

Additions in Bold; Deletions Strikethrough

APPENDIX "A"

REHABILITATION SERVICES AND CLAIMS MANUAL VOLUME I

#45.00 LUMP SUMS AND COMMUTATIONS

Section 35(2) of the ~~Act~~**Act** provides: that "

The board may in its discretion

- (a) commute all or part of the periodic payments due or payable to the worker to one or more lump sum payments, to be applied as directed by the board; and
- (b) divide into periodic payments compensation payable in a lump sum."

In case of death or permanent total disability or in case of permanent partial disability where the impairment of earning capacity exceeds ~~10% ten per centum~~ of the worker's earning capacity at the time of the injury, no commutation of periodic payments can be made under ~~S~~subsection (2) except upon the application of and at an amount agreed to by the dependant or worker entitled to such payments. (28)

#45.10 Pension Categories/Lump Sum Awards

Category A:

A.——Where

1. a compensable disability has been assessed at not more than 10% of total disability, **and**
 2. the pension is not more than ~~\$100.00~~ **200.00** per month, ~~and~~
 3. ~~the commuted value is not more than \$40,000.00,~~
- a lump sum will be awarded in lieu of a monthly pension.

- ~~B. In any case not within Category A, where~~
- ~~1. the pension is not more than \$125.00 per month, and~~
 - ~~2. the commuted value is not more than \$60,000.00,~~
- ~~the worker will usually be offered a choice of a monthly pension or a lump sum.~~
- ~~C. 1. If the pension is more than \$125.00 per month, or~~
- ~~2. the capitalized value exceeds \$60,000.00,~~
- ~~the award will consist of a monthly pension and commutation will only be considered under the circumstances outlined below.~~

Category B:

In any case not within Category A, where the pension is more than \$200.00 per month, the award will consist of a monthly pension and commutation will only be considered under the circumstances outlined below.

Where a worker **or dependant** has more than one disability pension **or dependant benefit on one or more claims**, the above figures apply to the combined total. **Where the worker or dependant has had previous commutations or lump sum awards, these previous awards are not applied to the combined total.**

Where a commutation request is made after the award of a pension **or dependant benefit**, the monetary levels at the date of the request **is are** used rather than the levels at the date of the award.

A review of the monetary levels in Categories ~~A, B~~ and **B C** will be undertaken annually. Any changes to the amounts will normally take place on the first day of the month following the month of the review.

The ~~figures amount~~ set out above ~~are those in force since July 1, 1989~~ **is effective October 1, 2002. If required, earlier figures may be obtained by contacting the Board.** ~~The amounts in effect at other times are set out below.~~

~~1. Monthly pension~~

	Nov. 8, 1974 Dec. 31, 1976	Jan. 1, 1977 June 30, 1977	July 1, 1977 Dec. 31, 1977	Jan. 1, 1978 Dec. 31, 1979	Jan. 1, 1980 Dec. 31, 1983	Jan. 1, 1984 June 30, 1989
Category A	\$10.00	\$15.00	\$15.61	\$16.31	\$20.00	\$50.00
Category B	\$10.00	\$15.00	\$15.61	\$16.31	\$20.00	\$75.00

Category C	\$25.00	\$35.00	\$36.43	\$38.07	\$45.00	\$75.00
------------	---------	---------	---------	---------	---------	---------

2. ~~Capital reserve~~

	Nov. 8, 1974 – Dec. 31, 1976	Jan. 1, 1977 Dec. 31, 1979	Jan. 1, 1980 – Dec. 31, 1983	Jan. 1, 1984 – June 30, 1989
Category A	\$6,000.00	\$8,400.00	\$11,000.00	\$20,000.00
Category B	\$7,500.	\$10,500.00	\$13,700.00	\$30,000.00
Category C	\$7,500.00	\$10,500.00	\$13,700.00	\$30,000.00

#45.20 Criteria for Allowing or Disallowing a Commutation

The same criteria apply, whether or not the Board has recovered all or part of the capital reserve in a third party action.

