



CARIBBEAN ACTUARIAL ASSOCIATION



# Disciplinary Procedures

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## DISCIPLINARY PROCEDURES

Pursuant to Article VII, Section 2(d) of the Constitution of the Caribbean Actuarial Association (“the CAA”), the members have promulgated these Rules of Procedure to regulate and govern disciplinary action against members.

### 1. COMPLAINTS

- 1.1 Any person (“**the complainant**”) may bring to the attention of the Secretary of the Executive Council in writing, any facts or matters (“**the complaint**”) indicating that a member may have become liable to disciplinary action and the Secretary shall forthwith lay the complaint before the Executive Council.
- 1.2 The Executive Council may of its own motion initiate disciplinary action against a member by referring the complaint thereof to the Investigative Committee (referred to in Section 2 hereof) pursuant to Section 1.5 hereof.
- 1.3 The complaint shall be dealt with, with reasonable dispatch.
- 1.4 Subject to Sections 1.5 and 1.6 hereof, in the case of complaints which took place outside of a Caribbean Country as defined in Article VIII, Section 4 of the Constitution, the Executive Council may in its discretion refer the complaint to another actuarial organisation.
- 1.5 The Executive Council may dismiss the complaint made under Section 1.1 hereof (whether or not the complaint took place outside of a Caribbean Country as defined in Article VIII, Section 4 of the Constitution) on the ground that it is frivolous, vexatious or ill-founded.
- 1.6 The Executive Council will refer the complaint to the Investigative Committee in the following circumstances:
  - a) where the:
    - i. complaint is made pursuant to Section 1.1 hereof;
    - ii. complaint took place within a Caribbean Country as defined in Article VIII, Section 4 of the Constitution; and
    - iii. the Executive Council has not dismissed the complaint pursuant to Section 1.5 hereof;
  - b) where the Executive Council initiates a complaint against a member.
  - c) Where, in the opinion of the Executive Council, the facts and matters of the subject of the complaint took place outside a Caribbean Country as defined in Article VIII, Section 4 of the Constitution; and



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- i) the Executive Council has not dismissed the complaint on the ground that it is frivolous, vexatious or ill-founded pursuant to Section 1.5 hereof; or
- ii) the complaint is not referred to another actuarial organisation in accordance with Section 1.4; or
- iii) the other actuarial organisation has refused in writing to handle the complaint.

1.7 The Executive Council shall:

- a) inform the member against whom a complaint is made, in writing of the complaint;
- b) inform the complainant and the member against whom the complaint is made, of any action taken in relation to the complaint under this section 1 (including the dismissal of the complaint).

## **2. INVESTIGATIVE COMMITTEE, DISCIPLINARY COMMITTEE AND APPEALS COMMITTEE**

- 2.1 The Executive Council shall appoint an Investigative Committee, a Disciplinary Committee and an Appeals Committee (collectively, “the Committees”) for a term of office of two (2) years.
- 2.2 The Executive Council shall appoint members to the Committees from time to time to fill vacancies.
- 2.3 No person shall be a member of more than one of the Committees at the same time and neither the President nor the Student Representative of the Executive Council shall be a member of any of the committees.

## **3. THE INVESTIGATIVE COMMITTEE**

- 3.1 The Investigative Committee shall consist of three (3) Members in Good Standing as defined in the Constitution with one person being a member of the Executive Council. The members of the Investigative Committee shall appoint a Chairman from among its members.
- 3.2 The Investigative Committee shall act as an advisor to the Executive Council in relation to a complaint which has been referred to it by the Executive Council.



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- 3.3 The Investigative Committee shall investigate the complaint within a reasonable time by gathering all relevant information and submit a written report to the Executive Council containing its findings and recommendations. The report shall be submitted to the Executive Council within thirty (30) days of its completion.
- 3.4 In carrying out its functions the Investigative Committee may gather any books, documents, papers or records relevant to the investigation, conduct interviews of the complainant or any other person who may have information relevant to the complaint.
- 3.5 The Investigative Committee shall give the member an opportunity to reply within ten (10) business days, to the allegations made against him in any manner which the member considers appropriate provided that nothing herein shall require the member to respond in writing or at all. Any response by the member, written or otherwise, shall be included in the report of the Investigative Committee.
- 3.6 It shall be the duty of every member to cooperate with the Investigative Committee.

