

Time to Vote: Employer Obligations on Election Day

Kristin Taylor

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A federal election has been called for October 21, 2019. With the vote just a few weeks away, employers should be aware of their legal obligations on Election Day.

Eligible Employees

The *Canada Elections Act* (the Act) provides that every employee who is an elector is entitled to three consecutive hours off from work to vote during polling hours. To qualify as an elector the employee must, on polling day, be a Canadian citizen who is 18 years of age or older.

Time Off to Vote

The right to time off in the Act does not necessarily mean that employees are entitled to extra time off from work on Election Day. If an employee's normal work schedule already provides three consecutive hours off during polling hours, the employer will not have to make any scheduling adjustments. Where an employee's normal work schedule does not, however, then the employer must adjust the work schedule to accommodate the voting time requirement.

Polling hours across Canada can be found [here](#). In Ontario, for instance, polling stations will be open from 9:30 a.m. to 9:30 p.m. If an Ontario employee normally works from 9:00 a.m. to 6:00 p.m., the employer will not have to provide the employee with time off to vote on Election Day as the polls in Ontario are open for more than three hours after the employee finishes work. Conversely, if an Ontario employee normally works from 10:00 a.m. to 7:00 p.m., the employer must provide the employee with time off to satisfy its legal obligations.

Time Off at Employer's Convenience

When a work schedule adjustment is needed, the employer is entitled to determine at its convenience which hours will be used to provide the employee with time off for voting. Employees may be released at the beginning, during, or at the end of their work days. In the second scenario above, for example (i.e. where an employee is ordinarily scheduled from 10 a.m. to 7 p.m.), the employer could either allow the employee to begin work at 12:30 p.m. or, perhaps more simply, allow the employee to leave work 30 minutes early at 6:30 p.m.

Time Off Must Be Paid

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Despite making a work schedule adjustment, the employer must not make any deductions from the employee's pay for the additional time off granted to the employee to vote. The employee must be paid as if no adjustment was made. Accordingly, time off to vote is paid time off from work.

No Withholding of Pay or Intimidation

Failing to give an employee three hours off to vote or withholding pay where time off is given constitute offences under the Act which are punishable by a fine of up to \$2,000, imprisonment for up to three months, or both. Using intimidation, undue influence or any other means to interfere with the granting of time off to vote is an offence punishable by a fine of up to \$50,000, imprisonment for up to five years, or both.

Exceptions – Transportation Companies

Finally, it is worth noting that the obligations described above do not apply to transportation companies and their employees in certain circumstances. Should you have any transportation industry specific questions or any general questions about employer obligations on Election Day, please contact a member of the Cassels Employment & Labour Group.

This publication is a general summary of the law. It does not replace legal advice tailored to your specific circumstances.