

PAFSO Update – Winter 2009

Question? Comments? Concerns? Please contact PAFSO staff or executive members directly, or for referral call PAFSO's office number at (613) 241-1391 or send an e-mail to info@pafso.com. You may also wish to check PAFSO's website at http://www.pafso.com/french/index_fr.cfm (French) and <http://www.pafso.com/index2.cfm> (English).

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Collective Bargaining

Details of the negotiations are posted separately on the PAFSO website, and we will continue to provide updates as major developments arise, but we provide a summary of the situation to date here.

As you know, the Government in November offered a “take it or leave it” offer and planned to introduce legislation imposing that offer. While the Government did not at that time introduce such legislation, it has now. But before getting to the new legislation and its effect on our position we will tell you where we are.

Recognizing the difficult economic situation, and reflecting the input from our members, we have not taken an aggressive position in negotiations. We have reluctantly accepted the idea of a 4 year (rather than our normal 2 year) contract, and have in principle accepted that the financial package will be shaped by the rates of pay accepted by some other collective bargaining agents (notably PSAC) – 2.3% in the first year (effective July 1, 2007), 1.5% in the next three years.

However, we have noted that the economic concerns of other collective bargaining agents have been recognized in negotiations. For example, PSAC obtained national rates of pay for their SV bargaining unit, a commitment to classification reform starting with the PA group, and a \$4,000 lump sum for many of their members (those in the PA and EB group) as part of dropping a Human Rights complaint. See statement of PSAC president at <http://www.pfac.com/news/2008/messages/20081125-e.shtml> for details.

In that spirit, our only remaining economic request is to address the pay scales for FS-2s to be consistent with CO-2 rates of pay (by adding steps at the top to add approximately \$10,000 to the maximum), and to match FS-4 pay to the EX-1 rates. We have offered to

reduce the percentage increases by an amount comparable to the amount that Treasury Board calculates those improvements would cost (approximately \$800,000, or less than 1% of the FS payroll). Unfortunately, despite this offer being cost-neutral according to Treasury Board calculations, the employer has rejected this offer, stating that management does not consider that FS-2s and CO-2s are comparable.

The next step is therefore to make use of a Public Interest Commission, which provides a recommendation for resolution of the dispute (see http://www.pslrb.gc.ca/factsheets/collectivebargaining_e.asp for a general description of the collective bargaining process). That process has already begun: the three members of the Commission have been selected (one picked by PAFSO, one by Treasury Board, the Chair selected by common agreement), and we hope that the process will go speedily.

The legislation that the government introduced to impose its offer is part of its *Budget Implementation Act* (Bill C-10), which includes a new Act, the "*Expenditure Restraint Act*" in Part 10 (available at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3656090&Language=e&Mode=1&File=443>). That Bill went through Second Reading on February 12, 2009 and was referred to Committee. Assuming the Bill is adopted, the *Expenditure Restraint Act* will mandate (in Article 16) the maximum increases permitted in collective agreements from 2006-2011. The 2.5% from 2006 to 2007 is what we got in our now expired collective agreement. For our upcoming collective agreement to comply with that Act would have to have increases no greater than 2.3%, 1.5%, 1.5%, and 1.5% over 4 years. We have not yet obtained legal advice on the implications of the Act, but that Act may well also prevent the employer from agreeing to a collective agreement containing restructured rates of pay for the FS-2 and FS-4 level as we propose. However, the Act affirms the right to collectively bargain except as specifically provided in the Act (in Article 6). That language suggests that we may still proceed to the PIC on any issue except what has been legislated. We continue to study the progress of Bill C-10 and its implications, but for now intend to continue with the PIC process.

Spousal Issues

National Area of Selection for External Advertised Processes

DFAIT confirmed in an administrative bulletin of 15 January 2009 that it was implementing the Public Service Commission's new National Area of Selection Policy which requires that all staffing actions open to the public must also be open to all Canadian citizens, living anywhere in Canada. The wording of the announcement did not make clear that Canadians living abroad, including FS spouses, are also eligible to apply on such competitions. After PAFSO pointed out the ambiguity, Personnel agreed that a clarification should be issued to ensure that FS spouses are aware of their right to compete. A follow up clarification was issued on February 24, 2009 (on DFAIT intranet at <http://intranet.dfait-maeci.gc.ca/panorama/2009/01/0105-HCM-NtlAreaSelection-en.asp>).

