

## **PROFESSIONAL CODE OF CONDUCT**

Referred to as the “PCC”

**Status**                      Approved under Due Process

**Version 1.0**                 Effective from  
1 July 2000

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## DEFINITIONS

Reference	Definition
actuary	A Fellow of the Faculty of Actuaries or the Institute of Actuaries, Fellows and the Society of Actuaries, Fellows of the Canadian Institute of Actuaries, or Fellows of the Institute of Actuaries of Australia.
actuary's firm	The corporate entity of which the <i>actuary</i> is the sole proprietor, a partner, a director or an employee.
actuarial advice	Advice given by an <i>actuary</i> which the recipient reasonably believes to be given in a professional capacity as an <i>actuary</i> . It includes any oral comments in support or clarification of the advice.
client	The person or firm to whom an <i>actuary's</i> advice is primarily directed. However it excludes the <i>actuary's</i> firm.
member	A member of the Actuarial Society of Malaysia
other guidance	Legislation, regulations or guidance provided by any statutory or regulatory body relevant in the context of any particular issue with which an <i>actuary</i> is involved.
professional body	The Actuarial Society of Malaysia.
professional guidance	The professional guidance in the Professional Code of Conduct (PCC)
senior actuary	An <i>actuary</i> in an <i>actuary's firm</i> who has been nominated by that firm in respect of professional actuarial matters.
third party	An identifiable person or firm other than the <i>client</i> or the <i>actuary's firm</i> who directly or indirectly may be expected to rely on or be affected by the <i>actuarial advice</i> given.

## 1. GENERAL

- 1.1 The Actuarial Society of Malaysia (ASM) is a *professional body* approved by the Registrar of Societies. Its members have obligation in the public interest to provide the best possible service and advice. The PCC applies to all *actuaries* of the ASM and it is the professional responsibility of each *actuary* to be conversant with it.
- 1.2 The PCC gives guidance on professional conduct to which all *actuaries* must confirm in both the spirit and the letter.
- 1.3 The PCC is not comprehensive or exhaustive. Considerable reliance is therefore placed on the conscience of each individual *actuary* and on the collective conscience of all *actuaries* to maintain the highest standards of conduct.
- 1.4 A *senior actuary* in a firm should draw the PCC to the attention of senior non-actuarial colleagues. In addition, it is a responsibility of a *senior actuary* to give guidance on its application to other *actuaries* within the firm.
- 1.5 An *actuary* who has any doubt as to the attitude which should be adopted or the action which should be taken in a particular circumstance must seek guidance from the *professional body*. An *actuary* should normally first seek guidance from a *senior actuary*.
- 1.6 *Members* who are not *actuaries* may not give or purport to give *actuarial advice* but they must conform with the PCC as far as it is applicable despite its reference throughout to *actuaries*.
- 1.7 The requirements of the PCC are restricted to general principles and standards which must be adhered to when interpreting *professional guidance*. Guidance Notes may impose additional requirements in specific circumstances and are classified as Practice Standard or Recommended Practice.
- 1.8 The PCC places no barrier on the establishment of a corporate practice or of a mixed partnership with members of other professions. An *actuary* must avoid arrangements which inhibit the *actuary's* ability to conform to the requirements of the PCC.
- 1.9 An *actuary* who gives *actuarial advice* and who resides or undertakes statutory or regulatory duties outside Malaysia should join the professional actuarial body of the relevant country and comply with any code of conduct or other requirements of that body. Where there are no local standards or guidance an *actuary* must follow the spirit of the Guidance Notes.
- 1.10 The ASM has agreed with various actuarial bodies that for work in specified territories the requirements of the PCC and of *professional guidance* are replaced by those of the relevant actuarial body. Such agreements, which are listed in **Appendix I**, are restricted to *actuaries* who are also members of the actuarial body concerned and thus subject to the body's disciplinary scheme.