### 4. CASE DISMISSAL

The Executive Council shall dismiss the complaint and notify the member and the complainant within ten (10) business days after its review of the report of the Investigative Committee if it is of the opinion that a prima facie case has not been made out against the member.

### 5. REFERRAL OF DISCIPLINARY ACTION

- 5.1 The Executive Council shall refer the complaint in writing to the Disciplinary Committee within ten (10) business days of its review of the report of the Investigative Committee for the purpose of convening a formal hearing on the complaint (“**the referral**”), if it is of the opinion that the complaint discloses a prima facie case for disciplinary action.
- 5.2 The Executive Council shall notify the member within five (5) business days of the referral and provide the Disciplinary Committee with the report of the Investigative Committee.
- 5.3 If there is an admission of guilt in writing by the member against whom the complaint is made, the Disciplinary Committee, subject to section 7.2, may make any one or more of the orders against the member set out in Sections



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7.3 and 7.4 herein as it considers appropriate having regard to the nature and seriousness of the complaint and any other factors which the Disciplinary Committee considers relevant. The Disciplinary Committee may require that the member comply with an order for disciplinary action within a prescribed time failing which the procedures set out in section 6 for a formal hearing, will apply.

### 6. DISCIPLINARY COMMITTEE

- 6.1 The Disciplinary Committee shall consist of five persons with two being members of the Executive Council, and one member being a retired judge or a retired lawyer. One member of the Disciplinary Committee shall be appointed Chairman by majority vote of all Disciplinary Committee members. The quorum for any meeting of (including any hearing convened by) the Disciplinary Committee shall be four (4) members.
- 6.2 The members of the Disciplinary Committee who are present at the start of the hearing of the complaint shall be deemed to comprise the panel for the purpose of the hearing until its conclusion (including the determination of the complaint) (“**the panel**”). In the event that a member ceases to be a member of the panel for any reason, the hearing shall proceed with the remaining members of the panel unless its number is reduced to less than two (2) members and no proceedings or determinations of the Disciplinary Committee shall be or be deemed to be invalidated by reason only that the complaint was heard and determined by the remaining members on the panel. Where the number of members on the panel is less than two (2) members, the hearing shall be deemed to be a nullity and the complaint shall be heard de novo after the appointment of additional members to the panel.
- 6.3 The Disciplinary Committee shall fix the date for a formal hearing of the complaint as soon as practicable, provided that such date shall not be less than sixty (60) days from the date of the referral pursuant to Section 5 hereof.
- 6.4 When the complaint is referred to the Disciplinary Committee under Section 5.1 hereof, the Disciplinary Committee shall give written notice to the member against whom the complaint is made of the following:
  - a) The nature of the complaint, the name of the complainant and particulars of the complaint.
  - b) The time and place fixed for hearing of the complaint.
  - c) That the member has a right to make representation before the Disciplinary Committee on the complaint.



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- d) That the member can appear at the hearing with or without counsel and other representatives (at his own expense).
  - e) The names of the members of the Disciplinary Committee and that the member has a right to object to any member presiding at the hearing on the ground of bias or conflict of interest stating the basis and the ground of the objection.
- 6.5 The member against whom the complaint is made shall be entitled to receive forty-five (45) days prior notice of the hearing before the Disciplinary Committee and shall be provided with a copy of the report of the Investigative Committee.
- 6.6 In the event that the member takes an objection under Section 6.4 (e) hereof, the Chairman of the Disciplinary Committee (or, in the event that the objection is in relation to the Chairman, the President of the Executive Council) shall hear evidence and determine whether a reasonable apprehension of bias or conflict of interest exists and if such a determination is made, the member against whom the objection is taken shall not preside at the hearing of the complaint and the remaining members shall proceed with the hearing. In the event that an objection is taken and a determination is made against more than one member of the Disciplinary Committee, the Chairman, or the President as applicable, subject to Section 2.2 hereof, shall forthwith appoint replacement members to replace the members against whom the objection is taken and a determination is made.
- 6.7 The representative of the Executive Council shall attend before the Disciplinary Committee at the hearing for the purpose of prosecuting the complaint against the member.
- 6.8 The member shall be entitled to be heard before the Disciplinary Committee and shall be permitted to be represented by such persons as it considers necessary and to cross examine any witnesses called against him.

