

## ABOUT THE COMMISSION

The Workers Compensation Commission is an independent statutory tribunal within the justice system of New South Wales which began operating on 1 January 2002.

Established under the *Workplace Injury Management and Workers Compensation Act 1998*, the Commission aims to provide a just, timely and cost effective forum for the resolution of workers compensation disputes. The Commission's non- adversarial dispute resolution directly involves the parties in an accessible and accountable process that ensures injured workers obtain a fair and quick resolution to disputes about their workers compensation entitlements.

Under legislation, the Commission is required to try to bring the parties in a workers compensation dispute, to an agreed resolution where possible. The Commission's independent Arbitrators, who have expertise in conciliation and mediation, work with the parties to reach agreement where possible through a series of conference style meetings (by telephone and in person). Where parties are unable to reach agreement regarding their workers compensation dispute, the Arbitrator makes a determination on their behalf.

The Commission makes decisions on a wide range of workers compensation disputes, including permanent impairment/pain and suffering, medical and related expenses, weekly benefits paid as compensation for loss of earnings, as well as registration of certain agreements.

## PUBLICATION OF ANNUAL REVIEW

Each year, the Commission publishes an online summary of its operations during the preceding calendar year. This is the second annual review to be published by the Commission and covers the twelve month period from January to December 2003.

## 2003 AT GLANCE

- 9,282 applications to resolve disputes were registered, with the number of new disputes per month rising from about 600 per month in the first quarter to over 950 per month in the last quarter.
- 6,069 disputes were resolved including 28% settled by agreement between the parties, 20% subject of a determination and 25% discontinued by the applicant.
- 1,891 Medical Assessment Certificates were issued by independent Approved Medical Specialists.
- 1.3% of Arbitrator determinations were overturned on appeal, and 1.2 % of Medical Assessment Certificates were revised on appeal.
- 63% of disputes were resolved within 26 weeks. 87% of disputes were resolved within 39 weeks.
- 373 applications for an Interim Payment Direction were registered, with numbers rising from about 20 per month in the first quarter to about 50 per month in the December quarter.
- 356 applications for Interim Payment Directions were resolved during 2003, with directions for payment being issued in about 44% of cases.
- 94 applications for expedited assessment of workplace injury management disputes were registered.
- 400 applications to register redemption agreements, 20 applications to register commutation agreements and 6,553 applications to register section 66A agreements were received.
- 82% of workers and 80% of employers rate the service provided by the Commission as adequate, good or very good in an independent customer survey.
- over 400 people attended 18 information seminars on the Commission's role and processes across NSW. 95% of attendees indicated they were satisfied or very satisfied with the seminar program.
- the President and Deputy Presidents addressed over 30 industry conferences and seminars on the Commission's role and processes.

## KEY INITIATIVES IN 2003

### INTRODUCTION OF PERMANENT RULES

On 1 July 2003, new permanent rules introduced by the Minister became effective replacing the interim rules under which the Commission had been operating since its inception in January 2002. The *Workers Compensation Commission Rules 2003*, clarify procedural matters in order to provide greater certainty for parties, their representatives and agents.

As part of the introduction of the new permanent Rules, the Commission updated its forms, making them simpler and providing many of them in an online writable format via its website. In addition, new guidance material for applicants and respondents was developed and key plain language brochures were updated to reflect changes resulting from the introduction of the new permanent Rules.

### ADDITIONAL APPROVED MEDICAL SPECIALISTS

During 2003, the Commission significantly increased the number of appointed Approved Medical Specialists.

There are now over 200 Approved Medical Specialists who assist the Commission by providing independent medical assessments.

### WCC INFORMATION SEMINAR PROGRAM

During September and November 2003, the Commission conducted 18 free half day seminars aimed at assisting legal representatives gain a better understanding of how to manage disputes before the Commission.

The seminars, presented by members and senior staff of the Commission, included practical information on filing and procedures, preparing for teleconferences and arbitration hearings, expedited assessments and recent changes to the Commission's Rules and procedures.

