

Questions and Answers on Article 20 Pre-Notice

A guide for OPSEU members in the Ontario Public Services • July 22, 2011



There are many acronyms that get used and it can get a bit confusing. Here's a quick guide to some of them:

- CSD Continuous service date
- EMC Employment Mobility Coordinator, works for MGS
- EP Employee Portfolio
- JIP Job information package
- MGS Ministry of Government Services
- OPT OPSEU Pension Trust
- PIL Pay-in-Lieu
- RPT Regular Part-time
- RSO Redeployment Services Office, a branch of MGS

1. What is a Pre-Notice?

Under Article 20.1, an employee who will be surplus-ed will receive a letter 10 **working** days in advance of getting the actual surplus notice. This letter is called the pre-notice. The idea is that the employee will use these 10 days to consider his/her options under Article 20.2 and advise the Employer of his/her choice at the end of the 10 day period.

2. What are the timelines of the Pre-Notice period?

The 10 working day countdown starts the day after the employee receives the letter. For example, employees received their pre-notice package on July 14. The 10 working day period starts on July 15 and ends on July 28. You must inform the Employer of your decision of which option you have chosen (see question #4).

Normally, the surplus notice will be given to the employee the following working day, but in this round of layoffs, the Employer is waiting until Tuesday August 2 before issuing the surplus notices (Monday August 1 is a holiday).

3. What does the pre-notice package contain?

The package follows the same format across the OPS. The cover letter informs the employee that s/he is being surplus-ed and outlines the options available. The letter is followed by "Employee Surplus Options" which describes the options in greater detail. The last page is the "Election Form". Also attached to the package is the "Estimated Financial Statement".

The Employee Portfolio should also be given to the employee at the same time as the pre-notice package.

4. You refer to “options” in previous questions. What are these?

During the Pre-Notice period, a surplussed employee has to decide whether to leave the OPS or to remain and seek redeployment into another OPS position.

The choices are laid out in Article 20.2 and are:

Option #1 Leave the OPS and take Pay-in-Lieu (PIL) of the six month notice period.

Option #2 Stay in the OPS and remain available for redeployment

Option #3 Leave the OPS if eligible to retire with an actuarially unreduced pension. You may also be able to bridge to an actuarially unreduced pension – see Question #11.

5. When I make my decision, who do I tell and how?

You **must** fill out the “Election Form” which is part of the Pre-Notice package. This form will state to whom you send the form and the deadline by which you must send it. Just telling your HR Advisor verbally is not sufficient.

6. What if I don’t make a decision in the 10 day Pre-Notice period?

If you do not respond during this 10 day pre-notice period, you will be deemed to have opted for redeployment (Option #2).

7. What if I opt to leave the OPS but after the Pre-Notice period I change my mind?

Unfortunately, you are unable to change your mind.

8. What if I opt to stay in the OPS, but after the Pre-Notice period I decide I want to leave and take PIL?

You can change your mind, but only if you have NOT yet received an offer of a vacancy. Once you have received the job offer and you turn it down, you will be deemed to have quit and will therefore not be able to access PIL or the enhanced severance of Appendix 9, Paragraph 4.

9. What are some of the things I need to think about if I decide to take PIL (Option #1)?

If you opt to take pay-in-lieu (PIL) you are entitled to:

- pay for the 6-month notice or prorated to reflect the balance of the notice period (mutual consent)
- legislated severance (also called Termination Payments) (Article 53/78)
- enhanced severance (Appendix 9, Paragraph 4)
- the option to continue insured benefits (Article 20.15.2)
- the right to apply to restricted job competitions from the last day you work until 24 months after lay-off date (Article 20.2.3)

Pay-in-lieu for the 6 month notice period is by mutual consent. It is NOT automatic – it's only if the Employer agrees that you are not needed to work for the 6 months. If your decision to take an exit option is conditional upon you not having to work through the 6 months, before you make any decision, make sure that the Employer agrees in writing that it will agree to the PIL for the 6 month notice period.

If you take PIL, you will forfeit any further rights under Article 20 including redeployment, displacement, recall, training for a new job, career transition support and tuition reimbursement. These rights are forfeited regardless of whether or not the Employer requires you to work any part of the 6 months.

