



# What's New in HR Law

## Election 2021: The Obligation to Provide Paid Time Off to Vote

September 16, 2021

### Bottom Line

On September 20, 2021 Canadians will head to the polls. Under the *Canada Elections Act* (the "Act"), all employees who are "electors" (i.e. Canadian citizens that are 18 years of age or older) are entitled to three consecutive hours on Election Day to cast their vote during voting hours. An employer's obligation under the Act is triggered where an employee's hours of work prevent them from having three consecutive hours to vote. This time off is paid, and can be provided at the convenience of the employer.

### Voting Hours

The applicable voting hours are determined by the time zone in which the electoral riding lies:

Time Zone	Voting Hours
Eastern	9:30 am – 9:30 pm
Central, Atlantic or Newfoundland	8:30 am – 8:30 pm
Mountain	7:30 am – 7:30 pm
Pacific	7:00 am – 7:00 pm

For example, Steve is an employee in Toronto and works from 11am to 7pm. As a result, he does not have three consecutive hours off from work between 9:30am and 9:30pm to vote in accordance with the voting hours in the Eastern time zone. Therefore, Steve's employer must provide sufficient paid time off work to create that three-hour window. As this time can be

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provided at the convenience of the employer, Steve could be allowed to leave work half an hour early, providing a three hour window from 6:30 pm to 9:30pm.

If Steve worked from 10am to 6pm, then the employer would not have to provide paid time off to vote, as Steve would have three consecutive hours to vote after his shift ended.

### **Additional Considerations**

An employer may not make a deduction from pay, nor impose any other form of penalty, where they are required to grant an employee time to vote. Employees must receive full pay for the day, regardless of the basis upon which they are paid. For example, if Steve is paid on an hourly basis, then he must be paid the amount that he would have earned had he worked a full day.

Employers are also prohibited from interfering with an employee's consecutive voting hours through intimidation, undue influence, or other means.

### **Exceptions**

The obligation to extend three consecutive voting hours may not apply to some employees of businesses that transport goods or passengers by land, water or air. If an employee is employed outside their electoral riding in the operation of a means of transportation, and at the time cannot be provided time off without interfering in the transportation service, then the paid time off requirement will not apply.

### **Check the Box**

With the federal election just around the corner, employers will want to ensure they comply with their obligations under the Act and provide all workers with the required time free from work to cast their ballots.

### **Need more information?**

If you have any further questions about your obligations in connection with the upcoming election, please contact Andrew Failes at 647.598.0513 or your regular lawyer at the firm.



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