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From: **Chair~~man~~person, Actuarial Association of Europe (AAE)**

To: **Presidents of Member Associations of the AAE that are signatories to the Mutual Recognition Agreement ~~on the Mutual Recognition of Qualifications~~(dated x)**

Copies to: **Presidents of Member~~s~~ Associations of the AAE that are not signatories to the Mutual Recognition Agreement ~~on the Mutual Recognition of Qualifications~~(dated x)**

Other Members of the AAE

Members of the ~~Standards, Freedoms and~~ AAE Professionalism Committee

Subject: **~~Guidelines for Application of the Agreement concerning the Mutual Recognition by each Member Association of Members of the other Associations~~Mutual Recognition Agreement: Context and Questions & Answers**

Context of the Mutual Recognition Agreement

In April 1991, the actuarial associations that were then members of the Actuarial Association of Europe (AAE) entered into a Mutual Recognition Agreement ("Agreement") concerning the recognition by each association of members of the other associations. The history of the Agreement since then is set out in the Appendix to this letter. This letter relates to the current Agreement, which is effective from [date].

The authority for the Agreement lies in Article 6 of the Statutes of the AAE.

In preparing the Agreement, the AAE had regard to the principles implied by Directive 2005/36/EC on the recognition of professional qualifications[1]. The Directive applies to nationals of EU Member States who wish to pursue a regulated profession in a Member State other than that in which they obtained their professional qualifications. Although the

[1] as amended by Directive 2013/55/EU

actuarial profession is not a regulated profession in every Member State[2], the signatories to the Agreement, termed "Qualifying Associations", expressly support the purpose and objectives of the Directive and have entered into the Agreement to reflect their support for the spirit and goals of the Directive.

It should be noted that it is not the purpose or intent of the Agreement to bring into effect in any way the provisions of the Directive. Qualifying Associations in countries where the actuarial profession is a regulated profession may be subject to obligations under the Directive that extend beyond their obligations under the Agreement.

Questions & Answers on the Mutual Recognition Agreement

The following "questions and answers" are intended to provide practical help to Qualifying Associations in interpreting and operating the Agreement. They discuss some illustrative examples of how the AAE envisages the Agreement will work in practice, to encourage a harmonised application of the Agreement.

This letter is an evolving support for Qualifying Associations, who are encouraged to provide feedback to the AAE Professionalism Committee, including any additional questions that may arise from time to time.

IMPORTANT

This letter does not form part of the Mutual Recognition Agreement ("Agreement"). This letter is non-binding and adopting any of the suggestions set out in the "questions and answers" is not mandatory.

In interpreting the Agreement, all Qualifying Associations are reminded to refer not only to this letter but also to any relevant law, including but not limited to data privacy law.

In particular, Qualifying Associations that are based in countries where the actuarial profession is a regulated profession (as defined in the Directive) may be subject to obligations under the Directive that extend beyond their obligations under the Agreement, and they are strongly advised not to rely solely on the Agreement and/or this letter but to refer also to the Directive itself and, if necessary, seek legal advice.

[2] Per "The EU Single Market Regulated professions database" published by the EC at http://ec.europa.eu/growth/tools-databases/regprof/index.cfm, the European countries in which the actuarial profession is a regulated profession are Denmark, Italy, Poland, Slovakia, Spain and the United Kingdom.

1. ***What is ~~intended by a~~the intended meaning of the term "fully-qualified actuary"?***

   A "fully-qualified actuary" is a member of ~~an Association~~a Qualifying Association who is considered by that association to be fully qualified to practice as an actuary ~~in the country of the Association~~. As a minimum, all actuaries who are recognised as fully-qualified must have completed an education programme which complies with the requirements of the AAE Core Syllabus for Actuarial Training in Europe; some associations may also impose additional education or experience requirements.

   Some ~~A~~associations have only one grade of membership, and members of this grade should all be "fully-qualified". Others have several grades; at least one of these should comprise members who are fully qualified, but other grades might not – for example, there might be a grade of "Honorary Fellow/Member". Where an association imposes further requirements on its fully-qualified actuaries to obtain and maintain practising certificates in specific areas of work, e.g. to become an Appointed Actuary, Pensions Scheme Actuary, Actuarial Function Holder, or to hold other responsibilities which are defined by statute, these requirements should apply equally to those actuaries admitted under the Mutual Recognition Agreement. The host association will be expected to issue a practising certificate to a ~~visiting actuary~~successful Applicant under the Agreement on the same basis as it applies to its own fully-qualified actuaries.