~~A request for a commutation of a pension which falls within Category A or B will generally be approved unless the applicant is incapable of managing his or her affairs. This will only apply to pensions existing on January 1, 1984, which, because of lower monetary limits, did not previously fall within those categories. Claimants awarded pensions after that date in those categories will automatically be given a lump sum or the option to choose a lump sum.~~

Workers granted awards that fall within Category A will automatically be given a lump sum award.

The general rule is that no commutation will be granted for cases in Category **BC**.

There are, however, certain situations where a commutation may be desirable. The purpose of the guidelines set out below is to define those situations where it is in the worker's long term interests to receive a commutation and to state the terms and conditions on which such commutations are granted.

In considering a commutation, the following will apply:

1. A commutation must be for a specific purpose.
2. A commutation will, in general, only be allowed for purposes that are calculated to enhance the income position of the worker.

3. The applicant must have a stable source of income other than the disability pension.
4. A commutation will not be allowed where the applicant is a person whom the Board considers incapable of managing his or her own affairs or who has a demonstrated incapacity for money management.
5. ~~No commutation will be allowed in the case of a pension calculated on a projected loss of earnings basis.~~
56. Where there is an application by a widow or widower to commute a pension which is paid in whole or part for the children regard may have to be had to the separate interests of the children.
67. ~~The Board's previous practice was that no commutation would be allowed where the disability involved the spine, was unsettled or otherwise involved a significant risk of deterioration. It was considered that this practice was too restrictive. If the other requirements are met, a~~ A commutation may be in the worker's long term interests notwithstanding **the worker's medical condition may not have settled or involves a significant risk of deterioration.** ~~there is a condition of that nature if the other requirements are met.~~ However, while a potential deterioration in the worker's condition will not automatically bar a request, it is a relevant factor to be considered. It might, for instance, lead to a conclusion that the worker's existing income from other sources would not be stable from a long-term point of view.

Similarly, the fact that a disability may improve in the future will not automatically bar a request for a commutation, even though the commutation will prevent the Board from reducing the pension when the improvement occurs. The possibility of such an improvement may, however, be taken into account if it is significant. It may influence the term and amount of commutation granted.
78. A short expectation of life or a ~~claimant~~**worker's** wish to benefit the dependants following his or her death is not a ground on which the Board can permit a commutation.

#45.21 *Death of Worker Prior to Award under Category A in Policy Item #45.10*

~~In a Board decision, a worker suffered a compensable injury resulting in permanent residual disability to his left ring finger. The worker died on June 27, 1975. The compensable disability was not a cause of death. On July 3, 1975, the Disability Awards Officer, being unaware of the death, sent a letter of decision addressed to the worker making a disability award based on 1.45% of total disability. Since the disability was not serious and the future monthly~~

~~payments would be small, the decision letter indicated that, following normal practice, the monthly payments were being commuted into a cash payment of \$1,410.97. A cheque was issued to and addressed to the worker for that amount, but was returned to the Board when the Board was notified of the death. The widow enquired whether the cheque could be reissued to her.~~

~~Under the terms of the **Act** Act, disability awards are payable to a worker. There is no provision for a disability award to be payable in respect of a deceased worker. Although the decision letter was honestly sent out in the belief that the worker was living, there was no true basis for that decision to be sent at that time. It was a letter making an award to someone who did not exist in respect of a disability that did not exist. It was a void decision.~~

The ~~Act~~ Act distinguishes between two different categories of benefits:

1. Benefits payable to a disabled worker.
2. Benefits payable to dependants and others in respect of the death of a worker.

No compensation under the first heading can validly be awarded in respect of future disability after the death of a worker. **Where future benefits have been issued after the death of a worker, the benefit will be cancelled and recalculated up to the date of the worker's death.** ~~The letter of decision sent by the Disability Awards Officer was therefore void, and no payment was due under it.~~

#45.41 *Paying Off Debts*

The Board is concerned that lenders might be encouraged to grant excessive extensions of credit to pensioners if they became aware that commutations could easily be obtained to pay off debts. Section 15 of the ~~Act~~ Act seeks to protect workers from creditors by making pension 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 pension. It may, in such cases, be more appropriate to refer the pensioner for financial counselling rather than to attempt to resolve the situation by a commutation of pension 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.

