

# Work Force Adjustment FAQs

In June 2011, Treasury Board announced that it would be initiating a Strategic and Operating Review (“SOR”) which would require all federal government departments to submit proposals reducing their budgets from 5 to 10%. The SOR process has been deemed a cabinet confidence, and therefore the deliberations on recommendations and proposals are not made public. However, the results of the SOR will be made known in the 2012 Federal Budget, which will be delivered in February.

The employer has advised that the SOR could very well lead to cuts to services and departments may emerge smaller through natural attrition or workforce adjustment.

In the event an AJC member is declared surplus, we have included information below that you may access to address questions you may have in the area of Work Force Adjustment. Should you, after consulting the materials below, still have questions regarding your personal circumstances, we recommend that you contact your local GC representative directly or an AJC Labour Relations Officer by sending your inquiry to [admin@ajc-ajj.com](mailto:admin@ajc-ajj.com).

As a unionized member, you benefit from certain protections. If you have been declared surplus, you are protected by the terms and conditions set out in the newly revised [NJC Work Force Adjustment Directive](#) (“WFAD”) which is incorporated by reference in the LA collective agreement and which came into effect on December 1, 2010.

Here is a listing of Frequently Asked Questions. A listing of additional [reference materials](#) is also included at the end of this document. These materials are extensive and we strongly encourage all members who are affected by a WFA to read all of these documents carefully prior to exercising their options. The FAQs listed below serve as an introductory tool only that will help direct you to the relevant provisions of the WFAD or related reference materials.

## What is a Work Force Adjustment (WFA) situation?

According to the [WFAD](#), a “work force adjustment” is defined as “a situation that occurs when a deputy head decides that the services of one or more indeterminate employees will no longer be required beyond a specified date because of a lack of work, the discontinuance of a function, a relocation in which the employee does not wish to relocate or an alternative delivery initiative.”

For a SNAPSHOT on the process, see [Appendix D](#) outlining a summary of the Key Elements of the WFAD.

## Who may be affected a WFA?

A Work Force Adjustment applies to indeterminate employees upon being informed in writing that his or her services may no longer be required beyond a specified date. See [Appendix D](#) outlining a summary of the Key Elements of the WFAD.

## **What criteria do deputy heads use when determining who is to be declared surplus? Does seniority apply when deputy heads decide who should be laid off?**

Seniority may be a relevant consideration however it is up to the deputy heads to establish the criteria being used.

[Section 34](#) of the collective agreement requires the employer to make every reasonable effort to ensure that any reduction in the work force is accomplished through attrition.

For information on the merit criteria used, please refer to the [Public Service Commission's Guidance Series: Selecting Employees for Retention or Layoff](#).

## **What can I do if I disagree with management's decision to lay me off?**

Generally, disputes relating to the hiring and laying off of public servants fall under the exclusive jurisdiction of the [Public Service Staffing Tribunal](#) pursuant to the [Public Service Employment Act](#) ("PSEA"). As staffing policies are not subject to collective bargaining, your available remedies may be limited to the PSEA, which provides for limited recourse in the case of certain predefined types of complaints. More specifically, section 65(1) of the PSEA states:

"Where some but not all of the employees in a part of an organization are informed by the deputy head that they will be laid off, any employee selected for lay-off may make a complaint to the Tribunal, in the manner and within the time fixed by the Tribunal's regulations, that his or her selection constituted an abuse of authority."  
(Emphasis added.)

For more information on the evaluation criteria used in determining who should be laid off, you may consult the Public Service Commission's [Guidance Series: Selecting Employees for Retention or Layoff](#), [Guide on Implementing an Assessment Policy](#), and [Assessment Policy](#).

For union advice on whether or not you may have other avenues available to you on account of your particular fact situation which may bring other collective agreement provisions into play, you may contact one of our AJC's Labour Relations Officers by completing an incident report outlining your details and forwarding it to [admin@ajc-ajj.com](mailto:admin@ajc-ajj.com).

## **What are the Department or Agency's notice obligations?**

For official notification obligations relating to employees being declared surplus, consult [section 1.1.6](#) of the WFAD.

For all other notification obligations, see [Part II](#) of the WFAD.

## **What are my options if I am declared surplus and I have not received a guarantee of a reasonable job offer (“opting employee”)?**

See [Appendix D](#) Chart outlining the Key Elements of the WFAD, including options. Please note that the Education Leave provisions provided for in Appendix D should be amended to reflect an amount of up to \$11,000 for receipted expenses as a result of the revised WFAD, dated December 1, 2010.

