

Election Time! What Do Employers Need To Know?



Election Day is quickly approaching and eligible voters who haven't already cast their ballot by mail or at advance voting stations will be heading to the polls on April 28, 2025. Consider this to be a friendly reminder that the *Canada Elections Act* (the "Act") provides certain obligations for employers with respect to the federal election – specifically to provide eligible employees with paid time off to vote.

Time off to Vote

Pursuant to section 132 of the Act, on Election Day employees are entitled to three consecutive hours during which the polls are open in order to vote. This does *not* mean that every employee is automatically entitled to three paid hours off on Election Day – the requirement is only triggered in circumstances where the employee's scheduled working hours conflict with voting hours such that the employee does not have three consecutive hours available in which to vote. If an employee has already voted either by mail or in advance polls, they are not entitled to additional time off on Election Day; however, an employer cannot require that employees exercise either of these options in advance of Election Day.

If an employee will have some time free from work during the polling hours in their region, they are only entitled to what additional time would be needed to increase their free time to three consecutive hours. If polls close at 7:00pm and the employee's shift ends at 5:00pm, ending their shift at 4:00pm would comply with the Act.

If an employee is entitled to time off to vote, they are required to request same from their employer. The Act does not prescribe the time frame in which employees are required to make the request for time off, so employers may receive requests with very little lead time. How can you prepare for this?

Employers Can be Prepared

The Act specifies that the time off allowed for voting is at the convenience of the employer. Further, the Act requires voting hours on polling day that last for twelve hours, varying by five different regions based on time zone. In Ontario, polls run from 9:30am to 9:30pm, for example. So employers should be able to anticipate when they would need to allow employees to leave work in order to achieve three

consecutive hours free from work, and also to plan to try to achieve as little disruption as possible.

Exceptions

As always, there are some exceptions to the right to have time away from work to vote. Only persons who are *qualified* to vote (i.e. employees who are 18 years of age or older and Canadian citizens) are entitled to time off to vote. And notably, the Act provides an exception to employers in the transportation industry if: (i) the company transports goods or passengers by land, air or water; (ii) the employee's work location is outside of their riding; (iii) the employee operates a means of transportation (such as a bus); and (iv) time off cannot be allowed without interrupting the transportation service.

No Regular Hourly Rate?

Interestingly, the requirement to provide paid time off of work applies regardless of the basis on which employees are paid. Employees who are compensated on a piece-work basis, for example, still need to be paid what they would have earned had they continued to work during the time they were allowed to leave work to vote.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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