



# Memorandum

**To:** All members of the Canadian Institute of Actuaries and other interested parties

**From:** Edward Gibson, Chair  
Actuarial Standards Board and Authorizing Committee

**Date:** December 4, 2024

**Subject:** **Minor revisions: *Standards of Practice* Part 4000 – Practice-Specific Standards for Actuarial Evidence**

Document 224125

## Introduction

The Actuarial Standards Board (ASB) considered two minor changes to the actuarial evidence standards in Part 4000 of the *Standards of Practice*.

One change relates to replacing one instance of the word “material” with the word “relevant.”

The other change makes good on a commitment concerning the coming-into-force date of legislation on the criminal rate of interest made in a memo to members (Document 224058m) dated May 13, 2024.

Given the modest nature of the required changes, the ASB created a three-member authorizing committee comprised of Edward Gibson, ASB Chair; Renée Couture, ASB Vice-chair; and Simon Curtis, ASB member to review and recommend what actions, if any, were required.

## Background and rationale: Material/relevant change

At a recent ASB meeting, there was extensive discussion on the use of the word “material” in Part 4000 of the *Standards of Practice*. In many circumstances, it was agreed that the use of the word “material” was either appropriate or redundant. In one instance, however, it was suggested that replacement of the word “material” with the word “relevant” would be appropriate.

Paragraph 4710.01, original:

*Describe any terms of the appropriate engagement that are material to the actuary’s work, including the role of the actuary, the scope and purpose of the work, any limitations or constraints on the work and any stipulated assumptions or methods;*

Paragraph 4710.01, revised:

*Describe any terms of the appropriate engagement that are relevant to the actuary’s work, including the role of the actuary, the scope and purpose of the work, any limitations or constraints on the work and any stipulated assumptions or methods;*

Subsection 4710 provides guidance to the actuary to disclose any aspects of the terms of engagement which impact the actuary’s report. *Materiality* is appropriate when referencing assumptions and/or methods selected by the actuary, whereas terms of engagement often include assumptions and/or

methods specified by the lawyer or the client who is retaining the actuary, so *relevance* is a better test. One could have an assumption specified as part of the engagement which may not be material (i.e., retirement at age 65 in a pension plan with actuarially reduced early retirement) but may be relevant (i.e., with regards to other aspects of a case for a judge to consider). Also, since many of the terms of engagement are often specified by the lawyer/client (i.e., certain assumptions defined by the client's position or case law), it is inappropriate to suggest that the actuary may consider some of these terms to be "immaterial."

## Background and rationale: Coming-into-force date

On May 13, 2024, the ASB released revisions to Section 4600 of the *Standards of Practice*, relating to changes in the definition of criminal rate in Section 347 of the *Criminal Code*.

Since the coming-into-force date for the *Criminal Code* amendment was unknown, paragraphs 4610.02, 4630.01 and 4630.02 of the revised Section 4600 referred to "the coming into force of Sections 610 to 612 of the Budget Implementation Act no. 1 2023."

After the coming-into-force date became known, the ASB was to amend paragraphs 4610.02, 4630.01 and 4630.02 to replace that phrase with the effective date, which is January 1, 2025.

## Review and recommendations

After reviewing the two proposed changes, the authorizing committee consulted with the Chair of the Actuarial Evidence Practice Committee and the Chair of the designated group that developed the revisions concerning the change in the *Criminal Code*, and both agreed that these changes are appropriate.

Section 8 ("Minor revisions or corrections") of the *Policy on Due Process for the Adoption of Standards of Practice* includes provisions that deal with such situations. The policy states that an authorizing committee of three ASB members, including the ASB Chair, is to be tasked with overseeing and adopting a final revised standard. A new version of the standard is not issued, and the streamlined process outlined in the policy is followed.

The authorizing committee concluded that the changes described above are appropriate and are minor in nature, and that, therefore, Section 8 was applicable, and due process has been followed.