The 18 seminars were developed in consultation with the legal profession and held in a range of metropolitan and regional locations including Lismore, Wagga, Orange and Tamworth. These were attended by nearly 400 people.

Evaluation forms completed by seminars attendees indicated 95% were satisfied or very satisfied with the seminar program, and would recommend the seminars to others. The Commission intends scheduling additional seminars for 2004.

As well, during 2003, the President and Deputy Presidents provided presentations on the role and processes of the Commission to over 30 conferences and industry and legal group forums.

## ARBITRATOR PROFESSIONAL DEVELOPMENT

The Commission provides a comprehensive professional development program for Arbitrators, involving a range of mandatory and voluntary programs. During 2003, each of the Commission's Arbitrators attended an average of 3.5 days of mandatory professional development training.

In addition, all Arbitrators participated in two performance review programs to ensure they continue to meet the Commission's objectives of professionalism, independence and fairness.

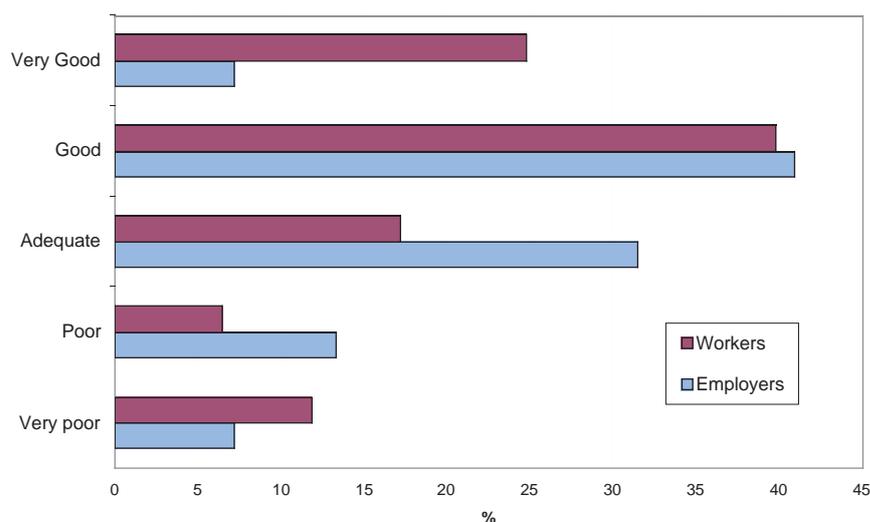
## CUSTOMER SATISFACTION SURVEY

In late 2003, the Commission engaged consultants Urbis JHD to undertake a two year independent customer research project aimed at assessing its performance from the perspective of employers, injured workers and insurers who have been parties in Commission dispute resolution proceedings.

The research involved confidential telephone surveys with recent users of the Commission's dispute resolution services. Participants were asked a range of questions regarding the quality and usefulness of information and correspondence they received, and their experience of the teleconference, conciliation and arbitration processes. As well, specific suggestions for changes and improvements were sought.

The survey results indicate that 82% of workers and 80% of employers rate the service provided by the Commission as adequate, good or very good.

Figure 1 - Customer Ratings of WCC Services



The survey findings will assist the Commission in implementing improvements to its dispute resolution services and provide customer service benchmarks for follow-up surveys in future years.

## COMMISSION PUBLICATIONS

The Workers Compensation Commission publishes a range of easy to understand brochures and guidelines which explain how its procedures work and what a person needs to know in order to have a dispute resolved.

During 2003, two new brochures were developed to assist parties understand how the Commission deals with medical assessments; *Referral to an Approved Medical Specialist* and *Medical Appeals (Appeals against Assessments by Approved Medical Specialists)*.

In July 2003, the Commission published *Standards for Conduct during Proceedings Before the Commission*. These Guidelines were developed to assist agents and representatives to understand their responsibilities to their clients and the Commission during proceedings.

