



What's New in HR Law

'Tolls' during Polls: Employer Obligations to Facilitate Employees' Electoral and Voting Duties

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Bottom Line

The Ontario provincial election scheduled for June 2, 2022, is fast approaching. Employers have legal obligations to provide their employees with time off to vote or perform electoral duties. Employers that do not comply with these legal duties may face costly fines.

Obligations for Employers under the Ontario *Elections Act*

The [Elections Act, RSO 1990, c E.6](#) (the "Act") governs the conduct of provincial elections in Ontario. Among other things, the Act requires employers to facilitate two types of participation in the electoral process: casting ballots and serving as returning officers/poll officials.

Time off for Employees to Vote

Section 6(3) of the Act entitles employees to three consecutive hours free from work for the purpose of voting in an election. [Elections Ontario](#) has scheduled the June 2nd polling period from 9:00 a.m. to 9:00 p.m. Eastern Time. Accordingly, most employees working regular eight-hour shifts do not need extra time off work to vote as they will have three consecutive hours before or after their shift to attend at a polling

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station. For example, employees scheduled to work from 9:00 a.m. to 5:00 p.m. will have four consecutive hours after their shift has ended to vote.

If an employee's work schedule does not provide three consecutive hours during the polling period to vote before or after the employee's shift (e.g., a work shift from 11:00 a.m. to 7:00 p.m.), the employee can request time off work to ensure that they have three consecutive hours to vote. In these circumstances, the employer must grant the employee's request for time off work to vote and cannot impose any pay deduction or penalty to the employee in relation to the time off work. However, the employer can structure the employee's time off work in a manner that is most convenient to the employer. For example, an employee scheduled to work from 11:00 a.m. to 7:00 p.m. can be permitted to leave work one hour early at 6:00 p.m. so that they have three consecutive hours after work to vote.

Practically speaking, employers should be mindful of scheduling additional working hours or overtime work for employees on June 2, 2022, as this may impact an employee's right to three hours free from work to vote during polling hours.

Time off for Employees to Serve as Electoral Officials

Canadian citizens who are of voting age and resident in Ontario may be appointed to administer elections in an electoral district. This role is known as a "returning officer." Returning officers may appoint poll officials to assist with election activities at a particular voting location.

Employees who serve as returning officers or poll officials may request time off work to perform their electoral duties under section 6(1.1) of the Act. This request must be made with at least seven days' notice to the employee's employer.

Upon receiving the employee's request (and confirming the employee's appointment to perform electoral duties), employers must grant the request for time off work. However, this leave can be unpaid.

Check the Box

When faced with an employee request for time off to vote, employers must assess whether the employee has three consecutive hours off work to vote or, where applicable, verify that the employee has been appointed to conduct electoral duties.

Prudent employers may also wish to review their hours of work and leave policies to ensure that their workplace is being managed in compliance with the Act's requirements.

Employers who fail to provide employees with time off in accordance with the Act can face fines of up to \$5,000.00 for unknowingly denying an employee's right to take time off work to vote, or up to \$25,000.00 and possible imprisonment for knowingly denying the employee's voting rights.

Need More Information?

For more information or assistance with minimum employment standards or the requirements under the Act, contact [Clifton Yiu](#) at 416-408-5501 or your regular lawyer at the firm.



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