

## **Voting time: Employer' obligations on election day**

The federal election has been called for January 23, 2006. Employers should be aware that, under the *Canada Elections Act*, they must provide employees paid time off to vote.

### **THREE CONSECUTIVE HOURS TO VOTE**

All employees who are Canadian citizens, 18 years of age or older, are entitled to have three consecutive hours off on election day to vote. Voting hours in the Eastern time zone are from 9:30 a.m. to 9:30 p.m. If an employee's hours of work do not allow for three consecutive hours off within this period, the employer must give them sufficient time off to meet the requirement of three consecutive hours.

Therefore, for example, if an employee works from 9:00 a.m. to 6:00 p.m., it is not necessary for the employer to give them time off, as the employee has more than three hours after work in which to vote. If an employee works from 10:00 a.m. to 7:00 p.m., the employer must provide some time off, but it is not necessary to grant three hours off during the middle of the day. The Act provides that voting time is to be allowed at the convenience of the employer, so the employer in this case may allow the employee to leave work at 6:30 p.m.

### **EXCEPTION – TRANSPORTATION EMPLOYEES**

The obligation to provide voting time does not apply in relation to employees who are transporting people or goods by land, water or air, when they are employed outside their polling divisions and time off cannot be provided without interfering with the transportation service.

### **PROHIBITIONS AND ENFORCEMENT**

If it is necessary to provide time off, there must be no reduction in the employee's pay, and they must not be penalized. This also applies to employees paid on a piece-work basis: such employees must be paid for a full day's work as if they had not been given time off to vote. (Note, however, that if employees take time off other than that provided by the employer, they are not entitled to payment for that time.) Employers who fail to provide time to vote, or who deduct pay from employees who take time off to vote, are liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

The Act also prohibits employers from interfering with the granting of three consecutive hours to vote – whether by intimidation, undue influence, or other means. Employers who breach this prohibition are liable, on summary conviction, to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both. If conviction is by indictment, the maximum fine and term of imprisonment rise to \$5,000 and five years

respectively.

For further information, please contact **Sébastien Huard** at (613) 940-2744.

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