2. ***~~Why should a migrant actuary be "encouraged" to apply for membership of the host Association?~~Why should an actuary who takes up work outside the country of his/her "home" association be encouraged to apply for membership of the "host" association?***

   ~~The Mutual Recognition Agreement cannot impose a requirement on an association that its members working in another country join the host association, particularly since it may not be compulsory for nationals of this country to be members of their home association. However, we consider that the home Association should strongly encourage a migrant actuary to seek membership of the host Association for several obvious reasons: for continuing professional development: it demonstrates a professional attitude; to ensure awareness of, and compliance with, necessary codes of practice and guidance notes; it may be required in order to carry out certain statutory actuarial functions. We also recommend that a migrant actuary be asked to report annually to his or her home Association.~~Joining the host association may be required in order to carry out certain statutory actuarial functions. Even if joining is not required, it demonstrates a professional attitude and a commitment to complying with local Code(s) of Conduct and standards of

practice / guidance notes, and it ensures that the actuary has access to continuing professional development events and activities in the host country. For these reasons, we consider that associations should encourage their members who take up work in another country to apply for membership of the host association.

3. *How can a home Association help its members who take up work in another country?*

~~We recommend that Associations, through their Statutes and Codes of Practice, should require their members to inform the (home) Association when they will be working for~~ Qualifying Associations could usefully encourage their members to inform the (home) association if they work for, say, at least 10% of their time ("pursue actively" in ~~Paragraph~~Article 2 of the Mutual Recognition Agreement) on actuarial business connected with another country (see also question 13). This will enable the home ~~A~~association to advise the ~~migrant actuary~~individual actuary, when appropriate, of the rights and obligations conferred by the ~~Mutual Recognition~~ Agreement. The home ~~A~~association will also be able to ~~put the migrant actuary in touch with the appropriate host Association and should, whenever possible, notify the host Association that one of its members will be working in the host country~~direct the individual actuary to a point of contact at the appropriate host association, if required.

4. *When should the host association consider asking for an adaptation period or an aptitude test?*

The Mutual Recognition Agreement is underpinned by the AAE Core Syllabus for Actuarial Training in Europe. This syllabus defines the minimum education standards all Qualifying Associations have to comply with if they wish to retain full membership in the AAE. Therefore, in many cases neither an adaptation period nor an aptitude test will be required.

Still, as the Core Syllabus describes the minimum requirements, it may be the case that additional knowledge, skills and competences are necessary to successfully pursue the actuarial profession in the host association's country. This is described in the Agreement as a substantial difference in education and training. In addition, a successful Applicant might choose to pursue professional activities regulated in the host country that do not exist, or are not regulated, or which he/she has not pursued, in his/her home country.

We encourage Qualifying Associations, when acting as a host association, to first consider how far differences in knowledge, skills and competences, whether in relation to

regulated activities or otherwise, might have been covered through professional experience or through life-long learning, i.e. continuous professional development, and to ensure that their application process includes appropriate consideration of this.

If an association wishes to require an Applicant to complete an adaptation period or pass an aptitude test, we encourage the association to offer the applicant the choice between these two options where practicable. Some associations are required to offer this choice by law.

~~4.~~5. *Should a ~~migrant actuary's~~successful Applicant's duties be subject to the ~~codes of practice~~code of conduct and (where applicable) standards of actuarial practice of the home Association or the host Association?*

This is likely to be a significant issue where a ~~migrant actuary~~successful Applicant is employed by a multinational company, or undertakes work for a multinational client. We consider it to be essential that ~~the terms of the actuary's engagement drawn up before any work starts should clearly specify which jurisdiction and national code(s) of practice the migrant actuary will work to.~~Qualifying Associations accepting applications for membership under the Agreement make clear to Applicants that taking up membership of the host association will result in new mandatory professional obligations, such as mandatory compliance with national code(s) / standards of actuarial practice; Qualifying Associations should also draw successful Applicants' attention to the disciplinary consequence of established failure to comply with professional requirements and should provide direction on where to find these requirements.