For more details regarding your options if you declared a surplus and have not received a guarantee of a reasonable job offer, consult [Part VI, section 6.3](#) of the WFAD.

## **What happens if I have received a guarantee of a reasonable job offer and I am declared a “surplus employee”?**

In such instances, you will be placed on surplus priority status when a guaranteed reasonable job offer is made (GRJO) until you receive/accept a reasonable job offer (RJO), are laid off or resign. If a reasonable job offer is extended to you, you may choose to accept or reject the offer. Consequences relating to the acceptance or rejection of job offers are covered under [Appendix D](#) outlining the Key Elements of the WFAD, and more specifically covered under [Part I](#) of the WFAD.

If for some reason, you refuse a reasonable job offer, you will be placed on lay-off but no sooner than 6 months from the beginning of the surplus period (i.e. the date you were offered a GRJO). You would remain on lay-off priority status (unpaid) for 1 year.

For more information on priority lists, see the Public Service Commission’s [Guide on Priority Administration: Questions and Answers, Part 1: General Information for All Priority Types, Part 2, chapter 2: Laid-off Employees](#), and [Part 2 chapter 3: Surplus Employees](#).

## **What are my rights and obligations as an employee?**

See [section 1.4](#) of the WFAD.

## **What are my severance pay and other entitlements in the event I am laid off?**

Depending on the option you choose from those listed in [Appendix D](#) of the WFAD, i.e. surplus priority status, transition support measure or education leave, you may be entitled to layoff priority for 1 year, severance pay at layoff rate in accordance with the terms set out in the collective agreement in addition to a lump-sum amount in accordance with the schedule set Transition Support Measure Table at [Appendix C](#) of the WFAD. Please read [Appendix D](#) and the remainder of the [WFAD](#) carefully for details on other entitlements you may have.

Pursuant to section 22.01(a) of the collective agreement, a lawyer shall receive severance benefits calculated on the basis of his weekly rate of pay:

- (i) On the first lay off after November 28, 1969, two (2) weeks’ pay for the first complete year of continuous employment and one week’s pay for each additional complete year of continuous employment and, in the case of a partial year of continuous employment, one week’s pay

multiplied by the number of days of continuous employment divided by three hundred and sixty-five.

- (ii) On second or subsequent layoff after November 28, 1969, one week's pay for each complete year of continuous employment and, in the case of a partial year of continuous employment, one week's pay multiplied by the number of days of continuous employment divided by three hundred and sixty five, less any period in respect of which he was granted severance pay under subparagraph 22.01(a)(i) above.

## **What is the impact on my pension if I am laid off?**

The [Public Service Superannuation Act](#) governs pension benefits. Effective your date of layoff, your service ceases to accrue. You may contact your [Pension Benefits Administrator](#) regarding your pension-related questions.

## **What happens to my benefits under the Public Service Health Care Plan (“PSHCP”) while on layoff?**

Your benefits continue while a surplus employee and extend for up to one year or until you are entitled to an ongoing pension benefit, whichever is shorter. For more details, refer to the PSHCP, [Section D entitled When Continuing Coverage and Note 1](#) .

**For more questions and answers** regarding the WFAD, you may also consult the NJC [Questions and Answers on Work Force Adjustment Agreements](#)

**For more detailed information** regarding the WFAD, you are encouraged to refer to the following reference materials:

- the [AJC Representations Policy](#)
- the [LA Collective Agreement](#)
- The National Joint Council [Public Service Health Care Plan Directive](#)
- the National Joint Council [Work Force Adjustment Directive](#)
- the National Joint Council WFAD [Flowchart of Key Elements of the Work Force Adjustment Directive](#)
- the [Public Service Commission's Assessment Policy](#)
- the [Public Service Commission's Guidance Series](#)
- the [Public Service Commission's Guidance Series: Selecting Employees for Retention or Layoff](#)
- the [Public Service Commission's Guide on Implementing an Assessment Policy](#)

- the [Public Service Commission's Guide on Priority Administration](#)
- [Public Service Staffing Tribunal website on making a complaint](#)

Legislative References:

- [Public Service Employment Act](#) and its regulations
- [Public Service Labour Relations Act, section 208](#)
- [Public Service Superannuation Act](#)