## **7. CONSIDERATION OF DISCIPLINARY ACTION**

- 7.1 If the Disciplinary Committee is of the opinion that the complaint has been proved in whole or in part, it shall make a finding to that effect and subject to Section 7.2 hereof, may make any one or more of the orders against the member set out in Sections 7.3 and 7.4 hereof as it considers appropriate having regard to the nature and seriousness of the complaint and any other factors which the Disciplinary Committee considers relevant.



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- 7.2 Notwithstanding a finding that the complaint has been proved in whole or in part, the Disciplinary Committee may, in its discretion decide that in all of the circumstances of the case, no order shall be made against the member.
- 7.3 The following disciplinary action may be taken:
- a) a public reprimand by the CAA;
  - b) suspension from the CAA;
  - c) expulsion from the CAA;
  - d) completion of one or more courses of instruction prescribed by the Disciplinary Committee;
  - e) payment of all or part of the expenses incurred by the CAA (including legal costs) in relation to the complaint.
- 7.4 The Disciplinary Committee shall make a decision on the complaint within 30 days of the completion of the hearing. A decision to render an order of reprimand, suspension or expulsion requires the affirmative vote of the majority of members who formed the panel of the Disciplinary Committee. Any member of the Disciplinary Committee who did not form part of the quorum at the start of the hearing shall not vote on the decision on the complaint.
- 7.5 The Disciplinary Committee shall serve written notice to the member and the Executive Council of its decision made under Section 7.4 hereof together with the division of votes within five (5) business days after the decision is made. In the event of an appeal pursuant to Section 9 hereof, the vote of the Disciplinary Committee shall be made available to the Appeals Committee.

## **8. APPEALS COMMITTEE**

- 8.1 The Appeals Committee shall consist of three persons one of whom shall be a retired judge or a retired lawyer. One member of the Appeals Committee shall be appointed Chairman by majority vote of all Appeals Committee members. All members of the Appeals Committee constitute a quorum to consider an appeal.



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### 9. CONSIDERATION OF AN APPEAL

- 9.1 A member may appeal the decision of the Disciplinary Committee by serving a written notice of appeal (“**the notice of appeal**”) on the Secretary of the Executive Council within forty-five (45) days of the service of the decision of the Disciplinary Committee.
- 9.2 The Secretary shall forthwith deliver the notice of appeal to the Chairman of the Appeals Committee and a copy thereof, to the President of the Executive Council.
- 9.3 The notice of appeal must:
- a) set out the decision which is being appealed identifying the findings of fact or law which the member seeks to challenge;
  - b) set out the grounds of appeal; and
  - c) state what order the member is seeking.
- 9.4 An appeal shall be heard by the Appeals Committee.
- 9.5 The Appeals Committee may extend the time limit to appeal under Section 9.1 if good and sufficient cause is shown by the member.
- 9.6 Upon the notice of appeal being delivered, the Appeals Committee must forthwith:
- a) appoint a date (being within sixty (60) days after the service of the notice of appeal), time and place for the appeal and give notice to the member and the Executive Council;
  - b) arrange for the Disciplinary Committee to prepare a transcript or other record of the notes of evidence and of the Disciplinary Committee’s reasons and when these are prepared forthwith give notice to the member and the Executive Council that copies of the transcript or other record are available.
- 9.7 Within ten (10) business days from the receipt of the notice under Section 9.6 that the transcript or other record is available, the member shall deliver to the Appeals Committee and the Executive Council the following:
- a) the notice of appeal;
  - b) the decision or order appealed from;