#45.43 *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 ~~claimant~~ **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 ~~Federal~~ 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 ~~claimant's~~ **worker's** career, a commutation for this purpose would not normally enhance the ~~claimant's~~ **worker's** income position and consequently would not satisfy the above general guidelines. There may, however, be some therapeutic benefit in allowing pensioners 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 ~~claimant~~ **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.

The discharge or reduction of an existing mortgage will be dealt with under the criteria for paying off debts in **policy item #45.41**, rather than under the criteria for buying a home. In administering this feature, however, a request for a commutation to discharge or reduce an existing mortgage should primarily be considered in the same general vein as a commutation to purchase a home, with the added insurance that consideration should be given to the safeguards built into the debt payment provisions. The expectation of this approach is that, in general, given similar circumstances, there should be little difference in the result following a decision made under either category.

A commutation for the purpose of extending an existing home may be allowed if the above requirements are satisfied.

A commutation will not normally be allowed for the purpose of purchasing a second home to be used for vacations, or retirement, or to be rented out. The home must be for the purpose of providing the claimant with current accommodation.

#45.50 **Decision-Making Procedures**

The ~~Adjudicator~~ **Board officer** in Disability Awards is responsible for investigating an application for a commutation and making a decision on the application. The ~~Adjudicator~~ **Board officer** may obtain a report from the **Board officer in Vocational Rehabilitation Consultant Services** involved in the claim before making a decision.

Where a commutation application is under consideration, the value of the proposed commutation can be made available so that the claimant may properly evaluate the options open.

If the value of a commutation under Category ~~C~~**B** in **policy item #45.10** exceeds the limit set in Category ~~B~~**A**, the ~~Adjudicator~~ **Board officer** must obtain approval of the Vice-President, Compensation Services Division before granting the request. Where an application is received that does not fall within the guidelines and it is thought that there should be some departure, the application must also be referred to the Vice-President for consideration.

An employer is not normally advised of the granting of a commutation. An exception is made where the employer is the Federal Government. It is advised of the amount and type of the commutation.

#45.60 Amount Paid on Commutations

When a pension reserve is established or a liability is calculated for a pension, the monthly pension amount is converted to a lump sum by applying an actuarial net discount rate. This actuarial net discount rate is set by the Board and represents the anticipated difference between long term future investment returns and long term future inflation.

Similarly, when a pension commutation is granted, the monthly pension amount is converted to a lump sum by applying a commutation net discount rate. For pensions that are automatically commuted by the Board without a request from the worker, the commutation net discount rate used will be equal to the actuarial net discount rate. For pensions that are commuted by the Board at the worker's **or dependant's** request, the commutation net discount rate used will be equal to the actuarial net discount rate increased by .5 percentage points.

#45.61 Implementation of Decision

Where, as a result of the application of the policies outlined in **policy items #45.10 to #45.60**, the ~~Adjudicator~~ **Board officer** in Disability Awards ~~or Disability Awards Officer~~ decides on a lump sum or commutation, it is paid forthwith.

If a review board finding results in a lump-sum payment (Category ~~A or B~~ of **policy item #45.10**) or they find that a commutation (Category ~~C~~ **B** of **policy item #45.10**) should be paid, the lump sum or commutation will not be processed unless, and until, the 30-day period for appealing the finding to the Appeal Division has expired. If an appeal is submitted within this time period, or a referral of the review board finding is made to the Appeal Division under ~~S~~section 96(4) of the ~~Act~~**Act**, no lump sum or commutation will be processed until the proceedings before the Appeal Division have been concluded. Any finding of the review board which would normally result in a lump-sum payment will be paid as a periodic payment pending the decision of the Appeal Division.

The lump sum or commutation may be paid during the 30-day period for appealing the finding to the Appeal Division, if:

1. the worker has requested it, and
2. the employer confirms in writing that they do not intend to appeal to the Appeal Division, and
3. no referral under ~~S~~section 96(4) will be made.

The same procedures apply, in the case of medical decisions, to the 90-day period between an Appeal Division decision and a Medical Review Panel appeal.

