

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

**Date :** May 31, 2018

An Ontario provincial election has been called for June 7, 2018. Employers should be aware that, under the Ontario *Election Act*, they must provide employees time off to serve or to vote at the election.

### **Serving at election**

All employees acting as returning officers or who have been appointed by a returning officer to be poll officials are entitled to an unpaid leave of absence to perform their election duties. A leave shall be granted where an employer is provided with at least seven days notice of the employee's intention to take a leave.

An employer shall not dismiss or otherwise penalize the employee for exercising the right to take a leave. This includes a prohibition from subtracting a leave from an employee's vacation entitlement.

### **Three consecutive hours to vote**

All employees who are Canadian citizens, 18 years of age or older and residents of Ontario are entitled to have three consecutive hours off on election day to vote. Voting hours in the Eastern time zone are from 9:00 a.m. to 9:00 p.m. (Central Time Zone – voting hours are from 8:00 a.m. to 8:00 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 with pay 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. (Eastern Time Zone), it is not necessary for the employer to give them time off, as the employee has 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 6:00 p.m.

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 \$5,000. If an employer is convicted of failing to provide time off to vote and a judge finds that the offence was committed

knowingly, the employer will be liable to either a fine of up to \$25,000 or imprisonment up to two years less a day or both.

For further information, please contact [Larissa Volinets Schieven](#) at (613) 563-7660 extension 230 or [Justin Dubois](#) at (613) 563-7660 extension 283.