## 2. PROFESSIONAL STANDARDS

- 2.1 The actuarial profession has an obligation to serve the public interest. Collectively it seeks to do so by informed contribution to debate on matters of public interest and by influencing those with power to protect and enhance the public interest. Individually *members* must maintain and observe the highest standards of conduct.
- 2.2 The standing of the profession depends on the judgement of individual *actuaries*. An *actuary* must act in a manner which upholds the reputation and integrity of the profession.
- 2.3 An *actuary* must provide a *client* with service and *actuarial advice* to a high standard. Users of actuarial services, including an *actuary's firm* and colleagues in that firm, are entitled to have absolute confidence in the skill, objectivity and integrity of any *actuary*. If work which an *actuary* considers necessary is precluded by cost or time constraints the *actuary* must either decline to act or qualify the *actuarial advice*.
- 2.4 *Actuarial advice* given to the *actuary's firm* or to a colleague within the same firm, whether or not the colleague is an *actuary*, should meet the same standards as for external *actuarial advice*.
- 2.5 An *actuary* has professional obligations whether or not *actuarial advice* is given. Members of a board of trustees or directors are entitled to depend on the opinion of an *actuary* when considering matters where actuarial judgement is relevant to the opinion.
- 2.6 A *member* found guilty of misconduct will be liable to disciplinary action.
- 2.7 A material breach of the PCC or of a Guidance Note classified as Practice Standard is of itself a ground for complaint under the disciplinary procedures and would amount to strong prima facie evidence of misconduct. Such evidence could normally be displaced only if the *actuary* could show that any departure considered appropriate from strict compliance with any aspect of the PCC or of a Guidance Note had been disclosed and justified.
- 2.8 A failure to comply with a Guidance Note classified as Recommended Practice is not of itself a ground for complaint under the disciplinary procedures. However the determination of a complaint under the disciplinary procedures is likely to take into account any such failure to comply, and whether or not it had been disclosed by the *actuary* concerned.
- 2.9 An *actuary* must take appropriate action immediately on becoming aware of any event which appears to be a breach by another *actuary* of any aspect of either the spirit or the letter of the PCC, or of the requirements of any *professional* or *other guidance*. In the first instance the *actuary* should consider discussing the apparent breach with the other *actuary*. If the matter cannot be so resolved, or if the *actuary* does not consider a discussion to be appropriate, then the *actuary* must seek guidance from the *professional body*.

### 3. STANDARDS FOR ACTUARIAL ADVICE

- 3.1 An *actuary* must explain in suitable terms the implications of any *actuarial advice* that is given.
- 3.2 Whilst an *actuary* is expected to use best judgement in formulating *actuarial advice*, proper regard must also be paid to any relevant *professional* or *other guidance*.
- 3.3 Many assignments offered to *actuaries* require considerable knowledge and experience for proper completion. An *actuary* must not give *actuarial advice*, whether acting personally or as part of a multi-disciplinary team, unless satisfied of personal competence in the relevant matters. However, involvement is permissible if acting in co-operation with, or with the guidance of another *actuary* with the requisite knowledge and experience. Requisite knowledge includes methodology, relevant legislation, local conditions and, where applicable, any professional code of practice in the country concerned. An *actuary* must consider carefully, in the light of previous experience and work, whether it would be consistent with proper professional behaviour and standards to give *actuarial advice*.
- 3.4 Some assignments offered to *actuaries* relate to matters where there is no *professional guidance* or corpus of actuarial knowledge and experience. In undertaking such assignments *actuaries* must use best judgement in order to uphold the reputation of the profession.

### 4. CLIENT RELATIONSHIPS

- 4.1 An *actuary* has a duty to the profession and responsibility to any *client* must be consistent with that duty. An *actuary's* responsibilities are personal and, in advising or otherwise acting for each *client*, the *actuary* must have proper regard to the trust and confidence which that implies. In particular, unless disclosure is required under statutory or judicial authority or Guidance Notes, the *actuary* must make no disclosure of the *client's* affairs unless authorized by the *client*.
- 4.2 An *actuary* giving *actuarial advice* which is formulated in the interests of a particular *client* must be careful that it is not presented as if it were the *actuarial advice* that would have been given to another *client* or to *third parties* whose objectives and requirements may be different. The *actuary* must state clearly in the *actuarial advice* the capacity in which it is provided and any restrictions on its application.
- 4.3 Where an *actuary* as an employee is giving actuarial advice to a *client* as part of employed responsibilities, it is important to ensure that the *actuary* and the employer both recognize the *actuary's* professional responsibilities for that *actuarial advice* and that the client is made aware of that responsibility.

