

Board file: 590-32-40838

In the matter of a **Public Interest Commission** established under the *Federal Public Sector Labour Relations and Employment Act*

Between

**THE PUBLIC SERVICE ALLIANCE OF CANADA**

("the Alliance")

and

**THE CANADIAN FOOD INSPECTION AGENCY**

("the Agency")

**Before:** Morton Mitchnick, Chair  
Bob Kingston, Alliance Representative  
Jock Climie, Agency Representative

**Appearing for the Alliance:** Hassan Hussein, Negotiator  
Silja Freitag, Research Officer

**Appearing for the Agency:** Brenda Dagenais, Negotiator and Director General,  
Collective Bargaining & Labour Relations  
Karen Alexander, Manager of Collective Bargaining

Hearing conducted via video-conference May 7<sup>th</sup> and 8<sup>th</sup>, 2020

## REPORT OF THE COMMISSION

1. This is the Report of a Public Interest Commission appointed pursuant to the provisions of the *Federal Public Sector Labour Relations Act* to assist in the renewal of a collective agreement between the Public Service Alliance of Canada and the Canadian Food Inspection Agency. Created in 1997, the establishment of the Agency consolidated federal inspection and related services for food, animal and plant health. The new organization brought together employees from Agriculture and Agri-food Canada, Fisheries and Oceans Canada, Health Canada and Industry Canada. While the information is a little out of date, the make-up of the bargaining unit is roughly as follows:

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Administrative Services Group (AS)	685
Clerical and Regulatory Group (CR)	479
Engineering and Scientific Support Group (EG)	2574
Financial Administration Group (FI)	91
General Labour and Trades Group (GL)	56
General Services Group (GS)	5
General Technical Group (GT)	4
Heating, Power, and Stationary Plant Operation Group (HP)	-
Information Services Group (IS)	101
Program Administration Group (PM)	197
Social Science Support Group (SI)	3
<b>Grand Total</b>	<b>4195</b>

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2. The parties met for some 17 days in the course of 2019, but ultimately the Alliance applied for the present Commission in August of that year. A large part of the difficulty, certainly from the Alliance's point of view, was the insistence by the employer on the issue of Wage Rates of adhering to a "pattern" that had been developed in the sector by Treasury Board's settlements with other bargaining agents. The parties' Briefs provide detailed submissions on that, but, although latterly updated as would be expected, those Briefs were prepared at a time prior to the onset of the COVID pandemic, and all of the events and government responses that have flown from that. The manner in which future settlements will be impacted by the COVID pandemic (e.g. the economy, the government's fiscal circumstances, risks to worker safety, etc) are being determined elsewhere, and will ultimately provide the parties with their mandate for bargaining when the process is complete (and we note in that regard the recent settlement between Treasury Board and the Alliance for the PA Group, now on its way to a ratification vote). Similarly, there are a number of what are referred to as "common issues" outstanding at this table as at others, and these too will have to be addressed by the parties once these issues have been finally resolved elsewhere. That leaves a limited number of issues left to the Commission to comment upon, and our Report on those now follows.

### **Wage Rates**

3 As noted, neither the parties nor the Commission have been in a position to address the question of a general wage increase at this point in the face of the economic uncertainty caused by the pandemic. We do, however, agree with the Agency that the most appropriate comparator for the members of this group is the Core Public Administration from which they have been drawn. On that basis the following classifications, according to the Agency's own survey, show an overall wage gap to which the parties will need to turn their attention:

FI

SI

GL-EIM

GL-MAM

GL-MAN

GL-PIP

HP

and to a lesser degree, GS.

### **Meat Hygiene Allowance**

4. The background to this Alliance request is that the Meat Inspectors represented by the Alliance work in slaughtering facilities alongside Veterinary Scientists represented by PIPSC. Historically the Agency has had difficulty recruiting into these “killing” facilities individuals with the latter background and interest, and in 2006 the Agency introduced a “Meat Hygiene Allowance” to provide an additional 4% on compensation. In the most recent round of collective bargaining with PIPSC, that Allowance was rolled in to salary itself, as part of an overall review of the Veterinarians’ compensation package. Notwithstanding that more recent development, the Alliance here seeks the introduction of the same Meat Hygiene Allowance for its Inspectors, having regard in particular to the Inspectors’ “front-line” role in keeping society safe from contaminated meat during this period of the pandemic.

5. The Commission does not in any way underestimate the role that the Meat Inspectors have been called upon to play during the pandemic. This is, however (hopefully), a very unique circumstance, and a time when regard must be had to the exposures being faced by front-line staff of the federal government generally. The right question for the purposes of this Commission, it seems to us, is whether on all of the normal factors the compensation level of the Meat Inspectors bears a reasonable relationship to that of the Veterinarians with whom they work, and that is a matter that the parties will need to address in the fullness of time.

### **Hours of Work**

6. Both sides have a proposal in this area.

7. For the employer's part, it seeks to move away for its Inspectorate body from the Monday to Friday "office" type of schedule (with its Shift Premiums for hours outside that model) to a regular shift schedule that does not entail premiums, and that would better provide the inspection coverage that it indicates is currently needed. This, the Commission notes, would represent a fundamental change in working conditions for these employees, and, the Agency itself acknowledges, will have to be appropriately bargained for if it ever is to be achieved.

