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Provincial Election 2011: Employers' Obligation to Provide Paid Time Off to Vote

Date: September 27, 2011

The provincial election will be held on **October 6, 2011**. For most of the province, voting hours will run from 9:00 a.m. to 9:00 p.m. For electoral districts that lie "entirely west of the meridian of 90º W. longitude" (i.e. in the Central Time Zone), voting hours will run from 8:00 a.m. to 8:00 p.m. Under the Ontario *Election Act*, all employees who are eligible to vote in the election are entitled to three consecutive hours during voting hours on election day to cast their vote.

Where an employee's hours of work prevent him or her from having the three consecutive voting hours required by the Act, the employee may request additional time off for voting to provide the required three consecutive hours off. If an employee makes this request, the employer is required to grant it. The time off is paid.

Note that where an employee has three consecutive hours that fall within the voting hours and fall outside of his or her work hours, there is no obligation to provide paid time off from work.

Example 1: Employee A lives in Kingston, and works from 9:00 a.m. to 5:00 p.m. The employer would have no obligation to provide time off work, even if requested, as the voting hours continue for four consecutive hours after the end of A's work day.

Example 2: Employee B also lives in Kingston, and works from 7:30 a.m. to 7:30 p.m. Employee B does not have a three consecutive hour voting period outside of work hours. Therefore, if requested by the employee, the employer must provide sufficient paid time off work to provide B with a three consecutive hour voting period.

The Act says that the time off "shall be provided at the time of day that best suits the convenience of the employer". In Example 2 above, the employer could allow Employee B to leave work at 6:00 p.m., as this would provide B with a three-hour block of time to vote, from 6:00 p.m. to 9:00 p.m.

Where an employer must provide time off to an employee so that he or she can vote, the employer may not make a deduction from pay nor impose any form of penalty. Rather, an employee must receive full pay for the day, and this obligation applies regardless of the basis upon which an employee is paid.

A second feature of the *Election Act* is that it requires employers to provide unpaid time off to employees who are appointed as returning officers or poll officials. The leave must be granted, without penalty, where the employee makes the request at least seven days' prior to the leave commencing. Employers may not deduct the leave from the employee's vacation entitlement.

For more information about your obligations under the Ontario *Election Act*, please contact your regular Hicks Morley lawyer.

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