~~5. Is it possible for an actuary to be granted full membership of the host Association without being a full member of the home Association?~~

~~There may be times when a visiting actuary is not a member of his or her home association. In particular, there are circumstances where it is possible for a visiting actuary to be accepted as fully-qualified in a host country on the basis of *studies* in his or her home country even though these studies would not have been sufficient for full qualification in his or her home country. In such circumstances, it is considered particularly important that a host Association should advise the home Association before granting full membership on this basis.~~

6. ***Should actuaries accepted into a host ~~A~~a~~ssociation in terms of the Agreement~~, ~~or in terms of the Directives,~~ be entitled to use the designatory letters or title of members of the host ~~A~~a~~ssociation?***

   As we understand the ~~Directives~~EU Directive on recognition of professional qualifications, a professionally qualified person recognised in a host country ~~in terms of the Directives~~by virtue of the Directive can undertake all activities, whether regulated or not, that can be undertaken by a full member of the association which they have joined and is entitled to use the designatory letters or title of the host profession[3]. ~~It is therefore appropriate~~In support of the principles of the Directive, Qualifying Associations, as signatories of the Agreement, therefore support the principle that a fully-qualified actuary practising in a host country should be able to use the appropriate designatory letters or title of that Association.

   However, ~~we recommend the following practice: A distinction should be made~~ in demonstrating the application of that principle, Qualifying Associations may make a distinction between titles obtained by study or examination (referred to as "home" qualifications)~~,~~ and titles obtained only through implementation of the Agreement ("derived" qualifications).

   ~~Where qualifications are identified to clients or potential clients on stationery, visiting cards, etc., the custom should be that an actuary may use all or any of his or her home qualifications, but the derived qualification should be used only in the relevant country in which he or she is providing services. The actuary should not use more than one derived qualification, and should not use the derived qualification except in circumstances where it is essential to do so in order to show that he or she is qualified in the host country to provide the relevant services. A derived qualification should not be used in the actuary's home country.~~

   ~~It would therefore be necessary for an actuary who has obtained derived qualifications in more than one host country to have different visiting cards, etc. in different countries.~~

7. ***Should a host ~~A~~a~~ssociation be able to cancel membership if a ~~migrant actuary~~successful Applicant ceases to provide services in ~~the host country~~the relevant qualifying country (as listed in the Mutual Recognition Agreement)?***

[3] Important Note: For regulated professions, Directive 2005/36/EC (as amended by Directive 2013/55/EU) includes a provision that a Member State may not reserve the use of a professional title to the holders of professional qualifications if it has not notified the association or organisation that issues the title to the Commission and to the other Member States in accordance with Article 3(2). *(Article 52(3))*

We consider that Qualifying Associations should be entitled to grant “derived” memberships for life if they wish to do so, but they should also have the right to cancel a host membership if ~~the actuary~~a successful Actuary ceases to practise his or her profession in the qualifying country of the host association~~host country~~. Appropriate practice might depend on the circumstances: an actuary who has worked for many years in a host country and then retires to his or her home country, or to a third country, ~~might well expect~~could be allowed to retain his or her derived membership; but an actuary who spends only a short period in a host country might be expected to relinquish his or her membership if he or she ceases to have any connection with that country.

8. ***Should it be a condition that ~~the migrant actuary~~ a successful Applicant retains membership of his or her home ~~A~~a~~ssociation?***

We consider that ~~an~~a Qualifying Association should be free, if it so wishes, to make derived membership conditional on ~~retention of the home qualification from which it is derived~~ continued membership of the home association, but it need not do so if it chooses not to. ~~We consider that good practice again would depend on the circumstances.~~ A ~~migrant~~successful Applicant ~~actuary~~ who has adopted a host country as his or her own, and makes it his or her permanent residence and place of work, may consider it appropriate to give up his or her original qualification if he or she has no longer any contact with his or her home country or home ~~A~~association. But an actuary who has acquired derived membership in a host country should not immediately relinquish home qualifications and rely wholly on recently derived qualifications; note that question 9 is relevant to considerations in this regard. ~~See also the next question.~~ Where a ~~migrant actuary~~successful Applicant has the option whether to maintain membership of his or her home association, we ~~recommend that he or she should~~encourage him or her to do so.

