



What's New in HR Law

Employer Obligations During the Upcoming Municipal Elections

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Bottom Line

Municipal elections across Ontario are scheduled to take place on October 24, 2022. Employers are obligated to provide their employees with sufficient time off work to vote. Employers that fail to comply with these legal requirements may face costly fines.

Employers Must Provide Employees with Time off to Vote

The *Municipal Elections Act, 1996* (the “Act”) governs the conduct of municipal elections in Ontario. Among other things, the Act requires employers to facilitate the participation of working Ontarians in the electoral process.

Under section 50(1) of the Act, electors are entitled to have three consecutive hours on voting day to vote in a municipal election. If an employee’s hours of employment are such that they would not ordinarily have three consecutive hours to vote, the employee is entitled to be absent from work on voting day for “as long as is necessary to allow that amount of time.”

The Act establishes that polling periods are from 10:00 a.m. to 8:00 p.m. Eastern Time. Accordingly, most employees working regular eight-hour shifts do not need extra time off work to vote as they will likely have three consecutive hours before or after their shift to attend at a polling station. For example, employees scheduled to work from 9:00 a.m. to 5:00 p.m. will have three consecutive hours after the end of their shift to vote.

This article is for the purposes of only general information and does not constitute legal advice or opinion.

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 10:00 a.m. to 6:00 p.m. can be permitted to leave work one hour early at 5:00 p.m. — instead of being given three hours off in the middle of the work day — 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 October 24, 2022, as this may impact an employee's right to three hours free from work to vote during polling hours.

Check the Box

When faced with an employee request for time off to vote, employers must assess whether the employee already has three consecutive hours off work to vote.

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 \$50,000.00.

Need More Information?

For more information or assistance with the requirements under the *Act* or other employment issues, contact [Emily La Mantia](mailto:elamantia@filion.on.ca) at elamantia@filion.on.ca or your regular lawyer at the firm.



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