



YUKON WORKERS'  
COMPENSATION  
HEALTH AND  
SAFETY BOARD

SUBJECT: CLAIMS & BENEFITS POLICY NO.: CL - 16  
BOARD APPROVAL: UNDER REVIEW  
APPROVAL DATE: \_\_\_\_\_  
BOARD ORDER NO.: \_\_\_\_\_  
EFFECTIVE DATE: January 01, 1993

**REVOKED**

FEB 22 2005

## POLICY STATEMENT

SECTION  
REFERENCE:

**REVOKED**

FEB 17 2004

POLICY:

### COMMUTATIONS OF PENSIONS

Purposes for which commutations are allowed:

Starting a business - a commutation may be allowed for starting a business providing that the worker has:

1. A state of health and fitness sufficient to carry on the business successfully.
2. The production skills necessary for the type of business.
3. A capacity for business management sufficient for the type of business.

A commutation should not be allowed to commence a business in an industry that is already over-capitalized, such as service stations.

#### Education

A retraining or educational program reasonably needed to overcome the effects of a compensable injury may be supported by the Board under rehabilitation so no commutation is needed for this purpose.

But there are other cases for reasons unconnected with a compensable injury, a worker on pension wishes to undertake a program of educational improvement. A commutation may be allowed for this purpose, providing it complies with the general instructions.

#### Buying a Home

This is one of the most promising grounds for a commutation. Mortgage interest rates are high and the interest payments must be made out of taxed income. This it can well be in the best interests of a disabled worker to buy a home through a commutation of pension. Subject to general instructions, a commutation for this purpose may be allowed provided that:

1. The worker will obtain clear title to the property, subject only to any mortgage.
2. Any mortgage payments are well within the worker's means from other income.
3. The worker is able to earn in steady employment and to maintain an income independent of the pension to support the maintenance of the home and other living expenses.
4. The size, value and upkeep costs are in line with the other income.
5. The transaction will not create an increase charge on other funds.

To Purchase an Automobile or Mobile Home

To allow a total commutation pension for these purposes would create obvious problems. After one automobile has worn out, the worker usually wants another one, but no further commutation may be available. There is an obvious probability that the worker will then feel aggrieved by having a continuing disability with no continuing pension. Also, it is not sound family budgeting to purchase an automobile which cannot be paid for within the duration of its anticipated use.

A commutation for the purpose of an automobile or mobile home will be allowed only for a term of years not exceeding five years for a new motor vehicle and ten years for a new mobile home with lesser periods of used items.

Immigration and Travel

An application may be received from a worker who wishes to leave the Yukon, either temporarily or permanently. Perhaps for medical treatment or perhaps for career opportunities elsewhere, perhaps to join friends or family, or perhaps just for a change of environment. If a lifetime pension is wholly or partly commuted for that purpose, the obvious risk is that the worker may soon feel aggrieved that he/she still has a disability but now has no sufficient pension. This is likely to be aggravated if the opportunities elsewhere fall short of the expectations and he/she returns to the Yukon.

There should be no lifetime commutation, whole or partially, for such purposes but there may be a term commutation for periods not exceeding three years.

Purposes for Which Commutation Will Not be Allowed

1. No commutation will be allowed to any person after reaching the age of sixty.
2. A commutation will not be allowed where the applicant is a minor, an alcoholic, a drug addict or has demonstrated incapacity for monies management.
3. In fatal cases no commutation is allowed in respect of allowances payable to dependents.
4. No commutation for paying off debts. Where an application is made for this purpose a primary difficulty is how to recognize debts. Very few people are trained to distinguish between debts and claims. If it became generally known that commutations were available for the repayment of debts, the Workers' Compensation Board pension could well become a more desirable target for those who press the supply of credit obligations, thus in the long run a liberal policy of allowing commutations for paying off debts could well do more to promote than to mitigate insolvency among disabled workers.

No Commutations will be made for Investment Purposes

Sometimes a worker may ask for a commutation for investment purposes, arguing that it would be better by investing the capital reserve than by receiving the pension from the Board. Although this may sometimes be true in the short run, we do not see how it could possibly be true in the long run. There are no reasonable safe investments available to a worker with interest returns exceeding the current inflation rate, moreover, the interest is subject to income tax. Thus allowing for income tax and inflation, the worker would not be enjoying a net gain in income, but would be suffering an annual erosion of the capital sum.

Commutations are sometimes requested to meet a family emergency, funerals and weddings are examples. It is not generally in the best interest to suffer long term loss of pension payments to finance events of this kind, moreover, experience suggests that if a worker requires one commutation to meet an emergency, the pension fund is then regarded as a bank deposit for further emergencies. Thereafter, the worker may see no need to maintain a bank account or to make any other provision for meeting such expenses in other words.

A commutation will not be allowed for cases in any category where the disability is unsettled or there is otherwise a significant risk of a deterioration that may require reassessment or the disability involves a spinal column (this is because the disability is too uncertain or the worker has no income from earnings). Concern for the long term best interest of the worker is not the only objection to commutations. Another is to prevent the worker from becoming a charge on public funds. An argument sometimes heard is that a commutation should be almost automatic upon request because the capital fund established to meet the pensions is, in view of the work, his/her money. That view is a misunderstanding and is inconsistent with the terms and objections of the legislation.

Request for commutation must be submitted by the worker in writing, indicating the specific reason for the request and the amount of money required. The claims officer must then decide if the request follows the policy as laid down, if the request does, then further investigation is required and he/she will request the following information:

1. Obtain written permission from the worker in order to obtain a credit bureau report.
2. Obtain the exact purpose of the commutation and the exact amount required.
3. Obtain a statement of assets and liabilities as well as a statement of income and expenses, both before and after the requested commutation.
4. If the request involves a business investment obtain a current profit and loss statement and balance sheet. Obtain background information from bank managers, employers, real estate agents, customers or any other reliable sources.
5. Complete a report and forward to the Executive Secretary, this report should be clear and comprehensive and include a recommendation for or against the commutation.
6. The amount of the capital reserve should not be discussed with the worker nor should the worker be made to feel that the request may be approved.
7. To assure 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 person.