws:** The GNWT officially ended seasonal time change and switched to a new permanent time standard, known as Northwest Territories Time (UTC-06:00), the same time used by Alberta and Saskatchewan. As a result, the Territories will not turn back the clocks one hour on November 1, 2026.

## Nova Scotia

**Payroll:** Nova Scotia passed Bill 256 extending Labour Standards Code pay frequency and pay protections to tips and gratuities while setting new rules for tip pooling and redistribution and the employers, directors, and shareholders that may participate in such arrangements. The Bill also clarifies that a tip or gratuity is the employee's property. Effective date: April 1, 2027.

## Nunavut

**Health & Safety:** The Government of Nunavut (GN) reports that it's making "steady progress" toward its goal of eliminating tuberculosis (TB) by 2030. During the first three quarters of 2026, there were 32 active TB cases reported in seven communities. Meanwhile, outbreaks in Arviat and Naujaat remain ongoing.

## Ontario

**New Laws:** In response to Manitoba's switch to permanent Daylight Saving Time, Ontario announced that it will do likewise in Kenora and the northwestern regions of the province that have historically been aligned with neighbouring Manitoba. The change takes effect November 1, 2026, to prevent disruption for businesses, families, and Indigenous communities in Ontario's central time zone.

## Prince Edward Island

**Health & Safety:** With respiratory illness activity increasing, Health PEI implemented a face masking policy in all its facilities. Masks are mandatory for Health PEI staff as well as members of the public when within two meters of a patient. Masking is also encouraged in hallways of acute care settings. Masks are available onsite at facility entrances.

## Québec

**Training:** From now through November 4, corporate directors in Québec who are members of visible and ethnic minorities and at least 36 years of age can apply for corporate governance scholarships and training programs from the College of Corporate Directors at Université Laval. Directors who complete the training will receive Certified Corporate Director (CCD) designation.

## Saskatchewan

**Workers' Compensation:** The Saskatchewan WCB revised its rules (POL 15/2024) governing Medical Review Panels conducted by groups of physicians and chiropractors who are independent from the agency at the request of a worker or the worker's dependent. The policy addresses all aspects of the MRP process.

## Yukon

**Workers' Compensation:** The Yukon Workers' Safety and Compensation Board (WSCB) cut the 2027 average assessment rate from $2.11 to $1.86 per $100 assessable payroll. Rates will decrease across all rate groups with no industry reclassifications, with the biggest decreases in two sectors: Resources & Transportation High (-$1.29) and Construction High (-$1.00). 2027 Maximum Annual Earnings will be $111,580.

# Case Alerts

## Discrimination: Banning Older Pilots from Flying International Routes Is Age Discrimination

The union accused WestJet of age discrimination after the airline imposed restrictions on international flights for pilots ages 65 and over. WestJet claimed the new policy was a justifiable bona fide occupational requirement (BFOR) and mandated by International Civil Aviation Organization (ICAO) rules. The federal arbitrator sided with the union. Even if the policy was a BFOR under human rights law, the airline would still have a duty to reasonably accommodate affected pilots to the point of undue hardship. There were reasonable and ICAO-compliant options WestJet could have used to meet this duty, such as allowing older pilots to continue flying natural domestic routes in pairs with younger pilots. So, the arbitrator upheld the grievance and ordered WestJet to establish a comprehensive Accommodation Plan within seven days [*Air Line Pilots Association, International v Westjet, an Alberta Partnership*, 2026 CanLII 85990 (CA LA), August 21, 2026].

Action Point: The BFOR rule is a crucial legal defence that enables companies to justify otherwise discriminatory HR policies, including mandatory age-based retirement. Find out more about mandatory retirement and age discrimination rules.

## Termination: Probationary Employee Was Fired for Poor Performance, Not Indigenous Roots

The company knew perfectly well that I was of Indigenous origin when it hired me, claimed a Mechanical Specialist after he was let go from his probationary position. The company denied having any such knowledge. The Alberta Human Rights Commission dismissed the Specialist's discrimination claim. What the company did or didn't know of the Specialist's racial and ancestral roots was irrelevant, the Commission explained, because the evidence showed that there were legitimate concerns about his performance and suitability for the position, including his technical assessments, understanding of plant processes and equipment, willingness to perform field work, communication, and workplace relationships [*Punko v MEG Energy Corp.*, 2026 AHRC 110 (CanLII), September 14, 2026].

Action Point: While an employer's knowledge of an employee's race, pregnancy, or other trait or circumstances protected by human rights laws is evidence of employment discrimination, it's not proof. The issue that determines liability is whether that trait or circumstances factored into the employment decision—even if there were also other nondiscriminatory reasons for the decision, such as poor performance. Find out how to create and implement a legally sound Non-Discrimination Policy at your workplace.