Whenever a lump-sum payment or commutation is calculated following the expiration of the appeal time and/or the appeal process, the calculation will be based on the date on which it is processed.

APPENDIX "B"

REHABILITATION SERVICES AND CLAIMS MANUAL VOLUME II

#45.00 LUMP SUMS AND COMMUTATIONS

Section 35(2) of the *Act* provides:

The Board may in its discretion

- (a) commute all or part of the future amounts that are to be set aside for payment of a retirement benefit and the periodic payments due or payable to the worker to one or more lump sum payments, to be applied as directed by the Board; and
- (b) divide into periodic payments compensation payable in a lump sum.

In case of death or permanent total disability or in case of permanent partial disability where the impairment of earning capacity exceeds ~~10% ten per centum~~ of the worker's earning capacity at the time of the injury, no commutation of periodic payments can be made under subsection (2) except upon the application of and at an amount agreed to by the dependant or worker entitled to such payments. (9)

#45.10 Permanent Disability Periodic Payment Categories/Lump Sum Awards

Category A-:

Where

1. a compensable disability has been assessed at not more than 10% of total disability, **and**
2. the permanent disability periodic payment is not more than ~~\$100.00~~ **\$200.00** per month, ~~and~~
3. ~~the commuted value is not more than \$40,000.00,~~

a lump sum will be awarded in lieu of a monthly permanent disability periodic payment and the additional future amounts to be set aside by the Board for the payment of a retirement benefit under section 23.2 of the Act.

~~Category B.~~

~~In any case not within Category A, where~~

~~1. the permanent disability periodic payment is not more than \$125.00 per month, and~~

~~2. the commuted value is not more than \$60,000.00,~~

~~the worker will usually be offered a choice of a monthly permanent disability periodic payment or a lump sum.~~

~~Category C.~~

~~1. if the permanent disability periodic payment is more than \$125.00 per month, or~~

~~2. the capitalized value exceeds \$60,000.00,~~

~~the award will consist of a monthly permanent disability periodic payment and the additional future amounts to be set aside by the Board for the payment of a retirement benefit and a commutation will only be considered under the circumstances outlined below.~~

Category B:

In any case not within Category A, where the permanent disability periodic payment is more than \$200.00 per month, the award will consist of a monthly permanent disability periodic payment and the additional future amounts to be set aside by the Board for the payment of a retirement benefit. A commutation will only be considered under the circumstances outlined below.

With the exception of the retirement benefit provision, this policy applies similarly to periodic payments of compensation made to a dependant of a deceased worker.

Where a worker **or dependant** has more than one permanent disability award **or dependant benefit on one or more claims**, the above figures apply to the combined total. **Where the worker or dependant has had previous commutations or lump sum awards, these previous awards are not applied to the combined total.**

Where a commutation request is made after the granting of a permanent disability award **or dependant benefit**, the monetary levels at the date of the request ~~is~~ are used rather than the levels at the date of the award.

A review of the monetary levels in Categories A, ~~and B and C~~ will be undertaken annually. Any changes to the amounts will normally take place on the first day of the month following the month of the review.

#45.20 Criteria for Allowing or Disallowing a Commutation

The same criteria apply, whether or not the Board has recovered all or part of the capital reserve in a third party action.

Workers granted awards that fall within Category A will automatically be given a lump sum award ~~while workers granted awards that fall within Category B will be given the option to choose a lump sum.~~

The general rule is that no commutation will be granted for cases in Category ~~B~~**C**.

There are, however, certain situations where a commutation may be desirable. The purpose of the guidelines set out below is to define those situations where it is in the worker's long-term interests to receive a commutation and to state the terms and conditions on which such commutations are granted.