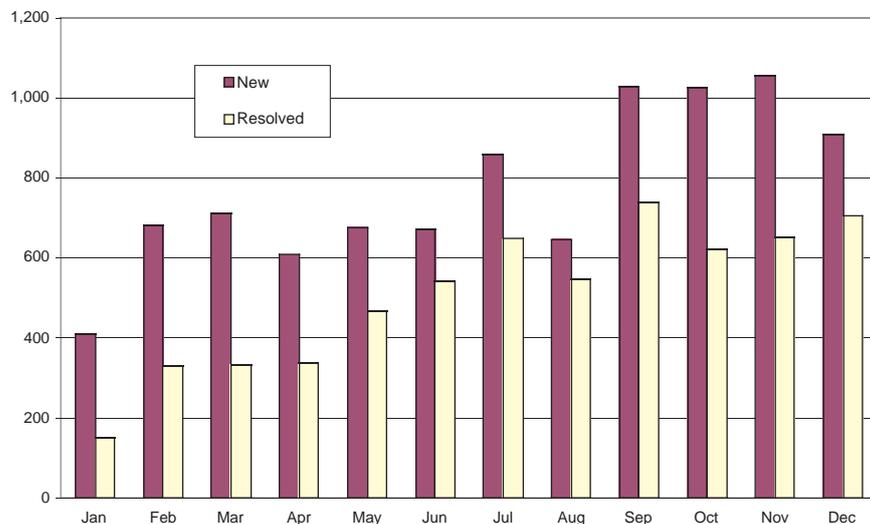
All Commission forms, guidelines and other information publications are available on the Commission's website ([www.wcc.nsw.gov.au](http://www.wcc.nsw.gov.au)).

DISPUTE RESOLUTION

A total of 9,282 Applications to Resolve a Dispute were registered with the Commission during 2003. This is a significant increase on the 3,371 disputes lodged with the Commission in 2002.

The number of new disputes per month rose steadily during 2003, from about 600 per month in the March 2003 quarter, to over 950 per month in the December quarter.

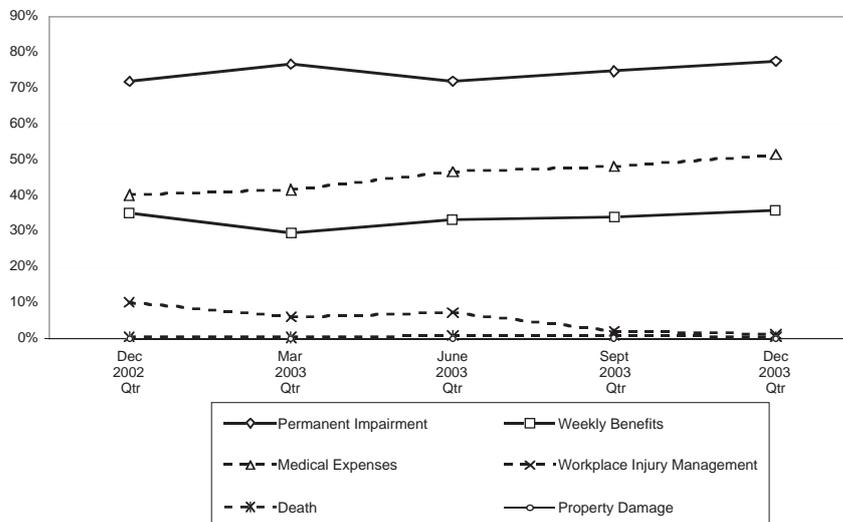
Figure 2 - New and Resolved Disputes, 2003, by month



An Application to Resolve a Dispute may identify one or more disputed issues about an injured workers' claim for compensation. On average there were about 1.6 disputed issues per application during 2003.

Over 75% of new disputes concerned statutory compensation for permanent impairment (section 66A claims). Other common disputed issues included medical expenses (48% of all disputes) and weekly benefits (34%). Despite the overall increase in the volume of disputes received by the Commission during 2003, the proportions of disputed issues were relatively stable.

