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From: **Chairman, Groupe Consultatif and President, Actuarial Society of South Africa**

To: **Presidents of Associations that are signatories to the Agreements on the Mutual Recognition of Qualifications between Actuarial Society of South Africa and certain member associations of Groupe Consultatif.**

Copies to: **Members of the Groupe Consultatif**

Members of the Standards, Freedoms and Professionalism Committee

Subject: **Guidelines for Application of the Agreements concerning the Mutual Recognition between the Actuarial Society of South Africa and certain member associations of Groupe Consultatif**

These Agreements are to be entered into in after January 2014 by certain member associations of the Groupe Consultatif and the Actuarial Society of South Africa, 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 following recommendations are not mandatory but, in some cases, are strongly recommended, whilst in other cases they are merely suggestions.

1. ***What is intended by a "fully-qualified actuary"?***

   A "fully–qualified actuary" is a member of an Association who is 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 Groupe's Core Syllabus; some associations may also impose additional education or experience requirements.

   Some 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 Agreement. The host association will be expected to issue a practising certificate to a visiting actuary on the same basis as it applies to its own fully-qualified actuaries.

2. ***What does "provides actuarial services on a regular basis" mean?***

   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, 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, without carrying out statutory duties. We recommend that an actuary who repeatedly or regularly spends, of his or her working time, at least 10% working on actuarial business connected with the host country (whether or not the actuary is physically in the 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.

3. ***Why should a migrant actuary be "encouraged" to apply for membership of the host Association?***

   The Mutual Recognition Agreement does not 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.

4. ***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 at least 10% of their time ("pursue actively" in Paragraph 2 of the Mutual Recognition Agreement) on actuarial business connected with another country. This will enable the home Association to advise the migrant actuary, when appropriate, of the rights and obligations conferred by the Mutual Recognition Agreement. The home Association will 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.

5. ***Should a migrant actuary's duties be subject to the codes of practice of the home Association or the host Association?***

   This is likely to be a significant issue where a migrant actuary 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. The actuary will normally be bound by both the code of conduct of the home and the host association, but if there is a conflict between the two, the code of conduct of the host association should take precedence

6. ***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.

7. ***Should actuaries accepted into a host Association 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 Association?***

   We recommend the following practice: A distinction should be made 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.

8. ***Should a host Association be able to cancel membership if a migrant actuary ceases to provide services in the host country?***

   We consider that 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 ceases to practise his or her profession in the 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 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.

9. ***Should it be a condition that the migrant actuary retains membership of his or her home Association?***

   We consider that an Association should be free, if it so wishes, to make derived membership conditional on retention of the home qualification from which it is derived, but it need not do so if it chooses not to. We consider that good practice again would depend on the circumstances. A migrant 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 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. See also the next question. Where a migrant actuary has the option whether to maintain membership of his or her home association, we recommend that he or she should do so.

10. ***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 based on the original substantive qualifications obtained by study or examination, and 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 should be based on the original home qualification, 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.

11. ***Can an Association require a migrant actuary to be residing in the host country?***
The Agreement envisages the possibility of an actuary providing services on only a part-time basis in any one country (see the next question), and even at a distance. So residency would not normally be a requirement..

12. ***Can an Association make any stipulations about the language skills of an applicant?***
We do not believe this should be an explicit requirement of membership. 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.

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

14. ***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”.

15. ***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 Groupe Consultatif (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 Groupe 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 Groupe are of assistance to your Association

Yours sincerely

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Chairman, Groupe Consultatif

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President Actuarial Society of South Africa