The provincial election: Employers, are you ready for election day?

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On October 5, a provincial election will be held in Quebec. In view of this election day, we think a reminder of employers' obligations under the *Election Act*[1] may be appropriate.

1. Time off for voting

On election day, an employer must ensure that their employees who are eligible to vote have a period of four (4) consecutive hours to go and vote during polling station opening hours, i.e., between 9:30 a.m. and 8:00 p.m.[2] This period does not include the time normally allotted for meals.[3]

Under the *Election Act*, an employee is eligible to vote if they have attained 18 years of age, are a Canadian citizen, have been domiciled in Quebec for at least six (6) months, are not disqualified from voting due to a tutorship order, and are not disqualified from voting under certain other laws.[4]

If an employee's normal working hours do not allow them to have this four (4) hour period, the employer must grant them the required leave. The employer has the right to determine the time of day when this leave is granted.[5] Due to the employer's management rights, the employer can modify employees' working hours so that they have the time required to go and vote. However, the *Election Act* stipulates that no deduction may be made from employees' wages. Furthermore, the employer cannot penalize employees for their absence from work during this leave.[6]

Note that management rights do not allow an employer to force an employee to vote in advance.

Conversely, if an employee's shift ends before 4 p.m. or begins after 1:30 p.m., the employee already has the minimum time required to vote and the employer therefore has no additional

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obligation toward that employee.

Furthermore, it should be noted that an employee can explicitly waive their leave to exercise their right to vote, even partially.[7]

2. Election officiers

If an employee who is a member of the election staff (an election officer) makes a written request for leave from work to allow them to perform their duties, the *Election Act* obliges the employer to grant this request. This leave is unpaid.[8]

3. Penalties

The *Election Act* provides that an employee who believes they have been the victim of a violation of their right to four hours to vote may file a complaint with the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST), in the same way as an employee who believes they have been the victim of a practice prohibited under the *Act respecting labour standards*[9] could do.[10]

The *Election Act* also provides for criminal sentences in the event of a violation. For example, an employer who does not allow an employee four consecutive hours to vote is liable to a fine of $5,000 to $30,000 for a first offence, and $20,000 to $60,000 for a repeat offence within ten years.[11]

The same penalties apply to an employer who does not allow an employee who is an election officer to be absent from work to perform their duties. They also apply to any employer who "uses his authority or his influence to incite any of his employees to refuse to become an election officer or to abandon that office after having accepted it."[12]

If you have any questions, feel free to reach out to our Labour and Employment Law group.

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1. *Election Act*, CQLR, c. E-3.3 (the "**Act**").
2. *Id*., s. 333 and s. 335, par. 1.
3. [3]*Id*., s. 335, par. 1.
4. *Id.,* s. 1.
5. *Id*., s. 335, par. 2.
6. *Id*., s. 335, par. 3.
7. https://www.electionsquebec.qc.ca/en/understand/understanding-voting/four-hours-to-vote/
8. *Election Act*, s. 144.
9. *Act respecting labour standards*, CQLR, c. N-1.1.
10. *Election Act*, s. 335, par. 4.
11. *Id.,* s. 556.
12. *Id*.

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