Figure 3 - Disputed Issues as % of New Disputes, 2003, by quarter

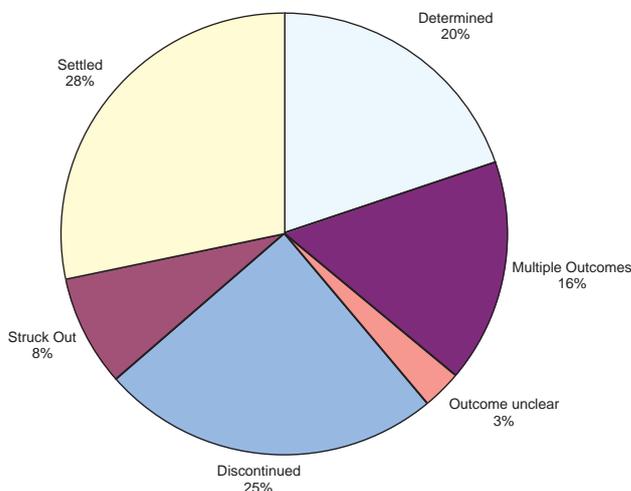


A large proportion of disputes are discontinued or withdrawn by the parties (25%). About one third of these applications are discontinued before the teleconference, and about two-thirds after the teleconference.

6,069 disputes were resolved during 2003. About 28% were settled by agreement between the parties, and about 20% were subject of a determination. Disputes which involved more than one disputed issue are recorded as “multiple outcomes” if there were different outcomes for different issues. These accounted for 16% of disputes resolved during 2003.

A further 8% of disputes were struck out by the Registrar for failure to comply with legislative and procedural requirements.

Figure 4 - Dispute Outcomes, 2003

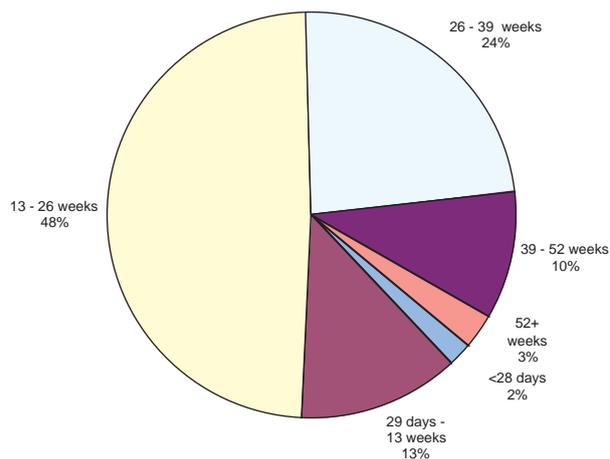


The time taken to resolve disputes may vary considerably due to a number of factors. These include:

- delays in the information exchange process – for example, during 2003 there were 16,689 supplementary applications to seek access to documents
- whether the application is resolved during or after the teleconference, or proceeds to a hearing before an Arbitrator and whether an assessment by an Approved Medical Specialist is required.

Of the disputes resolved during 2003, 63% were resolved within 26 weeks and 87% were resolved within 39 weeks.

Figure 5 - Time Taken to Resolve Disputes, 2003

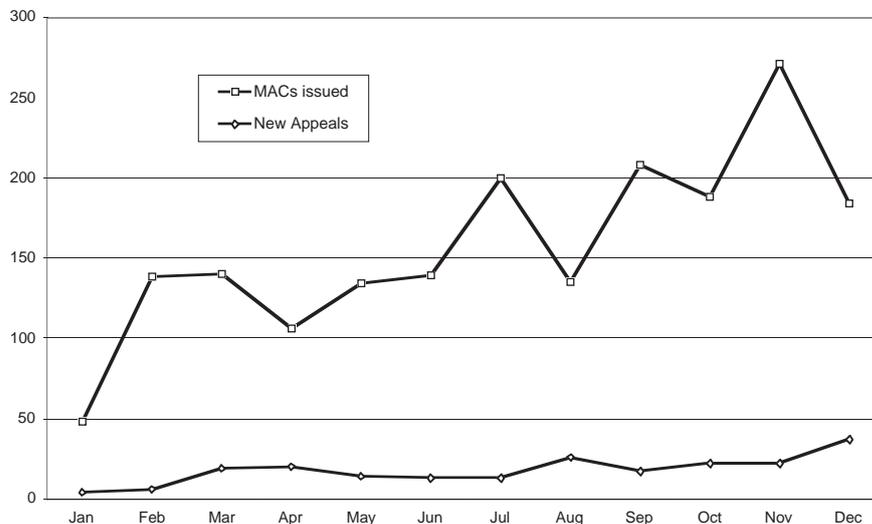


#### Appeals Against Approved Medical Assessments

During 2003, 1,891 Medical Assessment Certificates were issued and 213 appeals against Medical Assessment Certificates were lodged, an appeal rate of about 11%.