## Employment Contract: Termination Notice Limit Is Unenforceable If Employee Gets Nothing in Return

A Moulder Technician relocated from Calgary to Chilliwack to take a new job with a forestry products company in 2021. Three years and one wage increase later, he signed a new contract with the firm which, unlike the original, included a clause purporting to limit his notice for termination without cause to the minimum required by employment standards laws. When the company did fire him without

cause, the Technician claimed the clause was unenforceable. The BC court agreed citing venerable legal principles holding that contractual agreements are enforceable only when the other party gets "consideration," that is, something valuable in return. The Technician didn't receive consideration for accepting the termination notice limit. Employment wasn't consideration, the court explained, because the Technician was already employed by the firm when he signed the new contract [*Chowanetz v Ivor Forest Products Ltd.*, 2026 BCSC 1760 (CanLII), September 17, 2026].

Action Point: The takeaway from *Chowanetz* is that employee givebacks aren't legally valid unless there's due consideration and that employment for an already employed person isn't such consideration. Find out how to avoid contractual pitfalls when restructuring the terms of employees' employment.

## Health & Safety: Small Business Owner Gets $35,000 Fine—Prosecution Wanted $65,000

After a worker's life-altering fall injury, the operator of a small roofing business pled guilty to three OHS violations, including failure to implement a fall protection plan and ensure that workers use a fall arrest and work-positioning system. The prosecution asked for administrative monetary penalties of $65,000; the operator argued for $10,000. The Nova Scotia court split the difference, imposing a sentence of $35,000 without any surcharges, citing the defendant's genuine remorse, immediate call to 911, guilty pleas, and small, seasonal business [*R v Hubley*, 2026 NSPC 45 (CanLII), September 4, 2026].

Action Point: Find out how to create a vibrant workplace health and safety culture to prevent injuries, prosecution, and OHS fines and penalties at your workplace.

## Labour Relations: Employer Not Required to Report OHS Workplace Violence Statistics to Union

The union asked the City of Regina for an OHS report on the numbers of filed and confirmed incidents of workplace harassment and violence over an eight-year period. The City refused to provide the requested statistics and the union grieved. The Saskatchewan arbitrator dismissed the case. The basis of the union's claim wasn't the collective agreement but its OHS law "right to know." And that's a question that goes beyond an arbitrator's jurisdiction to resolve collective agreement disputes. Even if we did have jurisdiction, the arbitrator continued, we'd reject the grievance because there was no provision in the collective agreement specifically requiring the City to provide the union OHS workplace violence and harassment statistics [*Regina Civic Members' Union, CUPE Local 21 v Regina (City)*, 2026 CanLII 98685 (SK LA), September 21, 2026].

Action Point: Find out how to implement a legally sound and effective Workplace Violence Prevention Game Plan at your site that provides for proper reporting of workplace violence incidents in accordance with the OHS requirements of your province.



# Ask the Expert



## Extended Layoffs of Unionized Employees

Can a management rights clause authorize an extended layoff? A collective agreement's reference to layoffs does not, by itself, resolve whether an extended layoff is lawful. Employers must consider statutory limits and any applicable recall arrangements.

### Question

How should an employer proceed when a unionized employee's layoff appears to have exceeded the statutory limit, but the collective agreement mentions layoffs only in its management rights clause?

### Answer

Review the applicable employment standards legislation and the entire collective agreement promptly. A general management rights clause does not automatically authorize an indefinite layoff or override statutory minimums. Determine whether the layoff remains temporary under the legislation or has triggered a deemed termination and related entitlements.

### Explanation

First, identify the governing jurisdiction, including whether federal legislation applies. Calculate the layoff period using the applicable statutory rules and check for exceptions or valid extensions. Review recall rights, seniority, notice requirements, grievance deadlines and any separate agreements with the union.

Ontario provides one example. Under section 56(2) of the Employment Standards Act, 2000, the basic temporary layoff limit is 13 weeks in 20 consecutive weeks. Certain conditions permit a longer layoff of less than 35 weeks in 52 consecutive weeks. For unionized employees, section 56(2)(c) permits layoffs of 35 weeks or more in 52 consecutive weeks where the employer recalls the employee within the time established by an agreement with the union. A clause simply reserving the right to lay off employees may not establish that timeframe.

If an Ontario layoff exceeds the applicable temporary layoff period, termination is deemed to occur on the first day of the layoff. Termination pay, severance pay and recall-right elections may require separate consideration.

Consult the union and obtain labour law advice before deciding on recall, any proposed extension or termination. Do not assume a later agreement or recall will erase entitlements already triggered.