

# **Institute of Actuaries of India**

## **Professional Conduct Standards (referred to as PCS)**

**Author: Council of the Institute**

**Status: Adopted by the Council under Section 19(2) (i) of the ACT**

<b>Version</b>	<b>Effective from</b>
<b>1.00</b>	<b>10 10 1987</b>
<b>2.00</b>	<b>27 05 2003</b>
<b>3.00</b>	<b>01.12.2009</b>

### **Sections description**

	<b>Definitions</b>
<b>1</b>	<b>General</b>
<b>2</b>	<b>Professional Standards</b>
<b>3</b>	<b>Standards for advice</b>
<b>4</b>	<b>Breach of Professional Guidance</b>
<b>5</b>	<b>Conflict of interest</b>
<b>6</b>	<b>Financial interests</b>
<b>7</b>	<b>Appointment of new Adviser</b>
<b>8</b>	<b>Relations with other Members</b>
<b>9</b>	<b>Publicity</b>

## DEFINITIONS

Sr. No	Reference	Definition
1	Act	Means the Actuaries Act, 2006 (35 of 2006)
2	actuary	A Fellow of the of the Institute of Actuaries of India (IAI)
3	actuary's firm	The entity of which the <i>actuary</i> is a proprietor, a partner, or an employee or a consultant
4	Council	means the Council of the Institute composed under Section 12 of the Act
5	GN	means a Guidance Note issued after due process under the "Principles and Procedures for issuance of Guidance Notes" and those issued by the Board under Section 44 of the Act
6	Institute	means the Institute of Actuaries of India (IAI) incorporated under section 3 of the Act by dissolving the erstwhile Society under Section 48 of the Act
7	member	A Fellow, an Affiliate, an Associate or a student member of the IAI
8	member's firm	See the definition of actuary's firm above
9	other guidance	Legislation, Rules, Regulations or Guidance provided by any statutory or regulatory body relevant in the context of any particular issue with which a <i>member</i> is involved
10	professional body	The Institute of Actuaries of India. When reference is made to seeking guidance from the <i>professional body</i> , this should in the first instance be sought by contacting the President of the IAI.
11	professional guidance	The professional guidance consists of the PCS and all Guidance Notes

## 1 GENERAL

- 1.1 The PCS gives guidance on professional conduct in addition to that is provided under the Act and Rules & Regulations made thereunder and Other Guidance to which all *members* must conform in both the spirit and the letter.
- 1.2 The PCS is not comprehensive or exhaustive. Considerable reliance is therefore placed on the conscience of each individual *member* and on the collective conscience of all *members* to maintain the highest standards of conduct.
- 1.3 A *member* who has any doubt about the interpretation of *professional guidance* or its application in particular circumstances should normally seek advice from an *actuary* who has relevant experience in the first instance. If this would be inappropriate or if, having consulted such an *actuary*, the *member* has residual doubts about the course of action to be taken, the *member* is advised to seek guidance from the *professional body*.
- 1.4 The PCS sets out 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.

The profession regulates individual *members*, not *members' firms*. Where a *member* becomes aware that the *member's firm* intends to act, or has already acted, in a way which would put the *member* (or any other *member* employed by the firm) in breach of *professional guidance*, the *member* must take appropriate preventative or corrective action (see also paragraph 4.3.1).

The PCS should not be interpreted as imposing any constraints which would limit a *member's* freedom to accept employment or to give advice. A *member* must, however, avoid arrangements which inhibit the *member's* ability to conform to the standards of behaviour, integrity, competence and professional judgment which other *members* or the public might reasonably expect of a *member* (including, but not limited to, the requirements of *professional guidance*).

### Work outside India

- 1.4.1 *Members* working outside India are strongly encouraged to join the local actuarial body when it is appropriate, having regard to the nature of their work, to do so.
- 1.4.2 A *member* of more than one actuarial body is subject to the rules of all such bodies. If a *member* has doubts about the course of action to be taken, or if there appears to be a conflict between the two sets of rules, the *member* should normally seek advice from the *professional body*.
- 1.5 If there are circumstances under which it would be unreasonable to follow the principles of the PCS, dispensation may be requested from the *professional body*. Such instances are expected to be rare and dispensation will be granted only in exceptional circumstances.

## 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. The standing of the profession depends on the judgment of individual *members*.
- 2.2 A *member* has a duty to the profession and must not act in a manner, which denigrates its reputation or impugns its integrity. Responsibility to any client must be consistent with that duty. The requirements of this paragraph do not, however, preclude criticism of the profession which forms part of a justifiable debate conducted in the public interest.
- 2.3 Users of actuarial services, including actuary's *firm* and colleagues in that firm, are entitled to have absolute confidence in the skill, objectivity and integrity of any *member*. If work which an actuary considers necessary is precluded by cost or time constraints the *actuary* should normally either decline to act or qualify the advice given.
- 2.4 Advice given to the *actuary's firm* or to a colleague within the same firm, whether or not the colleague is an *actuary*, should normally meet the same standards as for external advice.