8. That said, the Commission accepts that the circumstances of individual employees may be such that work on week-ends, for example, would better suit their own needs, and in that regard we note that Article 24.06 of the collective agreement does in fact provide:

**24.06** Notwithstanding the provisions of this Article, upon request of an employee and the concurrence of the Employer, an employee may complete his or her weekly hours of employment in a period other than five (5) full days provided that over a period of twenty-eight (28) calendar days the employee works an average of thirty-seven decimal five (37.5) hours per week. As part of the provisions of this clause, attendance reporting shall be mutually agreed between the employee and the Employer. In every twenty-eight (28) day period such an employee shall be granted days of rest on such days as are not scheduled as a normal work day for the employee.

9. It is also our impression that the Hours of Work set out in the collective agreement have not been treated as prescriptive, where an employee her- or himself is interested in a deviation, and it seems to us that this kind of arrangement can readily be worked out in the field, as well as forming the subject of discussion as needed within the Consultation Committee that the Commission will speak to in the next section.

10. As indicated, the Alliance also has a proposal on Hours of Work, although limited to the GS/GL group. Since coming over from the CPA the members of this trades and labour classification (GS/GL) have continued to work the standard 40 hours worked by those classifications in the CPA. The Alliance seeks to have their hours changed to the 37.5-hour week applicable to the other classifications in the bargaining unit -- without any reduction in pay. This is a large group at the CPA, a much smaller one at the CFIA. Nonetheless, wherever adopted it obviously would be a

cost item to be factored into the overall monetary envelope available this round. That said, however, it is fair to note that the internal “anomaly” for this group at CFIA was addressed in the PIC Report of Mr. Slotnick that was issued back in 2013.

### **MOA on Hours of Work**

11. The issue of weekend shift work is not a new one, and in consummating the existing collective agreement the parties agreed on a Memorandum of Understanding as follows:

#### **APPENDIX “F”**

#### **Memorandum of Understanding Hours of Work**

Within ninety (90) days of ratification of this Collective Agreement, the Parties will meet to engage in meaningful consultation on any Employer plans to schedule weekend shifts for employees not currently working weekends, prior to the implementation of any such shift.

12. The employer takes the position that that MOU has now run its course, and seeks to delete it for the future. It is clear, however, that hours of work are very much an issue right now, and it makes sense that the parties execute a further Memorandum of Understanding to provide a vehicle for continuing the consultation.

### **MOU on Wash-up Time; Proposed New Article on Prep and Washup-time**

13. In concluding the last collective agreement, the parties also signed off on an MOU to address outstanding Wash-up issues as follows:

#### **APPENDIX “G”**

#### **Memorandum of Understanding**

## Article 60: Wash-up Time

The Parties acknowledge that the current amount of wash-up time in Article 60.01 may not meet the needs of all employees due to the many different sizes and layouts of slaughterhouses across the country.

Within ninety (90) days of ratification of this Collective Agreement, the Parties will meet to engage in meaningful consultation with each Region to further define any issue surrounding wash-up time, review the situation in the various workplaces, analyze the results and determine potential solutions to reasonably resolve any issues, both in the short and long term. Such potential solutions may include the staggering of starting times to ensure adequate coverage and adequate wash-up time, and to ensure that employees receive their scheduled breaks.

13. Once again, the employer is of the view that the MOU has run its course and should be deleted. The Alliance strenuously disagrees, and further has a proposal dealing with both wash-up time and prep-time as follows:

### **Add NEW to Article 60 (Wash up Time) or Article 24 (Hours of Work)**

#### ***XX.01***

- (a) All employees working in inspection (slaughterhouse) shall be provided a minimum of fifteen (15) minutes at the beginning and fifteen (15) minutes at the end of each shift for tooling up and tooling down. Time spent tooling up and tooling down shall form part of an employee's shift.***
  
- (b) In addition to a) above, where there is a need due to the nature of the work, wash-up time will be permitted before the end of the working day.***

14. With respect to the latter, as the MOU notes, there is currently in the collective agreement a provision dealing with Wash-up Time and reading as follows:

### **ARTICLE 60 - WASH-UP TIME**

**60.01** Where the Employer determines that due to the nature of the work there is a clear-cut need, wash-up time up to a maximum of ten (10) minutes will be

permitted before the end of the working day, or immediately following and contiguous to the working day.

**60.02** Wash-up time permitted pursuant to clause 60.01 and immediately following and contiguous to the working day shall be deemed to qualify for overtime compensation for the purpose of clause 27.01.

15. There has been considerable litigation between the parties over the payment of overtime for the time needed by Inspectors to get ready to commence their work, and those have failed largely on the basis of failing to meet the 15-minute minimum under Article 27.01 for the logging of overtime. Article 60.02, we note, makes necessary wash-up time extending beyond the shift an exception to that, where the demands on the Inspector are such that washing up must take place “immediately following and contiguous to the working day”.