In considering a commutation, the following will apply:

1. A commutation must be for a specific purpose.
2. A commutation will, in general, only be allowed for purposes that are calculated to enhance the income position of the worker.
3. The applicant must have a stable source of income other than the disability award.
4. A commutation will not be allowed where the applicant is a person whom the Board considers incapable of managing his or her own affairs or who has a demonstrated incapacity for money management.
- ~~5. No commutation will be allowed in the case of an award calculated under section 23(3).~~
- 56.** Where there is an application by a widow or widower to commute an award which is paid in whole or part for the children regard may have to be had to the separate interests of the children.
- 67.** ~~The Board's previous practice was that no commutation would be allowed where the disability involved the spine, was unsettled or otherwise involved a significant risk of deterioration. It was considered that this practice was too restrictive. If the other requirements are met, a~~ A commutation may be in the worker's long-term interests, notwithstanding **the worker's medical condition may not have settled or involves a significant risk of**

~~deterioration. there is a condition of that nature if the other requirements are met.~~ However, while a potential deterioration in the worker's condition will not automatically bar a request, it is a relevant factor to be considered. It might, for instance, lead to a conclusion that the worker's existing income from other sources would not be stable from a long-term point of view.

Similarly, the fact that a disability may improve in the future will not automatically bar a request for a commutation, even though the commutation will prevent the Board from reducing the permanent disability award when the improvement occurs. The possibility of such an improvement may, however, be taken into account if it is significant. It may influence the term and amount of commutation granted.

78. A short expectation of life or a worker's wish to benefit the dependants following his or her death is not a ground on which the Board can permit a commutation.

#45.21 Death of Worker Prior to Award under Category A in Policy Item #45.10

~~In a Board decision, a worker suffered a compensable injury resulting in permanent residual disability to his left ring finger. The worker died on June 27, 1975. The compensable disability was not a cause of death. On July 3, 1975, the Disability Awards Officer, being unaware of the death, sent a letter of decision addressed to the worker making a disability award based on 1.45% of total disability. Since the disability was not serious and the future monthly payments would be small, the decision letter indicated that, following normal practice, the monthly payments were being commuted into a cash payment of \$1,410.97. A cheque was issued to and addressed to the worker for that amount, but was returned to the Board when the Board was notified of the death. The widow enquired whether the cheque could be reissued to her.~~

~~Under the terms of the Act, disability awards are payable to a worker. There is no provision for a disability award to be payable in respect of a deceased worker. Although the decision letter was honestly sent out in the belief that the worker was living, there was no true basis for that decision to be sent at that time. It was a letter making an award to someone who did not exist in respect of a disability that did not exist. It was a void decision.~~

The Act distinguishes between two different categories of benefits:

1. Benefits payable to a disabled worker.
2. Benefits payable to dependants and others in respect of the death of a worker.

No compensation under the first heading can validly be awarded in respect of future disability after the death of a worker. **Where future benefits have been issued after the death of a worker, the benefit will be cancelled and recalculated up to the date of the worker's death.** ~~The letter of decision sent by the Disability Awards Officer was therefore void, and no payment was due under it.~~

#45.30 Types of Commutations Permitted

Where a total or partial 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.

For partial commutations, any remaining future amounts to be set aside on the future reduced permanent disability periodic payments, will continue to be set aside by the Board for payment to the worker on reaching retirement age.

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. Please refer to Chapter 18, Retirement Benefits, for further information regarding the provision of this benefit.

There are basically four types of commutations that the Board may permit:

1. A partial commutation by way of a term of years resulting in a total suspension of both the permanent disability periodic payments and the corresponding additional future amounts to be set aside by the Board for the payment of a retirement benefit for a fixed period. After which, the permanent disability periodic payments, and the additional future amounts to be set aside by the Board, resume with full payments.
2. A partial commutation by way of a reduced level of permanent disability periodic payments and a reduced level of the corresponding additional future amounts set aside by the Board for the payment of a retirement benefit for a term of years. After which, the full periodic payments as well as the amounts to be set aside by the Board resume.

3. A partial commutation resulting in a reduced level of permanent disability periodic payments and the corresponding additional future amounts set aside by the Board for the payment of a retirement benefit, until the worker reaches 65 years of age.
4. A total commutation of the whole permanent disability award and the additional future amounts set aside by the Board for the payment of a retirement benefit.

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.

A commutation for a term of years will be made only for units of whole years.

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.

#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~~ **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.

#45.43 *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 ~~Federal~~ 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 ~~worker~~ **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.