### 2.5 Confidentiality

- 2.5.1 As a matter of law, information acquired by an actuary in the course of professional work is frequently confidential to the *actuary's* client or the *actuary's firm*. As such, it should not normally be disclosed unless consent has been obtained from the *actuary's* client or the *actuary's firm*, as the case may be.
- 2.5.2 There are, however, circumstances in which, despite the normal duty of confidentiality, an actuary might in law be:
- obliged to disclose confidential information, either by virtue of statutory or judicial authority or by virtue of *other guidance* by which the client is bound, or
  - free to disclose confidential information if it is in the public interest to do so or, in some circumstances, if it is for the *actuary's* own protection.
  - An actuary may wish to seek legal advice before invoking this provision.

## 3 STANDARDS FOR ADVICE

- 3.1 An actuary is expected to use best judgment in formulating advice, whilst paying proper regard to any relevant *professional guidance* or *other guidance*. He must keep himself abreast with updated professional guidance and adhere to that.

Many assignments offered to *actuaries* require considerable knowledge and experience for proper completion. Requisite knowledge includes methodology, relevant legislation and, in respect of work outside India local conditions and any professional code of practice in the country concerned. *Actuaries* must not give *advice*, unless:

- a) satisfied of personal competence in the relevant matters, **or**
  - b) acting in co-operation with, or with the guidance of, someone (not necessarily an *actuary*) with the requisite knowledge and experience.
- 3.3 Notwithstanding paragraph 3.2, an *actuary* may provide advice if the circumstances are such that, having regard to all the relevant factors, it would be contrary to the client's interests to decline to do so. However, the *actuary* must make clear to the recipient that, in the absence of the constraining circumstances, the *actuary* would have recommended referring the matter to someone with the relevant knowledge and experience.
- 3.4 An *actuary* must consider the extent to which it is appropriate to carry out investigations to assess the accuracy and reasonableness of any data being used. The advice should normally include an explanation or qualification if the *actuary* has any reservations about the reliability of the data.
- 3.5 Advice should normally include sufficient information and discussion about each relevant factor and about the results of the *actuary's* investigations to enable the intended recipient of the advice to judge both the appropriateness of the recommendations and the implications of accepting them. Further, the *actuary* should, in communicating his professional findings, show clearly that he takes responsibility for them. He shall also indicate the extent to which he or other sources are available to provide the client or employer with supplementary information and explanations about scope, data, methods and the findings.
- 3.6 An *actuary* giving advice which is formulated in the interests of a particular client must ensure that the client is aware that the advice is not of broader applicability than intended by the *actuary*, nor is it necessarily the advice that would be given to another client or to third parties whose objectives and requirements may be different.
- 3.7 An *actuary* shall, in communicating professional findings, identify the client for whom the findings are made and in what capacity the *actuary* serves.

#### **4. BREACH OF PROFESSIONAL GUIDANCE**

- 4.1 A material breach of the PCS or of a Guidance Note classified as Practice Standard or of the Act and Rules and Regulations made there under or Other Guidance, is of itself a ground for complaint under the disciplinary procedures and would amount to strong prima facie evidence of misconduct.

4.2 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 would take into account any such failure.

#### 4.3 **Action to be taken on discovering a breach of guidance by another *member***

4.3.1 On becoming aware of any event which appears to be a material breach by another *member* of any *professional guidance* or *other guidance*, a *member* must take appropriate action at the earliest opportunity.

4.3.2 Before taking any action, however, and before discussing the matter with the other *member* or with the *professional body*, the *member* will need to consider whether the matter is protected by confidentiality (see paragraph 2.5).

- In some circumstances, the *member* may be able to talk to the other *member* without breaching confidentiality, but will be prevented from taking the matter any further.
- A matter which is protected by confidentiality at the time it becomes known to a *member* may cease to be confidential for many reasons, for example because it becomes a matter of public knowledge or because confidentiality is waived by the person to whom that confidentiality is owed. The *member* must take reasonable steps to secure such a waiver, but if one cannot be obtained, the *member* should keep sufficient information on the matter to enable appropriate action to be taken if the confidential status subsequently changes.

4.3.3 In deciding whether a breach of guidance is material, the *member* may need to exercise judgment. A breach which has not led to a materially adverse outcome may be regarded as material if a repetition of it in future could lead to a materially adverse outcome. If the *member* is unsure whether or not a matter is material, the *member* must seek guidance from the *professional body*.

4.3.4 If the *member* decides that the nature of the breach is such that action is called for, the *member* must, in the first instance, consider discussing the apparent breach with the other *member*. Possible objectives of having such a discussion include:

- seeking more information about the matter, so as to form a view whether there has actually been a material breach; and/or
- to explore whether the matter is one where the breach can either be mitigated or be rectified entirely by the other member taking remedial action.