9. ***Can a derived membership in one country be used to obtain derived membership in another country?***

~~We strongly recommend that this should not be possible. Derived qualifications should be~~The Qualifying Associations, as signatories to the Agreement, support the principle that all mutual recognition applications are based on the original substantive qualifications obtained by study or examination~~,~~. Therefore, the Agreement provides that an actuary who is a fully-qualified actuary of his or her “home” association – being the association that awarded the original substantive qualification as a fully qualified actuary (and being a Qualifying Association) – is entitled to apply to become a member of

another Qualifying Association in specific circumstances. This means that derived membership of an association cannot be used to obtain derived membership of another association under the Agreement. ~~and i~~If an actuary, having obtained derived membership in one country on the basis of his or her home qualifications, moves to a third country, the second derived membership, if acquired under the terms of the Agreement, must ~~should~~ be based on the original home qualification/membership, and not on the first derived membership. ~~We consider that this distinction can reasonably be made, so that an actuary who has acquired derived membership in one host Association has not, in this respect, identical rights to members for whom the membership is a home one.~~

~~10. What about actuaries who are not nationals of a "qualifying country" (an EU Member State, Iceland, Norway or Switzerland)?~~

~~The Directives only apply to actuaries who are citizens of Member States (or of those States party to the European Economic Area Agreement of May 1992). The Agreement does not mention nationality, but we consider that there is no obligation on an Association to accept a migrant actuary who is a member of one of the subscribing Associations, but who is not a citizen of an EU or EEA Member State or Switzerland.~~

~~While Associations are free to accept such an actuary if they wish, we consider that they should be quite free to refuse membership to those who are not EU, EEA or Swiss nationals.~~

~~11.~~10. Can a~~n~~ Qualifying Association require ~~a migrant actuary~~ an Applicant to be residing in the host country?

We believe that this would be against the ~~terms~~principle of the Directive~~s~~, and is certainly against the spirit of the European Union. According to the EU Services Directive 2006/123/EC, ~~A~~any EU national is now free to live in one EU country and work or provide services in another~~, whether just across a border or at some distance~~. Depending on the circumstances, this could even be done mainly by means of electronic communication. Further, the Agreement envisages the possibility of an actuary providing services on only a part-time basis in any one country (see ~~the next~~ question 12).

~~12.~~11. Can an ~~A~~association make any stipulations about the language skills of an ~~a~~Applicant?

~~We believe that this too would be against the terms of the Directives and would be against the spirit of the European Union. But it might well be a breach of that part of the relevant Code of Conduct, which requires that an actuary shall ensure that he or she only undertakes duties for which he or she has the relevant current knowledge and experience, if an actuary does not have language skills that enable him or her to acquire that knowledge.~~While the Agreement does not provide for additional requirements relating to language skills, it would be reasonable to expect the Applicant to have a reasonable command of the language needed for providing services in the host country. In fact, if the Applicant does not have the language skills needed to acquire the knowledge necessary for work undertaken, and communicate the results of the work clearly, he or she might be in breach of provisions of the relevant Code of Conduct relating to competence and communication.

~~13.~~12. What does "provide~~s~~ actuarial services on a regular basis" mean (Agreement, Article 3)?

~~The purpose of this phrase is clear, but the definition is difficult. We consider that any actuary who undertakes statutory duties, such as statutory certification, in a host country should certainly be strongly encouraged to apply for membership of the host Association, and in many circumstances he or she may need to do so in order to carry out those statutory duties. In other cases an actuary may simply provide advice in a host country, without carrying out statutory duties. We recommend that an actuary who repeatedly or regularly spends, of his or her working time, at least 10% in the host country working on actuarial business connected with that country should apply to become a member of the host Association. But a single assignment, lasting, even intensively, no more than a few weeks or a small number of months, would not in itself involve application to the host Association. Indeed, since an application might well take several weeks or months to be accepted, it would be a waste of time to make an application if the connection with the host country were to cease almost as soon as the application had been accepted.~~We suggest that, where an actuary provides professional services in another country (whether while physically located in that country or remotely by electronic means) on a regular basis or repeatedly over a period lasting more than a few months, and spends at least 10% of his or her working time on that work, the actuary should apply to become a member of the actuarial association in that country. This is a broad guideline and it may be appropriate to take into account factors such as the nature of the work. However, any actuary who undertakes statutory duties, such as statutory actuarial certification, in a host country should certainly be encouraged to apply for membership of the host association,

and in many circumstances he or she may need to do so in order to carry out those statutory duties.