- 4.4 Written *actuarial advice* to a *client* must include adequate information, appropriate to the circumstances, as to its scope, purpose and terms of reference. It must state clearly any methodologies adopted and any material assumptions made by the *actuary*. Where corresponding *actuarial advice* has been given previously it is acceptable to state only material changes in methodologies or assumptions.
- 4.5 The *actuary* must carry out appropriate investigations to assess the accuracy and reasonableness of any data being used or state why this has not been done. The *actuarial advice* must include an explanation or qualification if the *actuary* has any reservations about the reliability of the data.
- 4.6 Any *actuarial advice* which makes recommendations to a *client* must make the following clear to all concerned:-
- who the *actuary's client* is,
  - the name and qualifications of the *actuary*,
  - the name of the *actuary's firm*,
  - in what capacity the *actuary* is acting.
- 4.7 Written *actuarial advice* which makes recommendations to a *client* must include sufficient information and discussion about each relevant factor and about the results of the *actuary's* investigations to enable the *client* to judge both the appropriateness of the recommendations and the implications of accepting them.
- 4.8 Written *actuarial advice* may refer to the terms on which the *actuary's firm* is prepared to do business, but it is preferable for such matters to be included in a separate letter.
- 4.9 If there is an unusual *client* relationship under which it would be unreasonable to follow the principles of the PCC, dispensation may be requested from the *professional body*. Such instances are expected to be rare and dispensation will be granted only in exceptional circumstances.

## 5. CONFLICT OF INTEREST

- 5.1 Advice to the *client* must be unaffected by interests other than those of the *client*, taking account of any identifiable professional or legal duty of care of the *client* in respect of a *third party*.
- 5.2 If there is or might appear to be a conflict of interest involving an *actuary*, or the *actuary's firm*, and the *client*, then the *actuary* must consider the nature and extent of the conflict and whether it is such as to make it improper to give *actuarial advice* to the *client*.

- 5.3 If there might be a conflict between the interests of different *clients* or previous clients of the *actuary* or the *actuary's firm* the *actuary* must ensure that effective measures are taken to protect their interests and in particular must ensure that there is no communication of information within the *actuary's firm* which might harm the interest of any *client* or previous *client*.
- 5.4 The *actuary* must not give *actuarial advice* until there has been sufficient disclosure to the *client* of the conflict of interest.
- 5.5 The general requirement that it must be clear in what capacity the *actuary* is acting is of particular importance if there is a potential or apparent conflict of interest. Specifically the *actuarial advice* must identify the *client* by whom the *actuary* is instructed. Furthermore if the *actuary* is an employee, it is important that the advice given makes a distinction between the *actuarial advice* provided by the *actuary* and any other advice given on behalf of the *actuary's firm*.

## 6. **THIRD PARTIES**

- 6.1 An actuary giving actuarial advice must consider the implications of that actuarial advice for third parties.
- 6.2 An actuary should bear in mind that, as a matter of law, a duty of care can extend to third parties even if actuarial advice is directed solely towards the client.
- 6.3 In determining if it is appropriate or necessary to incorporate comments relating to *third parties*, an *actuary* should take into account whether a *third party* is receiving or is likely to receive *actuarial advice* from another *actuary* or whether the *client* has an identifiable professional or legal duty of care in respect of a *third party*.
- 6.4 If the *actuary* does not comment on implications for *third parties*, then the *actuarial advice* must include a specific statement to that effect.

