

Crawford Chondon & Andree LLP

BULLETIN

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Employer Obligations on October 2, 2003 Provincial Election Day

Many employers may be unaware that they have obligations to their employees in respect of the upcoming October 2, 2003 provincial election. Obligations may arise in two ways:

- granting employees time off to vote; and
- granting employees leave to fulfill duties connected to being a Returning Officer or a Poll Official in the election.

Time off to Vote

Ontario's *Election Act* provides that, on election day, employees are entitled to have three consecutive hours during which the polls are open in order to vote. Employers should note that this does *not* mean that every employee is entitled to three hours off during their normal daily schedule.

Employees who have three consecutive hours of their own time available during polling hours are not entitled to additional time off to vote. On election day, polls are open from 9 a.m. to 8 p.m., therefore, an employee working a 9 a.m. to 5 p.m. or a 12 p.m. to 8 p.m. shift would not require time away from the office to vote.

If, however, an employee does not have three consecutive hours available in which to vote on election day, the employee must request time off from the employer. The *Act* does not prescribe the time frame in which employees are required to make the request for time off, therefore, employers may receive requests with very little lead time. Once the time off is requested, it must be allowed by the employer. Employers should note that the employee is not allowed to dictate which hours they can have off. Once requested, and provided that the employee does not have three hours of their own time free in which to vote, the employer can decide timing that is convenient to their particular workplace requirements.

Unionized employers will also want to clarify any time allotment provided in collective agreements in case it is more generous than that provided by the *Election Act*.

Additionally, only persons who are *qualified* to vote are entitled to time off to vote. To qualify to vote on October 2, a person must,

- be 18 years of age or older;
- be a Canadian citizen; and
- be a resident of an electoral district in Ontario (for the purposes of the *Election Act*, a person's residence is the permanent lodging place to which, whenever absent, he or she intends to return.

Finally, employers are not permitted to make any deduction from the pay of any employee or impose any penalty due to the employee's absence from work during the consecutive hours that the employer is required to allow under the *Election Act*.

Employees Acting as Returning Officers or Poll Officials

An employee who is a Returning Officer or has been appointed by a Returning Officer to be a Poll Official in the provincial election, must be provided with leave to perform his or her duties. An employee's request for leave for this purpose must be made at least seven days before such leave is to begin.

The employer shall not dismiss or otherwise penalize the employee because the employee has exercised the right to be granted leave. The employer is not required to remunerate an employee for any leave granted to perform duties as a Returning Officer or a Poll Official, however, such leave shall not be subtracted from any vacation entitlement owing to the employee.

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