13. What should happen if an allegation of misconduct is made against an actuary who is a member of home and host associations?

As indicated at question 5, Qualifying Associations should make clear to successful Applicants that taking up membership of the host association will result in new mandatory professional obligations, such as mandatory compliance with national code(s) / standards of actuarial practice, and should draw attention to the disciplinary consequence of established failure to comply with professional requirements.

All Qualifying Associations are expected to make available information on the interaction of the home/host disciplinary processes, when invoked.

Qualifying Associations are encouraged to consider principles of natural justice in determining the most appropriate disciplinary jurisdiction to investigate an allegation of misconduct.

All Qualifying Associations are expected to cooperate fully in respect of any disciplinary investigation, within the terms of their legal authority and with due regard to considerations of confidentiality and data privacy.

14. What does the AAE expect from its Member Associations as regards the review described in Article 6 of the Agreement?

Five years after the amended Agreement has entered into force, the AAE Professionalism Committee will contact all signatory associations and ask for an evaluation and routine review of the operation of the Agreement. This could take place in the form of a questionnaire, for example. The summary of responses will act as the basis for a report prepared by the Professionalism Committee, which may include proposals for improvements.[4]

~~***13. What should happen if a actuary disobeys the Code of Conduct of his or her host Association?***~~

[4] Important note: For regulated professions, Directive 2005/36/EC (as amended by Directive 2013/55/EU) stipulates that a report with detailed statistical information is required from Member States every 2 years. This might affect the actuarial associations in countries where the actuarial profession is a regulated profession, as they might be asked for specific data.

If a migrant actuary has become a member of the host Association of the country in which he or she is working, and does not act in accordance with the Rules to be obeyed in the host country, we recommend that steps need to be taken to correct this professional misbehaviour in the host country. We consider that the migrant actuary should be subject to the same disciplinary procedures as apply to "home" members. If the actuary has not joined the host Association, the question of discipline should be referred to the home Association.

But "punishment" in the host country may not be sufficient, because the actuary concerned has not only failed to obey the rules of the host Association, but has also not acted in conformity with his or her home Association's requirement, accepted in the Agreement, for its members to behave according to the Code of Conduct of the host Association in respect of actuarial services provided in the host country.

We therefore recommend to Associations that they should consider invoking disciplinary procedures against any member who has violated the Code of Conduct and been punished by a host Association, because of the mere fact of the damage done to the reputation of his or her home Association. We consider that this should apply whatever the home Association's opinion about the content of the rules that may have been breached; it should not be a defence against invoking the disciplinary procedures to argue that the misconduct in the host country would not have been misconduct according to the rules of the home Association if the offence had been committed in the home country.

15. What action should a host Association take in the event of professional misconduct in a home country?

If an actuary were to disobey the Code of Conduct of his or her home Association and be punished by suspension from the home Association or cancellation of membership, then we strongly recommend that any host Association with which that actuary has a derived membership should also suspend him or her or cancel his or her derived membership as appropriate, or invoke the local disciplinary procedures.

We recommend that, in all cases of misconduct, the principle should be that "an offence against one Association is an offence against all".