## 7. **TRANSMISSION OF ACTUARIAL ADVICE**

- 7.1 An actuary must ensure that professional responsibility for any actuarial advice given to a client is made clear and that the actuary can be identified as the source of the actuarial advice.
- 7.2 Actuarial advice to a client must be forwarded directly to the client or, if appropriate, to the client's lawyer, unless the client has specifically required otherwise. If the actuary is required to forward the actuarial advice through another person or firm, reasonable steps must be taken to ensure that authorship and responsibility are acknowledged, that the actuarial advice is forwarded to the client without undue delay and that it is not presented in a way that is likely to be misleading.

## 8. FINANCIAL INTERESTS

- 8.1 An *actuary* must make full and timely disclosure to the *client* of any financial interest which the *actuary* or the *actuary's firm* may have in any assignment that the *actuary* undertakes for that *client* or in its outcome. In this respect the *actuary* must appreciate that financial interest includes direct remuneration, direct and indirect benefits, commission and introductory fees paid by or to the *actuary* or the *actuary's firm*.
- 8.2 Where an *actuary* or an *actuary's firm* has paid or received commission in respect of a *client* who has been given *actuarial advice*, the amount of commission must be disclosed in writing to the *client* at the first opportunity. Commission received may be offset against fees due from the *client* but the items must be shown separately; an account showing only a net amount after commission is not permissible.
- 8.3 In considering whether an *actuary's firm* has a financial interest in an assignment, an *actuary* must have regard to other bodies with which the firm is associated. An *actuary* giving *actuarial advice* to a *client* of that *actuary's firm* must be satisfied that the *client* understands that the cost of any actuarial services or *advice* is included in the firms' charges.
- 8.4 Financial rewards which are large in relation to the professional time spent, including success-related or contingency fees, can threaten objectivity and thus contravene the general requirements of the PCC. Accordingly an *actuary* should exercise extreme care in determining whether to accept such rewards or fees and must ensure that they are appropriate in the circumstances of the *actuarial advice* given and that there is no conflict with the requirements for professional objectivity.

## 9. APPOINTMENT OF NEW ADVISER

- 9.1 A *client* has the indisputable right to choose and to change professional advisers, to take a second opinion and to retain separate advisers on different matters even though the purpose of a new appointment may be in conflict with the interests of *third parties*. It is not the intention of the PCC to interfere in the commercial activities of an *actuary* or an *actuary's firm* and it is not intended to protect the position of an incumbent.
- 9.2 If an *actuary* invited to give *actuarial advice* to a *client* knows or has reason to suspect that another *actuary* is acting or has recently provided *actuarial advice* to that *client* on the same or a related matter, that *actuary* must consider whether to contact the other *actuary* before accepting the invitation. If any *actuarial advice* given would affect the interests of *third parties*, the *actuary* must forthwith inform the *client* of a professional requirement to contact the other *actuary* at as early a stage as possible. If the *client* refuses to consent to the *actuary* making contact it would normally be inappropriate to accept the appointment although there are exceptions, particularly where the *client* is involved in litigation.

- 9.3 An *actuary* invited to give *actuarial advice* to a *client* or to the *actuary's firm* where a supervisory or regulatory body is a *third party* must contact the predecessor *actuary*. If consent to the *actuary* making contact is withheld the appointment must be declined.
- 9.4 An appointment may be confirmed in principle by the *client* in advance of the *actuary* contacting the other *actuary* but, if so, the *actuary* must ensure the *client* is aware that acceptance is provisional until contact has been made and the outcome considered.
- 9.5 The *actuary* making contact must refer to the professional requirement to do so and ask the other *actuary* if, in that *actuary's* opinion, there are any professional reasons not to accept the appointment or any particular considerations which should be borne in mind before giving *actuarial advice*. The other *actuary* must provide the required information as soon as possible and may make no attempt to obstruct a *client* who wishes to change advisers.
- 9.6 If the *client* requests the *actuary* to provide *actuarial advice* before contacting the other *actuary*, the *actuary* may agree only after receiving an undertaking from the *client* that the *actuarial advice* will not be acted upon or communicated to others until the other *actuary* has had sufficient opportunity to reply.
- 9.7 If the *client* has decided to appoint a separate adviser on an unconnected matter, no action is required.
- 9.8 If an *actuary* considers it would be inappropriate to conform to these arrangements in any particular instance, guidance must be sought from the *professional body*.