10. What are some of the things I need to think about if I decide to stay with the OPS (Option #2)?

The first thing you will need to do is to fill out your Employee Portfolio (EP). It's very important that you complete it since the information collected in the EP is used by Ministries and Employment Programs and Services to match you to vacancies and to identify displacement (bumping) options.

11. What are some of the things I need to think about if I decide to retire (Option #3)?

You have to be able to retire with an actuarially unreduced pension. This means that you must be eligible for:

- Factor 90 – your age and years of pension credits equal at least 90
- 60/20 – you must be at least 60 years of age with at least 20 years of pension credits
- Age 65 – the normal retirement age under the OPSEU Pension Plan is 65. If you are vested and are age 65 or older, you are entitled to an unreduced pension.

If you are able to retire with an actuarially unreduced pension you are entitled to:

- Pay-in-lieu with mutual consent (the employer can require you to work the 6 months)
- Termination pay (Article 53/78)

If you are able to reach Factor 90, 60/20 or age 65 by the end of a bridging period which can include an unpaid leave of up to 2 years from your date of layoff (Appendix 9, Paragraph 2), you may want to consider pension bridging. If you are bridging to a pension, you are entitled to:

- 6 months notice on the payroll (no lump sum pay-in-lieu)
- Termination pay (Article 53/78)
- Enhanced Severance - only if there is an unpaid bridge that will take you to your factor

Detailed information about pension bridging can be found at the OPT web site at <http://www.optrust.com/factsheets/BridgingFactSheet.pdf>.

To help you reach that target, you may want to buyback past service. More information on buying back past service can be found at the OPT web site at http://www.optrust.com/factsheets/OpenOptionBuyback_February_2010.pdf.

12. I've been to the OPT website, but I still have questions I need answered about my pension. Where do I go to get more answers?

Contact the OPT at 416.681.6100 or 1.800.637.0024. Identify that you are in your 10 day pre-notice window and the OPT will make your questions a priority. If you don't do this, it could take 6-8 weeks to get the information.

13. What is an Employee Portfolio (EP)?

It's like a resume which summarizes all your work experience, education and training, licenses, certifications, accomplishments and achievements. It is the primary document used to match your qualifications to the requirements of a regular or temporary position.

When you fill it out, make sure you include all your work experience in the OPS (not just your current position) and any work experience before you came to work in the OPS. You can even include anything you have done as a volunteer.

If you are being surplusd, you have the right to fill out this form at work on work time. This is important since it can easily take at least 5 hours to fill out! You don't have to get it precisely right the first time - you can amend your EP anytime during the 6 month notice period. Just remember that when you make any changes, it can take about 2 weeks for the changes to be considered for the matching.

Your pre-notice package will name your Employment Mobility Coordinator (EMC) who is assigned to help you fill out your EP. Once you have completed your EP, your EMC will forward it to the Redeployment Services Office (RSO). The EMC will also forward for you any amendments to your EP you may wish to submit to the RSO.

Using your EP, the RSO will match you to the job information package (JIP) of the potential position.

14. I keep hearing about “Legislated severance”, “Termination payments” and “Article 53 or 78 entitlements”. What are these?

They are actually just different names for the same thing and the entitlements are spelled out under Article 53 (Article 78 for RPT). If you have a continuous service date (CSD) on or after January 1, 1970, you are entitled to termination pay of one week for every year of continuous service to a maximum of 26 weeks if you are surplussed or retire.

15. What is enhanced severance?

Enhanced Severance is found in Appendix 9, Paragraph 4 of the collective agreement. It provides one week pay for every completed year of continuous service with no maximum. It also applies to Regular Part Time (RPT) and Flex Part Time (FPT) members. Enhanced severance is in addition to your Article 53/78 entitlements. It applies if you are taking PIL, not assigned to a position during the 6 month notice period or if you are taking an unpaid leave to bridge to an unreduced pension.

16. I don't believe that I should have received a pre-notice package at all since there is someone else doing the same work as me with less seniority. What can I do?

You are not alone. The MERCs and Job Security Officers have discovered that the ministry seniority lists are not always accurate and that more senior members have received notice of surplus when there are more junior people doing the same work who did not receive notice.

You must bring to the local's or Staff Representative's attention as quickly as possible your concern that you may have improperly received notice of surplus. Please contact your local or Staff Representative about how to file a grievance.