



WORKING TO MAKE A DIFFERENCE

Policy and Research Division

Mailing Address

PO Box 5350 Stn Terminal  
Vancouver BC V6B 5L5

Location

6951 Westminster Highway  
Richmond BC

Telephone 604 276-5160  
Fax 604 279-7599

March 2007

Update 2007 - 2

**TO: HOLDERS OF THE *REHABILITATION SERVICES & CLAIMS MANUAL – VOLUME II***

This update of the *Rehabilitation Services & Claims Manual* contains amendments to the *Manual* implemented since update 2007 - 1.

This amendment includes:

- #45.20, *Criteria for Allowing or Disallowing a Commutation*
- #45.30, *Types of Commutations Permitted*

A summary of the amendments **effective March 1, 2007** is attached and the amended pages are included as part of the package.

If you have any questions regarding subscription information for updates to the *Rehabilitation Services & Claims Manual*, please call WorkSafeBC Customer Service at the following:

Local phone: 604-232-9704  
Toll-free phone: 1-866-319-9704

Local fax: 604-232-9703  
Toll-free fax: 1-888-232-9714

Roberta Ellis  
Vice President  
Policy and Research Division

Attachments

***Rehabilitation Services & Claims Manual, Volume II***

**SUMMARY OF AMENDMENTS – Update 2007 – 2**

Table of Contents	Pages xi – xii	Updated
Chapter 6	Pages 47 – 50	Policy items #45.20 and #45.30 effective March 1, 2007

	#40.13	Measurement of Earnings Loss	6-29
	#40.14	Provision of Employability Assessments	6-31
	#40.32	Worsening or Improvement of Disability	6-31
#41.00		DURATION OF PERMANENT DISABILITY PERIODIC PAYMENTS	6-31
#42.00		PAYMENT OF PERMANENT DISABILITY AWARDS	6-33
	#42.10	Commencement of Periodic Payments	6-33
	#42.11	Commencement Following Medical Review Panel Certificate	6-34
	#42.12	Retroactive Awards	6-35
	#42.20	Permanent Disability Award Adjustments	6-36
#43.00		DISFIGUREMENT	6-36
	#43.10	Requirements for Award	6-36
	#43.20	Amount of Award	6-37
#44.00		PROPORTIONATE ENTITLEMENT	6-42
	#44.10	Meaning of Already Existing Disability	6-42
	#44.20	Temporary Disability and Health Care Benefits	6-43
	#44.30	Permanent Disability	6-43
	#44.31	Application of Proportionate Entitlement	6-44
#45.00		LUMP SUMS AND COMMUTATIONS	6-45
	#45.10	Permanent Disability Periodic Payment Categories/Lump Sum Awards	6-45
	#45.20	Criteria for Allowing or Disallowing a Commutation	6-46
	#45.21	Death of Worker Prior to Award under Category A in Policy Item #45.10	6-47
	#45.30	Types of Commutations Permitted	6-48
	#45.40	Purpose of Commutations	6-48
	#45.41	Paying Off Debts	6-48
	#45.42	Investments	6-49

	#45.43	Starting a Business	6-49
	#45.44	Education	6-50
	#45.45	Buying a Home	6-50
#45.50		Decision-Making Procedures	6-51
#45.60		Amount Paid on Commutations	6-51
	#45.61	Calculation of Lump-sum Payment or Commutation	6-52
#46.00		REVIEW OF OLD PENSIONS UNDER SECTION 24	6-52
	#46.01	Claims to Which Section 24 Applies	6-53
	#46.02	Calculation of Benefits under Section 24	6-54
	#46.03	Maximum and Minimum Periodic Payments under Section 24	6-56
	#46.04	Date when New Periodic Payments Commence under Section 24	6-57
	#46.05	Reapplication under Section 24	6-57
#46.10		Reinstatement of Commuted Pensions under Section 26	6-57
	#46.11	Computation of Twelve Per Cent Disability	6-58
	#46.12	Purpose of Section 26 Already Achieved	6-59
	#46.13	Term Pensions	6-60
	#46.14	Rate of New Periodic Payments	6-60
	#46.15	Cost of Living Adjustment After Reinstatement	6-62
	#46.16	Commutation of New Periodic Payments	6-63
NOTES			6-64



## **#45.30 Types of Commutations Permitted**

Where a partial or full commutation of a permanent disability award is granted, the corresponding portion of the future amounts that are to be set aside for payment of a retirement benefit will also be commuted.