## 10. RELATIONS WITH OTHER ACTUARIES

- 10.1 An *actuary* should recognize that there is room for differences of opinion in relation to *actuarial advice* and must avoid any action that would unfairly injure the professional reputation of any other *actuary*. This does not prevent criticism of another *actuary's* work when such criticism is properly reasoned and believed to be justified.
- 10.2 An *actuary* must appreciate that statements which could be made with complete propriety where there is an opportunity for reply could well be inappropriate in the context of any form of publicity.
- 10.3 Where criticism of another *actuary's* work is made in the context of any form of publicity and whether in relation to specific instances or in general, care must be taken to acknowledge that other *actuaries* may quite properly hold different professional opinions and that special circumstances may exist in any particular case.

## 11. PUBLICITY

- 11.1 While publicity for the actuarial profession is encouraged, any form of publicity that might give an *actuary* an unjustified or unfair professional advantage or which is likely to detract from the standing of the profession is prohibited. However an *actuary* may publicise the professional services offered, may indicate specialization in a particular area of work and may publish the basis of charging.
- 11.2 *Actuaries* must ensure that advertising, and any advertising by others on their behalf, is appropriate to the profession. An *actuary* must be in a position to substantiate in an objective manner the content of any publicity for professional services. This requirement applies particularly where the publicity could be taken as suggesting that for some reason it is preferable to obtain *actuarial advice* from the *actuary* than from other actuaries. *Actuaries* who are in any doubt about a particular advertisement are urged to seek guidance from the *professional body*.
- 11.3 An *actuary* speaking in public or writing for publication should seek to ensure that it is made clear in what capacity the contribution is made. An *actuary* should not imply that what is said or written has any official standing with respect to the ASM unless speaking or writing as a representative of the profession.
- 11.4 An *actuary* elected to office within the ASM or invited to represent or assist the profession on a committee or working party acquires a title describing that position eg. Member of Council, Chairman of Board. An *actuary* is permitted to use that title only when acting in a clearly seen to be acting in that capacity.
- 11.5 In publications, CVs, seminars or conferences designed to further the interest of the *actuary* or the *actuary's firm* it is permissible to state the title held or previously held. Such reference must not be given in isolation or be more prominent than other descriptive references and no impression may be given that this provides the *actuary* or the *actuary's firm* with any special or additional standing or expertise.

## 12. DESCRIPTIONS

- 12.1 A title or description on letter headings and publicity of a firm which includes the word *actuary* or *actuaries*, for example "Pension Consultants and Actuaries", is encouraged provided that it is not misleading and that the scope of the *actuarial advice* given to *clients* is not limited by interests other than those of the *client*. Firms may not describe themselves solely as "Actuaries" unless all of the partners or directors are *actuaries*.
- 12.2 Individual *actuaries* who are limited as to the scope of their *actuarial advice* by interests other than those of the *client* may not describe themselves in a style, such as "Consulting Actuary", that might be regarded as misleading.

**APPENDIX I**

**LIST OF AGREEMENTS UNDER PARAGRAPH 1.10**

1. Australia  
  
Members of the Institute of Actuaries of Australia in respect of work confined to Australia.
  
2. Hong Kong  
  
Members of the Actuarial Society of Hong Kong in respect of work confined to Hong Kong.
  
3. India  
  
Members of the Actuarial Society of India in respect of work confined to India.
  
4. Ireland  
  
Members of the Society of Actuaries in Ireland in respect of work confined to the Republic of Ireland.
  
5. New Zealand  
  
Members of the New Zealand Society of Actuaries in respect of work confined to New Zealand.
  
6. North America  
  
Members of the Society of Actuaries, the Academy of Actuaries, the Casualty Actuarial Society or the Canadian Institute of Actuaries in respect of work confined to the United States or Canada.
  
7. South Africa  
  
Members of the Actuarial Society of South Africa in respect of work confined to the Republic of South Africa.