16. Clearly, the parties have much to talk about on this subject generally, including as well a consideration of the impact of necessary wash-up time at the start of an Inspector’s breaks. Out of the previous consultations the employer has drafted some central Guidelines that are definitely steps in the right direction -- having in mind that the application/workability of such guidelines are anticipated to be discussed at each individual facility, as well as at the Regional Union-Management Consultation Committee as required. We leave it to the parties to draft a further Memorandum for consultation in the renewal agreement that will allow the parties to continue the good work that they have been doing on these issues.

### **Article 37 – Leave General**

17. With the movement deeper into the “digital age”, the employer has suggested the following modification to Article 37.03:

**37.03**



An employee *who does not have electronic access to the leave system* is entitled, once in each fiscal year *or as may be reasonably required*, to be informed upon request, of the balance of his or her vacation and sick leave credits.

18. The Commission is supportive of the change.

#### **Article 45 – Leave without pay for the Care of the Family**

19. The bulk of what is being proposed on this Article is part of the items under discussion centrally. The one change added by the employer locally appears to rest on a narrow issue that is otherwise manageable, and is not supported by the Commission.

#### **Article 51 – Court Leave**

20. The employer seeks deletion of “grand juries” since they no longer exist in this country. Given the broad language of subparagraph (v) of the Article, the Commission has no difficulty supporting this. The remainder of the changes sought by the employer we leave to the parties to address in the context of their final comprehensive settlement.

#### **Article 53 – Examination Leave with Pay**

21. The Alliance seeks the following clarification to Article 53.07:

##### **53.07**

At the Employer's discretion, examination leave with pay may be granted to an employee for the purpose of writing an examination *including on-line examination*, which takes place during the employee's scheduled hours of work. Such leave will only be granted where, in the opinion of the Employer, the course of study is directly related to the employee's duties or will improve his or her qualifications.

22. Both parties as well as the Commission appear to see this clarification as implicitly covered in any event; however, in the interest of avoiding differences in interpretation at the local level, the Commission is supportive of the amendment.

#### **Article 54 – Leave with or without pay for Other Reasons**

23. The employer, first off, seeks to add the words “in exceptional circumstances” to Article 54.01(b). That seems to us to add a whole new potential for definitional dispute, and given that the leave is discretionary in any event, the Commission sees no demonstrated benefit to the addition of this language.

24. Beyond that, however, the parties are in agreement that the distinction between volunteer charitable activities and other leaves of a personal nature disappear, in line with what is happening in the sector generally. Given that that change has already been effected in the Agency’s collective agreements with its other bargaining agents, there would seem to be some value in consistency of administration at the Agency, and we leave it to the Alliance to assess whether the deviation it seeks is worth pressing for.

#### **Article 58 – Employee Performance Review**

25. The employer once again has a request based on movement into the digital age. The Commission would support the employer’s request, subject to the addition of the bolded words hereunder:

**Unless requested otherwise by the employee,** for the purpose of satisfying the Employer’s obligation under this clause, the assessment form may be completed, signed, and provided electronically.

#### **The Joint Learning Program**

26. The parties in the last round agreed to a pilot project to allow them to assess the applicability of the national Joint Learning Program to the specific needs of the Agency. The Alliance seeks to now have the Agency sign on to that national program.

27. In response the Agency writes:

The Parties entered into a pilot project of limited duration to assess the Joint Learning Program as a result of the 2014 round of bargaining. The Agency is of the view that the Parties have not sufficiently analyzed the results of the pilot to be able to make an informed decision as to whether to enter into the Joint Learning Program on an ongoing basis.

The Pilot was just recently completed and the Agency has not yet conducted a full review of the program to determine if it was a success. Surveys have been sent to facilitators and participants and feedback is still being received. While the Employer anticipates that the feedback it receives should be mostly positive, there have been challenges with the Pilot. The Employer must also consider other factors, such as the applicability or adaptability of the JLP materials and program to the CFIA as a Separate Employer, as well as financial and operational implications when determining the viability of signing on to a permanent agreement with the TBS JLP.

28. The Commission considers a firm recommendation to be premature at this time and leaves it to the parties to have further discussion on this topic.

### **Appendix B - Employment Transition Policy**

29. This is an area of major review by the central parties, and is understood to be beyond the appropriate purview of the present Commission. There is, however, one element of the overall policy to that is singularly unique at this level, and that is, in the event of a redundancy within the Agency itself, the possibility of broadening the scope of “reasonable job offers” to the Core Public Administration itself, where the positions now aggregated in the Agency originally resided. The parties and the Commission are cognizant of the fact that there may be jurisdictional limitations with respect to any recommendations the Commission might consider; however, there is nothing to prevent the parties on their own from furthering their discussions on this, and we

hear no resistance from the Agency about doing so. We accordingly leave it to the parties to continue to address this matter of great importance to the unit-members' job security.

30. That completes the list of items that the parties recognize the Commission is in a position to comment upon, and we hereby submit the above Report for the parties' consideration.

Dated the 11th day of August, 2020

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M.G. Mitchnick, Chair  
on behalf of the Commission