16. How should Associations deal with the disclosure of misconduct/disciplinary matters?

~~It is incumbent on both the home Association and the host Association to notify the other if an actuary is shown to have committed a breach of the Code of Conduct of that Association. In particular, a host Association will wish to know if a visiting actuary seeking membership under the Mutual Recognition Agreement is, or has been, subject to any disciplinary measures by his home Association or elsewhere. This is a delicate area, which may be subject to data protection or privacy legislation. The following principles are recommended:~~

- ~~No information should be passed between associations in any circumstances where a member has been cleared of any charges under a disciplinary procedure;~~
- ~~When a migrant actuary applies to join a host association, the host Association should ask him/her whether he/she has ever been found guilty of misconduct by the professional discipline scheme of any other professional body in any country; at the same time, the host Association should request information from the home Association on any disciplinary measures against the individual. Note that any information exchange in this matter should be subject to the limits imposed by the legislation on data protection or privacy protection, in principle in both the countries where the information is given and where it is received~~
- ~~Where an Association makes a public statement (in a journal or otherwise) about a member who has been found guilty of misconduct, that statement should be made available to all other associations in the AAE (including a list of those so found in the past);~~
- ~~Where an Association does not currently make that information public, it should consider whether it has powers to do so under the laws of its country (in the light, if appropriate, of the EU Services Directive) and, if so, take steps to arrange to inform the other associations in the AAE when members are found guilty (including a list of those so found in the past);~~

~~The implementation of many of these recommendations requires communication between Associations. For example, if a member who has acquired a derived membership allows his or her home membership to lapse, then the home Association should be under an obligation to notify any host Association of which that member has acquired derived membership. In order that it can do this, it is necessary for any host Association to notify the home Association of the granting of a derived membership, and of when it lapses or is cancelled. I hope that these recommendations and observations from the AAE are of assistance to your Association~~The implementation and smooth operation of the Mutual Recognition Agreement requires communication between Qualifying Associations. We suggest that any association which grants a derived membership should notify the home association of this membership. Based on this information, the home association should consider notifying the host association whenever a member who has acquired a derived membership allows his or her home membership to lapse.

I hope that the information set out in this letter is of assistance to all Qualifying Associations.

Yours sincerely

Chris Daykin *update*
Chair~~man~~person

Appendix: The evolution of the Mutual Recognition Agreement

Th~~is~~e Agreement concerning the mutual recognition by each participating association of members of the other participating associations, known as the Mutual Recognition Agreement or MRA, was originally entered into in April 1991 by the member associations then represented on the AAE. The original version was ~~and is~~ based on the EU Directive 89/48/EEC (subsequently ~~as~~ amended by Directive 2001/19/EC) for a general system for the recognition of higher education diplomas awarded on completion of professional education and training of at least three years' duration.

The Agreement was updated in 1997 to include all member associations in the EU Member States as well as the associations in Norway and Iceland by virtue of the European Economic Area Agreement of May 1992, and again in 2004. A separate, but parallel, Agreement was entered into in 1997 by all associations subscribing to that Agreement and the Association Suisse des Actuaires. ~~The r~~Recommendations made ~~below~~in 2010 on the implementation of the Mutual Recognition Agreement applied equally to that parallel Agreement. The Mutual Recognition Agreement was further revised in 2004 to reflect comments from the European Commission's Regulated Professions Unit, the further expansion of the European Union, and the inclusion of the Association Suisse des Actuaires (replacing the arrangement for a separate Agreement described above). A further ~~The latest~~ update ~~(~~in November 2010~~)~~ ~~takes~~took account of Directive 2005/36/EC on the recognition of professional qualifications, and addresse~~d~~~~s~~ concerns raised by ~~m~~Member~~s~~ ~~a~~Associations in relation to disclosure of disciplinary proceedings.

In a letter of 31 May 1994 from the Chairman, Klaus Heubeck, a number of recommendations were made to the Associations on how the Agreement should be interpreted and implemented. These recommendations were not mandatory but, in some cases, were strongly recommended, whilst in other cases they were merely suggestions. A revised version of this original letter, containing a number of amendments, was issued in 2000 by the then Chairman, Peter Clark, and further revisions were made in 2005 under the chairmanship of Paul Grace – although the document has continued to be referred to as ~~"~~the "Heubeck letter".

In 2010, ~~T~~the AAE ~~has~~ reviewed the 2005 recommendations and, whilst the associations subscribing to the Agreement were ~~are~~ broadly content with them, a few further amendments were~~have been~~ made.

The current review and update of the Agreement and the “Heubeck letter” was prompted partly by amendments to Directive 2005/36/EC (under Directive 2013/55/EU) and partly by a routine review of the operation of the Agreement, carried out by the AAE Professionalism Committee.