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- c) such parts of the transcript or other record of the Disciplinary Committee's reasons for the decision or order as are relevant to any question at issue on the appeal;
  - d) the investigative report of the Investigative Committee;
  - e) any other document presented to the Disciplinary Committee.
- 9.8 Subject to Section 9.9 hereof, the decision of the Disciplinary Committee shall be stayed pending the determination of the appeal.
- 9.9 In the case of an appeal against expulsion or suspension, the member's rights and privileges shall be suspended pending the determination of the appeal.
- 9.10 The member shall be entitled to be heard before the Appeals Committee and may be represented by counsel and by other representatives (at the member's expense).
- 9.11 On any appeal, the Appeals Committee shall take into consideration the record of the evidence and the documents produced to the Disciplinary Committee but may, in its absolute discretion re-hear any witness called before the Disciplinary Committee. The Appeals Committee may only receive fresh evidence if such evidence could not have been discovered by reasonable endeavours at the hearing before the Disciplinary Committee.
- 9.12 If neither the member nor the representative of Executive Council attends the appeal, the Appeals Committee may strike out the appeal; if only one party attends, the Appeals Committee may proceed in the absence of the other.
- 9.13 Where any criminal or civil proceedings are pending to which the member is a party, which in the opinion of the Appeals Committee relate to the complaint, the Appeals Committee may, in its discretion, stay the hearing of the appeal for such period as it considers expedient.
- 9.14 On any appeal, the Appeals Committee may affirm, vary or rescind any order of the Disciplinary Committee and may substitute its own order on such terms and conditions, if any, as it thinks appropriate.
- 9.15 The Appeals Committee shall render a decision within thirty (30) days after the end of the hearing.
- 9.16 Notice of the decision of the Appeals Committee shall be served on the member and the Executive Council within five (5) business days after the decision is made.



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### **10. DISPOSITION**

The Executive Council shall do all such acts or things as may be necessary or advisable to give effect to the order of the Disciplinary Committee or the Appeals Committee as appropriate.

### **11. REINSTATEMENT**

Any member who is expelled pursuant to these Rules may apply to the Executive Council for reinstatement.

### **12. CONFIDENTIALITY OF PROCESS**

12.1 Except as otherwise provided in these Rules:

- a) all proceedings under these Rules shall be confidential and kept secret;
- b) the Investigative Committee, the Disciplinary Committee, the Appeals Committee and, the Executive Council shall take reasonable measures to keep the terms of the decision of the Disciplinary Committee and the Appeals Committee confidential.

12.2 The Investigative Committee, the Disciplinary Committee, the Appeals Committee, and the Executive Council may, disclose the terms of the decision of the Disciplinary Committee and the Appeals Committee if such disclosure is required by law, court order, or in the interest of the CAA. This requirement of confidentiality shall not preclude the Executive Council from reviewing previously closed files as they may relate, in any manner, to the consideration of a new relevant matter before it.

### **13. NOTIFICATION OF FINDINGS AND ORDERS**

13.1 The Executive Council shall notify the members of the CAA in such manner as it thinks fit of any finding or order made by the Disciplinary Committee or the Appeals Committee, as appropriate provided that such notification shall not be given until the time to appeal has expired or, in the event of an appeal, until the Appeals Committee has rendered its decision.

13.2 The Executive Council shall also give notice of any finding or order made by the Disciplinary Committee or the Appeals Committee to actuarial



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- organisations and governmental entities, which, in the opinion of the Executive Council, have an interest in receiving notice of the action.
- 13.3 The Executive Council may also give notice of disciplinary action to such newspapers or journals as it may select in its discretion. In the event of subsequent reinstatement of the member, the Executive Council shall give notice of such action to all members and to associations and entities previously advised by the Executive Council of the disciplinary action.

### **14. REPORTS ON ACTIVITIES**

The Disciplinary Committee shall issue an annual report to the Executive Council that will include a description of its activities, including commentary on the types of cases pending, resolved, and dismissed. This annual report shall be subject to the confidentiality provisions set forth above.