

# GET OUT AND VOTE: EMPLOYER OBLIGATIONS ON B.C. ELECTION DAY

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The next B.C. provincial election will be held on May 9, 2017. The British Columbia *Election Act* imposes certain obligations on employers to ensure that employees have sufficient time free from work to exercise their constitutional right to vote.

## Time Off for Voting

The B.C. *Election Act* provides in section 74 that an employer must ensure that each employee eligible to vote has four consecutive hours off from work in which to vote. This does not mean the employee is entitled to four hours off from work, but rather that the employee must have a four hour period in which he or she is not scheduled to be at work during voting hours.

Time off can be at the beginning of a shift, the middle of a shift, the end of a shift, or not be necessary at all if the employee's normal working hours already provide the required time off from work. For example, if an employee is normally scheduled to work from 8:30 am to 4:30 pm, the employer is required to either let the employee start work at noon, give the employee a four hour break in the middle of the day or let the employee leave work early at 4:00 pm instead of 4:30 pm. If the employee's shift normally ends at 4:00 pm or earlier, or does not start until noon or later, then the employee is not entitled to any time off.

It is up to the employer to decide when their employees can most conveniently take time off from work to vote.

There are also some exceptions to the obligation to allow the employee to take time off. For example, if the voter is in such a remote location that he or she would not reasonably be able to reach a voting place during voting hours, the employee is not entitled to any time off, or if the employer has a "reasonable justification" for not doing so. What is considered to be a "reasonable justification" is not set out explicitly in the *Election Act*; however, employers should exercise considerable caution before refusing to allow an employee time off to vote.

## When are Polling Stations Open on Election Day?

Polling stations are open on May 9, 2017 for voting from 8:00 am until 8:00 pm Pacific Time.

### **No Reduction in Employee Pay**

An employer cannot deduct or reduce an employee's pay for time off provided to the employee to vote, nor can an employer otherwise penalize an employee for exercising his or her rights. Employees are entitled to their regular pay for their regular working hours not worked while voting.

### **Unionized Workplaces**

If you are a unionized employer, check your Collective Agreement as it may have specific provisions applicable to your workplace, on top of your obligations to employees under the *Election Act*.

### **Penalties**

The failure by an employer to comply with section 74 of the B.C. *Election Act* is an offence and upon conviction an employer is subject to a penalty of up to \$10,000 or a term of imprisonment of not more than one year, or both.

by Joan M. Young and Natalie Cuthill

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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