Any amounts that have already been set aside by the Board in the retirement reserve will be held in the reserve until the worker reaches retirement age. These amounts will not be commuted.

There are two types of commutations that the Board may permit:

1. A partial commutation resulting in a reduced level of both the permanent disability periodic payments, and corresponding retirement benefits set aside by the Board.
2. A full commutation of both the permanent disability award, and corresponding retirement benefits set aside by the Board.

With the exception of the retirement benefit provisions, the Board permits the same types of commutations of periodic payments of compensation made to a dependant of a deceased worker.

To ensure that a commutation is used for the purpose for which it is sought, the Board may make a commutation cheque payable to a worker and to another.

**EFFECTIVE DATE: March 1, 2007**

**APPLICATION: This policy applies to all applications for commutations made on or after March 1, 2007.**

**CROSS REFERENCES: Chapter 18, *Retirement Benefits***

## **#45.40 Purpose of Commutations**

Certain purposes for which commutations are commonly requested are discussed below. The list is not intended to cover every purpose for which a commutation may be requested but rather is designed to provide guidelines to ensure the consistent handling of certain common types of application.

### **#45.41 *Paying Off Debts***

The Board is concerned that lenders might be encouraged to grant excessive extensions of credit to workers in receipt of permanent disability awards if they became aware that commutations could easily be obtained to pay off debts.

Section 15 of the *Act* seeks to protect workers from creditors by making permanent disability periodic payments non-assignable. The Board will not undermine this intention by freely allowing commutations for the purpose of debt reduction. Therefore, a commutation is more likely to be allowed for paying off debts that were incurred prior to the injury.

A person incurring heavy debt may have serious long-term problems which will not be resolved simply by a commutation to pay debts. These problems may lead to incurring further debt even if the existing debt is paid. The person will then be in an even more serious position than before because there will now be no permanent disability periodic payments. It may, in such cases, be more appropriate to refer the worker for financial counselling rather than to attempt to resolve the situation by a commutation of permanent disability periodic payments. Nevertheless, a commutation to pay off debts may be advisable and in the best interests of the worker if it will avoid high interest obligations. Commutation applications for this purpose will be carefully scrutinized for other alternatives before being allowed.

#### *#45.42 Investments*

A commutation will not be allowed for investment purposes.

#### *#45.43 Starting a Business*

From a purely financial standpoint, it may be difficult to distinguish between investing in one's own business and other forms of investment. It is, moreover, often difficult for officers of the Board to determine with any degree of certainty whether what the worker wishes to undertake is a sound business venture.

Investing in one's own business, however, may be in the worker's best interests where there is a strong element of rehabilitation involved and the worker will be an active participant in operating the business. Any application for a commutation for the purpose of starting a business will be thoroughly investigated with these considerations in mind.

In each case where a business start-up is contemplated for which a commutation has been requested, or as a vocational rehabilitation measure, the Board officers undertaking the assessment of the matter will obtain, with the worker's written consent, an appraisal of the viability of the proposed business from the Business Development Bank of Canada or some similar organization before a final decision on the commutation request, or rehabilitation measure, is made.

#### *#45.44 Education*

Unless the proposed educational program will promote the worker's career, a commutation for this purpose would not normally enhance the worker's income position and consequently would not satisfy the above general guidelines. There may, however, be some therapeutic benefit in allowing workers to improve their education when the improvement cannot be provided through normal rehabilitation programs. The requirement for the applicant to have a stable source of income may be waived where the Board is satisfied that the training or educational program will increase the prospects of employment and therefore enhance the income position over the long term. Where the program will not increase the employment prospects, but will have a significant therapeutic benefit, the Board may waive the requirement that the commutation be for a purpose that enhances the worker's income position. In such a case, it will not waive the requirement that the applicant have a stable source of income.

#### *#45.45 Buying a Home*

Commutations for purchasing a home will be allowed under the following conditions:

1. The home is purchased as a personal residence.
2. The worker will obtain clear title to the property subject only to any mortgage.
3. Any mortgage payments are well within the worker's ability to pay from other income.
4. The size, value and upkeep costs of the home are in line with other income.