

FTR Now

Canada Heads to the Polls: Employers' Obligation to Provide Paid Time Off to Vote

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A federal election has been called for **October 21, 2019**. As the candidates hit the campaign trail and Election Day rapidly approaches, in this *FTR Now* we provide guidance to employers on their obligations to their employees under the *Canada Elections Act*.

When do employers have to provide paid time off to vote?

Under the *Canada Elections Act (Act)*, all employees who are “electors”, meaning Canadian citizens who are 18 years of age or older, are entitled to **three consecutive hours** on Election Day during voting hours to cast their vote.

An employer's obligations under the Act are triggered where an employee's hours of work prevent them from having three consecutive hours to vote. In this case, an employer must “allow the time for voting that is necessary to provide those three consecutive hours.” This time off, **which is paid**, can be provided at the convenience of the employer.

The applicable voting hours are determined by the time zone in which the electoral district 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, if Employee A works in St. John's and her work day is from 10:00 a.m. to 6:00 p.m., she does not have three consecutive hours off from work between 8:30 a.m. and 8:30 p.m., the voting hours in Newfoundland. Therefore, her employer must provide sufficient paid time off work to create that three-hour window. Since it can be provided at the convenience of the employer, Employee A could simply be permitted to leave work thirty minutes early, providing her with a three-hour block from 5:30 p.m. to 8:30 p.m.

An employer does not have an obligation under the Act, however, to provide paid time off work to vote where the employees have three consecutive voting hours that fall outside of their work hours. For example, if Employee A's work hours were instead from 8:30 a.m. to 4:30 p.m., her employer would have no obligation to provide paid time off to vote, as she has over three consecutive voting hours once her work day ends before the polls close in Newfoundland.

What else should employers be aware of on Election Day?

Where an employer is required to provide time off to its employees so that they can vote, the employer **may not make a deduction from pay**, nor impose any other form of penalty, for the time that their employees are at the polls. Employees must receive full pay for the day, regardless of the basis upon which they are paid. This is particularly relevant for employers whose employees are paid on a piece-work or hourly basis. For example, if Employee A works on an hourly basis, she must be paid the amount that she would have earned had she actually worked the full day.

The Act also prohibits employers from interfering with their employees' consecutive voting hours by intimidation, undue influence, or other means.

What are the exceptions?

For employers who operate companies that transport goods or passengers by land, air or water, the obligation to provide three consecutive voting hours may not apply to some of their employees. Where employees are employed outside of their polling division in the operation of a means of transportation, and the time off cannot be provided without interfering with the transportation service, the paid time off requirement will not apply. Any electors affected by this rule should have the opportunity to vote at the advanced polls in their electoral riding.

Should you have any questions or require further information about your obligations in connection with the upcoming election, please contact [your regular Hicks Morley lawyer](#).