Bill supporting increased survivor benefit for pensions of Foreign Service Officers

In the last session of Parliament, MP Peter Stoffer, introduced two related Private Members' Bill:

- C-218 –that would have increased the allowance given to surviving spouses and children of Canadian Forces or Royal Canadian Mounted Police contributors from 50% to 60% of the contributor's annuity or allowance. (summary and text at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3615507&Language=e&Mode=1>); and
- C-201, which would have eliminated the CPP “clawback” on pension income for RCMP and Canadian Forces (including to survivors), thus in a small way offsetting the lower total household income for spouses having little or no pension income to contribute during retirement as a result of their overseas service to Canada. (see details of bill at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3615228&Language=e&Mode=1>)

The Foreign Service Community Association approached Mr. Stoffer about making the same changes to the Public Service Superannuation Act for those surviving spouses of public servants (FS and other government departments) who have served at least one government posting overseas. He indicated a willingness to support that inclusion in a future bill to be re-introduced, as long as collective bargaining agents supporting those groups indicate their support. PAFSO has therefore written a letter to Mr. Stoffer of support. (See text at http://pafso.com/news_releases.cfm?newsID=72. While we appreciate that Private Member's Bills rarely become law directly, we hope at a minimum that this will provide further profile for a serious unfairness for spouses that serve abroad.

DFAIT Spousal Employment Support Office

PAFSO has been advised that HCM Division at DFAIT has created a Spousal Employment Support Office (SESO) to assist families. The Office will specifically manage spousal employment and will also work to improve Departmental communications with the entire foreign service community, including spouses and families. The team, led by Todd Kuiack at HCM, has been working on spousal employment issues, especially using telework, to allow accompanying spouses to continue their career in the public service while on posting. Other projects include creating an externally-available website with information on the posting-process and issues related to living abroad, assisting in processing security clearances for spouses, and other related research and support.

Francesca D'Ambrosio-Côté, Spousal Support Coordinator is the first point-of-contact for supporting spouses (Tel: 613-995-2381; e-mail: Francesca.D'Ambrosio-Cote@international.gc.ca)

Note that the Global Career Transitions service is also available to assist spouses in managing their career on arrival abroad or in Canada by contacting career_services@rogers.com with the subject line "Career Services"(further details for those with DFAIT intranet access available at <http://intranet.dfait-maeci.gc.ca/panorama/2008/11/1112-aef-careerprogram-en.asp>).

Staffing at CIC

FS-03 and FS-04 competitions are currently underway at CIC. The application deadline was February 3, 2009. This is now the third FS-04 competition to be held by CIC. The first two were billed as post-restructuring transitional measures and on that basis were closed to FS employees at CIC (unlike DFAIT, which opened internal competitions to all DFAIT employees). This third competition is open to all CIC employees, but not to the whole public service (contrary to earlier indications).

CIC has confirmed that candidates who were happy with their PSC 810 In-basket Exercise mark from last time will be permitted to use the same score on this round of staffing. In the FS-3, they will be selecting only the top 40 scores to advance to the next stage, and only the top 30 for the FS-4 competition.

Acting Pay for “Double Stretch” assignments.

DFAIT (to our knowledge this is not a problem at CIC) has at times in the past year advised those who are going into a “double stretch” acting assignments (in other words substantive FS-01s in FS-03 positions, or FS-02s in FS-04 positions) that they are “not eligible for acting pay at the [FS-03/FS-04] level”, but can “apply for duty classification at [FS-02/FS-03] level” while acting. These notifications were not apparently based upon an individual assessment, but on an invariable policy that those in double stretch positions would only receive acting pay for one level above their substantive pay.

We recognize that double stretch assignments are rare, and that there are instances where an individual is assigned to a “double stretch” acting position, but does not have the skills or competencies to perform the job at the higher level (known as “substantially performing”) the duties of that position. However, there are also instances (particularly for those with relevant skills or expertise developed before they became FS) where the individual is able to substantially perform the duties of that assignment.

You should therefore know that Article 46.04 of the FS Collective Agreement does not allow for paying lower pay for acting positions simply because the position is “double stretch”. You are entitled to acting pay at the level of the position you are acting in if you are “substantially performing” the duties of that position. PAFSO is happy to provide you assistance in making a grievance to support that right if you wish.

New Citizenship Act does not directly affect children of FS serving abroad

The new Citizenship Act (Bill C-37, passed last year) will result in future loss of Canadian citizenship for some second generation born abroad. In other words, a child born after the new law takes effect (those already born are not covered) to parents who themselves were both born abroad will not be a Canadian citizen. Anyone caught in this would have to follow the immigration process leading to citizenship to become Canadian. Of course this could have a particular effect for our members, but our understanding is that this should not be very significant, as children of FS born abroad are exempt.