71 medical appeals were resolved during 2003. Of these, 23 (or 1.2% of all Medical Assessment Certificates issued) resulted in the original Medical Assessment Certificate being revoked and replaced. 17 medical appeals resulted in the confirmation of the original Medical Assessment Certificate, and the remaining appeals were withdrawn or did not meet legislative eligibility requirements.

Figure 6 - New Medical Assessments Issued and MAC Appeals, 2003

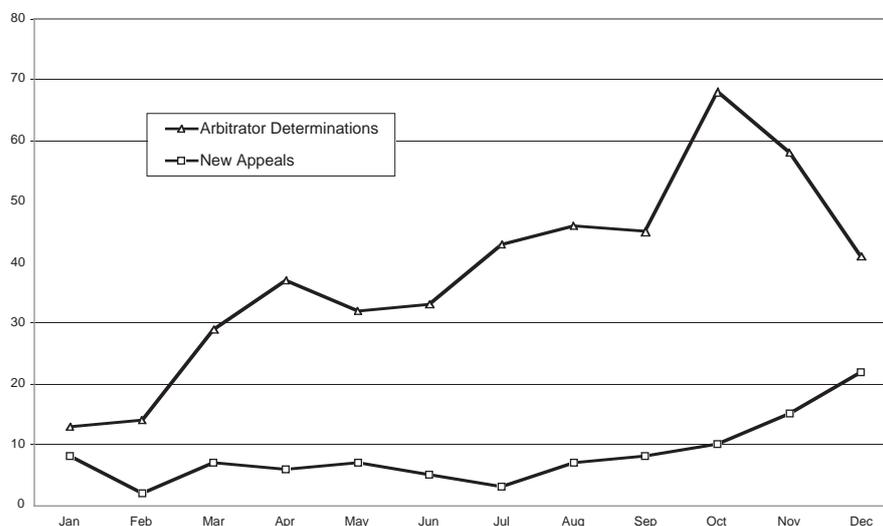


### Appeals against Arbitrator Decisions

During 2003, 459 disputes were resolved by a determination by an Arbitrator, and 100 appeals against decisions of Arbitrators were lodged, an appeal rate of about 22%. A small proportion of these appeals (about 10%) concerned procedural or evidentiary issues, rather than appeals against Arbitrator final determinations.

48 arbitral appeals were resolved during 2003. Only 6 resolved appeals (or about 1.3% of all Arbitrator determinations) resulted in the Arbitrator's decision being overturned. The Arbitrator's decision was confirmed in 16 cases. The remaining appeals were either withdrawn (10) or did not meet legislative eligibility requirements for appeals (16).

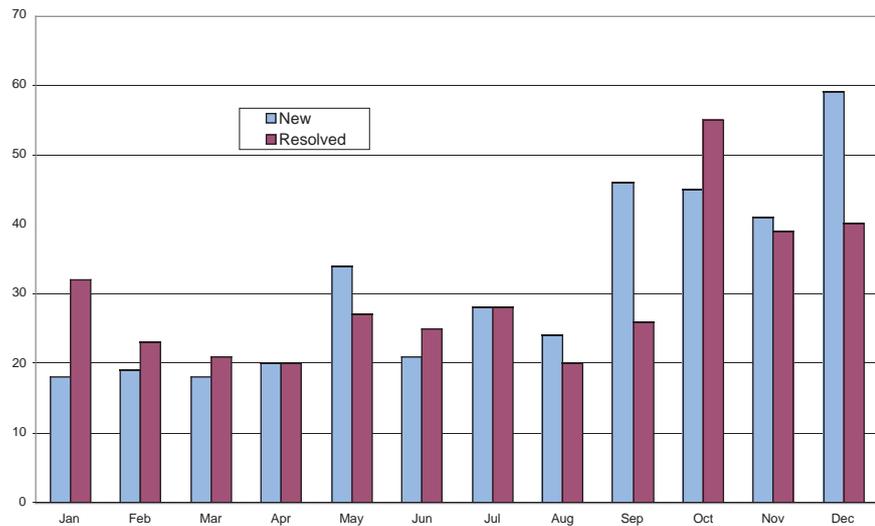
Figure 7 - Arbitrator determinations and Appeals, 2003, by month