The discharge or reduction of an existing mortgage will be dealt with under the criteria for paying off debts in policy item #45.41, rather than under the criteria for buying a home. In administering this feature, however, a request for a commutation to discharge or reduce an existing mortgage should primarily be considered in the same general vein as a commutation to purchase a home, with the added insurance that consideration should be given to the safeguards built into the debt payment provisions. The expectation of this approach is that, in general, given similar circumstances, there should be little difference in the result following a decision made under either category.

A commutation for the purpose of extending an existing home may be allowed if the above requirements are satisfied.

A commutation will not normally be allowed for the purpose of purchasing a second home to be used for vacations, or retirement, or to be rented out. The home must be for the purpose of providing the ~~worker~~ **claimant** with current accommodation.

#45.50 Decision-Making Procedures

The Board officer in Disability Awards is responsible for investigating an application for a commutation and making a decision on the application. The Board officer may obtain a report from the Board officer in Vocational Rehabilitation Services involved in the claim before making a decision.

Where a commutation application is under consideration, the value of the proposed commutation can be made available so that the ~~worker~~ **claimant** may properly evaluate the options open.

If the value of a commutation under Category **CB** in policy item #45.10 exceeds the limit set in Category **BA**, the Board officer must obtain approval of the Vice-President, Compensation Services Division before granting the request. Where an application is received that does not fall within the guidelines and it is thought that there should be some departure, the application must also be referred to the Vice-President for consideration.

An employer is not normally advised of the granting of a commutation. An exception is made where the employer is the Federal Government. It is advised of the amount and type of the commutation.

#45.60 Amount Paid on Commutations

When a permanent disability award reserve and a retirement reserve are established or a liability is calculated for an award and a retirement benefit, the monthly payment amount and the periodic future amounts to be set aside by the Board for the payment of a retirement benefit, are converted to a lump sum by applying an actuarial net discount rate. **This provision also applies where a reserve is established or a liability is calculated for periodic payments of compensation made to a dependant of a deceased worker.** ~~This~~ The actuarial net discount rate is set by the Board and represents the anticipated difference between long-term future investment returns and long-term future inflation.

Similarly, when a permanent disability award commutation is granted, the monthly permanent disability award amount and the periodic amounts set aside by the Board for a retirement benefit are converted to a lump sum by applying a commutation net discount rate. For permanent disability awards and the future amounts to be set aside by the Board for the payment of a retirement benefit that are automatically commuted by the Board without a request from the worker, the commutation net discount rate used will be equal to the actuarial net discount rate. For permanent disability awards and the future amounts to be set aside by the Board for the payment of a retirement benefit that are commuted by the Board at the worker's request, the commutation net discount rate used will be equal to the actuarial net discount rate increased by .5 percentage points. **The increased net discount rate also applies to a commutation granted by the Board at the surviving dependant's request.**

#45.61 *Implementation of Decision*

Where, as a result of the application of the policies outlined in policy items #45.10 to #45.60, the Board officer in Disability Awards decides on a lump sum or commutation, it is paid forthwith.

If a review board finding results in a lump-sum payment (Category A ~~or B~~ of policy item #45.10) or they find that a commutation (Category ~~C B~~ of policy item #45.10) should be paid, the lump sum or commutation will not be processed unless, and until, the 30-day period for appealing the finding to the Appeal Division has expired. If an appeal is submitted within this time period, or a referral of the review board finding is made to the Appeal Division under section 96(4) of the **Act**, no lump sum or commutation will be processed until the proceedings before the Appeal Division have been concluded. Any finding of the review board which would normally result in a lump-sum payment will be paid as a periodic payment pending the decision of the Appeal Division.

The lump sum or commutation may be paid during the 30-day period for appealing the finding to the Appeal Division, if:

1. the worker has requested it, and
2. the employer confirms in writing that they do not intend to appeal to the Appeal Division, and
3. no referral under section 96(4) will be made.

The same procedures apply, in the case of medical decisions, to the 90-day period between an Appeal Division decision and a Medical Review Panel appeal.

Whenever a lump-sum payment or commutation is calculated following the expiration of the appeal time and/or the appeal process, the calculation will be based on the date on which it is processed.