The exemption is in what will be Section 3(5). That exemption provides that the loss of citizenship to the second generation born abroad does not apply if one or both of the person's parents are “employed outside Canada in or with the Canadian armed forces, the federal public administration or the public service of a province, otherwise than as a locally engaged person.”

The text of Bill C-37 is available at <http://www2.parl.gc.ca/HousePublications/Publication.aspx?DocId=3437373&Language=e&Mode=1&File=33>, which modified the existing Citizenship Act available at <http://laws.justice.gc.ca/en/result> (search for “Citizenship” under the title of the Act).

Changes to FSDs

Following consultation in the National Joint Council, the Foreign Service Directives (FSD) have been revised effective April 1, 2009. For now a summary of the changes are available in a communiqué on the NJC website at <http://www.njc-cnm.gc.ca/doc.php?did=427&lang=eng>. The full Directives will be available there on April 1, 2009.

The mandate of the NJC was to make changes on a “cost neutral basis”. In essence, we had to give up something in order to get something. We believe the net result of the changes for members is very positive, particularly since the most significant loss (of property management fees) was a taxable benefit, in exchange for which we got significant increases in non-taxable allowances.

To highlight the main changes (more details are on the NJC website):

- FSD 8 (new) – Short term Assignments Outside Canada (replacing Appendix A to FSD 3) - generally improved provisions.
- FSD 18 (new) – Special Family Separation Assistance (replacing FSD 17.04 - once per career assistance, FSD 17.05/Appendix – short term separation assistance and FSD 15.34 – family separation assistance) – improved provisions and increased flexibility.

- FSD 56 – Foreign Service Premium – increases for most employees and expanded to recognize accompanied by up to 4 dependants.
- FSD 58 – Post Differential Allowance – expanded to recognize accompanied by up to 4 dependants; special payments for extraordinary conditions/active hostilities have been increased; assignments in headquarters which determine eligibility for a continued 50% bonus payment have been increased from 24 months to 30 months.
- FSD 16 – Reimbursement of property management fees has been discontinued; employees may still claim these expenses when filing an annual income tax return; employees may claim a second finder's fee to find a second or subsequent tenant when the principal residence becomes vacant while on posting.
- FSD 32 – Daycare Assistance – increased flexibility; the annual survey has been expanded from 4 to 8 daycare centres and deductibles are based on three age categories; registration fees are reimbursable up to \$250 per year.
- FSD 33 – education assistance at a Lycée are now available to rotational employees in regional offices.
- FSD 50 – Vacation Travel Assistance (VTA) –will be the same as the Post Specific Allowance under FSD 56.10; this reflects a reduction from 90% to 80% of full(Y) fare for posts where a stopover would be allowed on relocation travel; the new VTA will allow at least one return trip to the HQ city and will be established annually, on June 1st; dependants are no longer required to travel with the employee; employees do not have to take 10 days leave; a minimum of 75% (rather than 90%) of the allowance must be spent on travel and travel-related expenses; reporting requirements have been reduced, but not eliminated.
- FSD 54 – Compassionate Travel – In the event of death of a parent of either an employee or an employee's spouse or common-law partner, travel for a minor child (under 18) will be authorized.
- FSD 55 – Post Living Allowance – PLA will be adjusted annually, on June 1st to reflect the spendable income curve based on the inflation rate reported by the CPI for the previous calendar year.

Call for Nominations - Recognize Your Peers

The PAFSO Awards were instituted in 1990 to provide peer recognition of exceptional achievement by career Foreign Service Officers. They highlight the work of FS in Canada and abroad, and promote a greater public understanding of the profession and the challenges of a rotational lifestyle. There will be up to four awards made, each with a cash prize and a certificate.

The nominations process is now open and this is your opportunity to participate. Please take a moment to consider if there is a Foreign Service Officer you know who deserves recognition for his/her exceptional achievement.

Nominations must be received at the PAFSO office by April 5, 2009, either by fax (613) 241-5911, e-mail awards@pafso-apase.com, or by mail to 412 - 47 Clarence Street, Ottawa, Ontario K1N 9K1.

June 2009 marks the 20th year of the PAFSO Awards program. Join us on **Thursday, June 11, 2009**, at the National Arts Centre in Ottawa when colleagues and friends of the Foreign Service will gather to celebrate this year's Award recipients.

For more information, see www.pafso-apase.com