## INTERIM PAYMENT DIRECTIONS

A total of 376 applications for an Interim Payment Direction were registered in 2003. The numbers of new applications rose steadily during the year from about 20 per month in the March quarter to about 50 per month in the December quarter.

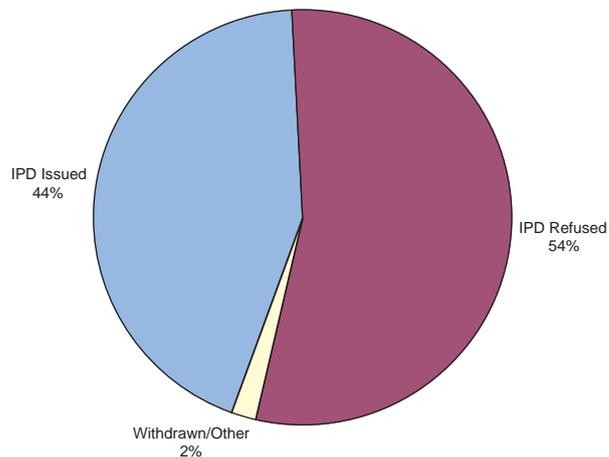
Figure 8 - New and Resolved Applications for Interim Payment Directions, 2003, by month



356 applications for Interim Payment Directions were resolved during 2003, with Interim Payment Directions being issued in about 44% of cases.

13 applications to Revoke an Interim Payment Direction were registered during 2003 and 3 were subsequently revoked.

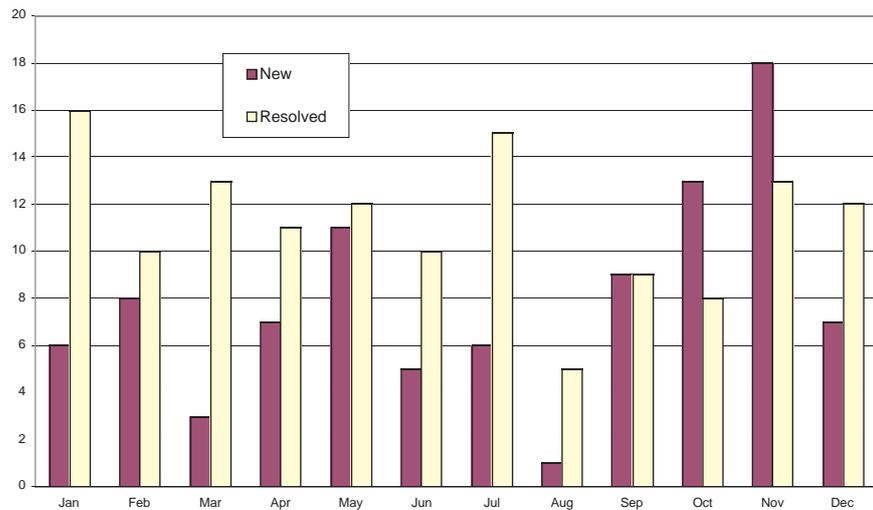
Figure 9 - Outcomes of Applications for Interim Payment Directions, 2003



## WORKPLACE INJURY MANAGEMENT DISPUTES

94 applications to resolve workplace injury management disputes were subject to expedited assessment during 2003. This compares to 163 applications received during 2002.