4.3.5 If the *member* does not consider a discussion to be appropriate, or if the matter is not resolved as a result of such discussions, then, subject to paragraph 4.3.2, the

*member* must refer the matter to the *professional body*.

- 4.4 A *member* found guilty of misconduct will be liable to disciplinary action as specified in sections 30, 37 and 38 of the Act.

## **5. CONFLICT OF INTEREST**

- 5.1 Clients are entitled to assume that advice given by an actuary is 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 between two or more clients of an actuary or of the *actuary's firm*, or a conflict between a client and the *member* or the *actuary's firm*, the *actuary* must consider the nature and extent of the conflict and whether it is such as to make it improper for the *actuary* to give advice to one or more of the clients involved in the conflict.
- 5.3 In the event of any such conflict or apparent conflict of interest, the client or clients involved must be notified at the earliest opportunity and if any advice given to a client is, or will be, influenced by interests other than those of that client or by any constraint other than that imposed by professional guidance or other guidance, this must be disclosed in the advice.
- 5.4 If there might be a conflict between the interests of different clients or previous clients of the *actuary* or of the *actuary's firm*, the *actuary* must have proper regard to their respective interests and in particular must not communicate information within the *actuary's firm* which the *actuary* has reason to believe might harm the interest of any client or previous client.

## **6. FINANCIAL INTERESTS**

- 6.1 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 member undertakes for that client or in its outcome. Financial interest includes direct remuneration, direct and indirect benefits, commission and introductory fees paid by or to the *actuary* or the *actuary's firm*.
- 6.2 In considering whether an actuary or an *actuary's firm* has a financial interest in an assignment, a *member* must have regard to other firms with which the *actuary* or the *actuary's firm* is associated.
- 6.3 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 PCS. Accordingly, *actuaries* are advised to exercise extreme care in determining whether to accept such rewards or fees and must ensure that they are appropriate in the circumstances of the advice given and that there is no conflict with the requirements for professional objectivity.

## 7. APPOINTMENT OF NEW ADVISOR

- 7.1 A client has the indisputable right to choose and to change professional advisors, to take a second opinion and to retain separate advisors 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 PCS 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.
- 7.2 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 advice on the same or a related matter, the *actuary* should contact the other *actuary* at as early a stage as possible to ask whether, he is aware of any professional reasons to be considered in accepting the appointment or any particular considerations which ought to be borne in mind before giving advice. Upon receiving such an enquiry, the other *actuary* must provide the required information as soon as possible and should make no attempt to obstruct a client who wishes to change advisors.
- 7.3 If the *actuary* concludes that there is a requirement to make contact with the other *actuary*, the appointment may be confirmed in principle before the other *actuary* has replied, but the *actuary* must ensure the client is aware that acceptance is provisional and the *actuary* may provide *advice* to the client only after receiving an undertaking from the client that the advice will not be acted upon or communicated to others until the other *actuary* has had sufficient opportunity to reply, say, within a period of 10 days.
- 7.4 If, however, the client, having been informed of the obligation to make contact, refuses to consent to contact being made, the appointment should be declined.

## 8. RELATIONS WITH OTHER MEMBERS

- 8.1 *Members* must avoid any action that would unfairly injure the professional reputation of any other *member*. Criticism of one member's work by another *member* is acceptable, provided that the criticism is properly reasoned and believed to be justified.
- 8.2 A *member* 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.
- 8.3 Where criticism of another *member'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 *members* may quite properly hold different professional opinions and that special circumstances may exist in any particular case.

## 9. PUBLICITY

- 9.1 While publicity for the actuarial profession is encouraged, any form of publicity that might give an actuary an unjustified or unfair professional advantage, as opposed to a legitimate commercial advantage, is prohibited. Publicity which is likely to detract from the standing of the profession is prohibited, unless the criticism forms part of a justifiable debate conducted in the public interest. An actuary may publicize the professional services offered, may indicate specialization in a particular area of work and may publish the basis of charging.
- 9.2 *Actuaries* must ensure that their publicity, and any publicity 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 advice from the *actuary*, rather than from another *actuary*. An *actuary* who is in any doubt about a particular publicity is urged to seek guidance from the *professional body*.
- 9.3 A *member* speaking in public or writing for publication should normally seek to ensure that it is made clear in what capacity the contribution is made. A *member* must not imply that what is said or written has any official standing with respect to the IAI unless authorized to speak or write as a representative of the profession.
- 9.4 In publications, CVs, seminars or conferences, a factual description of work on behalf of the profession and the titles of positions held or previously held may be included. Statements must not be made that imply that this work provides the *actuary* or *actuary's* firm with any special or additional standing or expertise.