

An Employee's Right To Vote At Provincial Elections



A provincial election has been called for April 7th, 2014. Consequently, your employees will be called upon to vote shortly.

The *Election Act*, CQLR c E-3.3 (the "Act"), which governs provincial election rights, lists obligations employers must comply with as well as remedies for employees who believe that their right to vote on election day was violated.

We hereby propose a summary your legal obligations on April 7th.

Who has the right to vote?

Any person who is a Canadian citizen, and who is 18 years of age and older on polling day is considered to be a qualified elector and as such, can exercise his or her right to vote.

(Sections 1 and 2 of the Act)

What are the hours of polling on election day?

On election day, polling shall take place from 9:30 a.m. until 8:00 p.m.

(Section 333 of the Act)

Can an employee take a leave of absence to vote?

In order to exercise their right to vote on polling day, every employee who is qualified to vote must have at least four free (4) consecutive hours to vote while the polling stations are open, not counting the time normally allowed for meals.

If an employee's schedule does not allow him to have least four (4) free consecutive hours to vote while the polling stations are open, an employer will have to grant the employee the leave of absence required so that he or she may have four (4) consecutive hours to vote. It is important to note that it is the employer who determines the time of day at which an employee will be able to take his leave.

The following examples illustrate an employer's obligations on polling day:

- An employee begins his or her shift at 1:30 pm. The employer does not have any

- obligation towards this employee, as he or she will have benefitted from four (4) free consecutive hours to vote: from 9:30 a.m. to 1:30 p.m.
- An employee finishes his or her shift at 4:00 p.m. The employer does not have any obligation towards this employee, as he or she will have benefitted from four (4) free consecutive hours to vote: from 4:00 p.m. to 8:00 p.m.
 - An employee finishes his or her shift at 5:30 p.m. The employer can allow this employee to leave work as of 4:00 p.m., so as to grant him or her a period of four (4) free consecutive hours to vote: from 4:00 p.m. to 8:00 p.m.

(Section 335 of the Act)

Must employees be remunerated during the leave of absence they have obtained from their employer on polling day?

The Act forbids employers from deducting wages on employees who have taken a leave of absence on polling day.

Consider, for example, employees whose shift ends at 5:30 p.m. and who have been authorized by their employer to leave at 4:00 p.m., thus allowing them four (4) free consecutive hours to vote (from 4:00 p.m. to 8:00 p.m.). The employer cannot deduce wages on these employees for the time they were absent from their shift (between 4:00 p.m. and 5:30 p.m.).

Any employer who would reduce the remuneration of employees from that which they would have received had they worked between 4:00 p.m. and 5:30 p.m., will be considered to have made a deduction on the employees' salary. The employer would therefore be in contravention of the Act.

(Section 335 of the Act)

What consequences could stem from an employer's contravention of the Act?

The Act imposes severe penalties on employers who have contravened the Act with regards to their employees' right to vote. In such case, the following penalties could apply:

- If the employer is a natural person, a fine of \$1,000 to \$10,000 for a first offence and of \$10,000 to \$30,000 for any subsequent offence within 10 years.
- If the employer is a legal person, a fine of \$5,000 to \$30,000 for a first offence and of \$20,000 to \$60,000 for any subsequent offence within 10 years.

Furthermore, the Act provides that an employer will be subject to these same penalties if it uses its authority or its influence to incite any of its employees to refuse to become an election officer or to abandon that office after having accepted it.

Finally, any employees who believe that their right to vote on polling day was violated can file a complaint with the *Commission des normes du travail*.

(Section 556 of the Act)

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