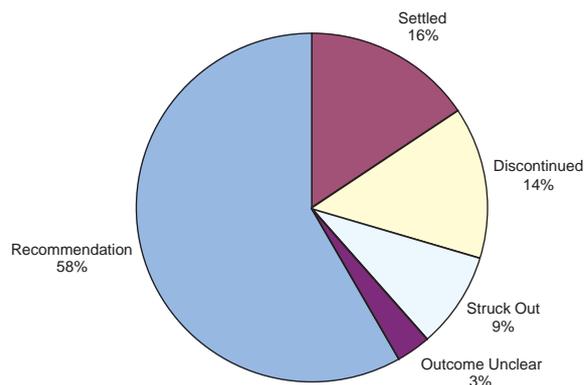
Figure 10 - New and Resolved Workplace Injury Management Disputes, 2003, by month



144 expedited assessments of workplace injury management disputes were finalised during 2003. 58% resulted in a recommended course of action, and 16% were settled by agreement.

Following expedited assessment, parties to a workplace injury management disputes can request a determination by an arbitrator if they are dissatisfied by the Recommendation issued. During 2003 three (3) applications for an Arbitrator determination were lodged following the issue of a Recommendation.

Figure 11 - Outcomes of Workplace Injury Management Disputes, 2003



## COMMUTATION AND REDEMPTION AGREEMENTS

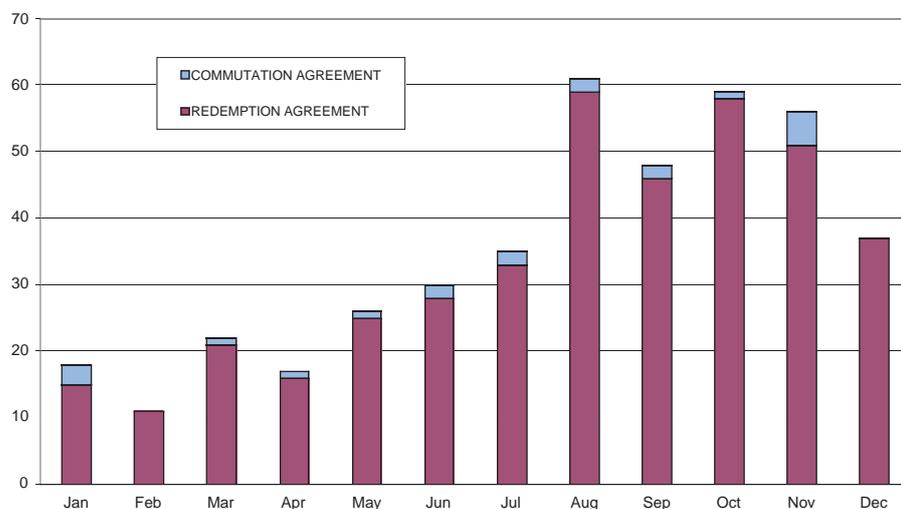
In accordance with the legislation, agreements between insurers and injured workers for lump sum payments of future weekly benefit entitlements must be registered with the Commission. These agreements are referred to as **redemptions** for workers injured prior to July 1987 and covered by the 1926 Workers Compensation Act. For workers injured after July 1987, they are referred to as **commutations**.

During 2003, the Commission received 400 applications to register a redemption agreement and 20 applications to register a commutation agreement.

The number of applications to register redemption agreements rose significantly during the year from an average of 16 per month in the March quarter to an average of 48 per month in the December quarter.

About 5% of proposed commutation and redemption agreements were not registered due to non-compliance with legislative requirements.

Figure 12 - Number of New Applications to Register Commutation and Redemption Agreements, 2003, by month



## AGREEMENTS ON PERMANENT IMPAIRMENT COMPENSATION

The Commission also registers agreements between injured workers and insurers regarding lump sum payments for permanent impairment and pain and suffering under Section 66A of the *Workers Compensation Act 1987*.

6,553 agreements under Section 66A of the *Workers Compensation Act 1987* were registered with the Commission during 2003.

Figure 13 - Number of New Applications to Register a Section 66A Agreement