## Date of adoption

These changes have been approved by the chair of the ASB and, co-incident with the publication of this memorandum, will be reflected in the *Standards of Practice* **effective 1, January 2023**, and in all subsequent versions already published.

## Effective date

The changes are effective immediately. Early implementation is not applicable.

EG

## 4600 Calculation and Reporting of Criminal Rate of Interest

### 4610 Scope

- .01 The standards in Section 4600 apply to an actuary's advice when determining whether the interest rate for a particular agreement or arrangement is a "criminal rate."
- .02 The *Criminal Code* of Canada defines "criminal rate" as meaning:
  - For an agreement or arrangement entered into prior to January 1, 2025~~the coming into force of Sections 610 to 612 of the Budget Implementation Act no. 1 2023~~: an effective annual rate of interest calculated in accordance with generally accepted actuarial practices and principles that exceeds 60 per cent on the credit advanced.
  - For an agreement or arrangement entered into on or after January 1, 2025~~the coming into force of Sections 610 to 612 of the Budget Implementation Act no. 1 2023~~: an annual percentage rate of interest calculated in accordance with generally accepted actuarial practices and principles that exceeds 35 per cent on the credit advanced.
- .03 The actuary would be aware that the Criminal Interest Rate Regulations under the *Criminal Code* provide for certain exemptions and modifications to the criminal rate, for certain categories of loans.

### 4620 Data

- .01 The actuary should ascertain or make assumptions regarding the quantum and timing of all amounts actually or deemed to be advanced as well as all amounts actually or deemed to be repaid either as principal or as "interest" as defined in the *Criminal Code*. [Effective January 1, 2023]
  - .02 The actuary should report all data used in the calculation, and their sources. [Effective January 1, 2023]
- .03 If data are not clear from the initial terms of the engagement, the actuary would obtain clarification from his or her client (for example, whether or not a particular item falls within the statutory definition of "interest," which party is the lender and which is the borrower, and/or the timing of a particular payment that could be made on various alternate dates).

**4630 Method**

- .01 For an agreement or arrangement entered into prior to ~~January 1, 2025~~~~the coming into force of Sections 610 to 612 of the Budget Implementation Act no. 1 2023~~, the actuary should calculate and report the effective rate of interest compounded annually, “i” such that the following equality is established:

$$\sum_{r=1}^m A_r \times (1+i)^{t_r} = \sum_{s=1}^n B_s \times (1+i)^{t_s}$$

where

- m is the total number of payments advanced by the lender to the borrower;
  - n is the total number of payments repaid by the borrower to the lender;
  - $A_r$  is the amount of the  $r^{\text{th}}$  payment advanced by the lender;
  - $B_s$  is the amount of the  $s^{\text{th}}$  payment repaid by the borrower, consisting of principal, “interest” as defined, or a combination of both;
  - $t_r$  is the period measured in years (including fractional parts of a year) between the time that the  $r^{\text{th}}$  payment is advanced by the lender to the borrower and the time on which the final repayment is made by the borrower to the lender; and
  - $t_s$  is the period measured in years (including fractional parts of a year) between the time that the  $s^{\text{th}}$  payment is repaid by the borrower to the lender and the time on which the final payment is made by the borrower to the lender. [Effective ~~June 1~~~~December 4~~, 2024]
- .02 For an agreement or arrangement entered into on or after ~~January 1, 2025~~~~the coming into force of Sections 610 to 612 of the Budget Implementation Act no. 1 2023~~, the actuary should calculate and report the annual percentage rate of interest (the Criminal Code APR) “f” determined as follows:
- $$f = [(1+i)^{1/12} - 1] \times 12$$
- where i is the effective rate of interest compounded annually calculated using the formula in paragraph 4630.01. [Effective ~~June 1~~~~December 4~~, 2024]
- .03 If an alternate calculation in accordance with paragraph 4630.01 or 4630.02 would increase or decrease i (the annual effective rate of interest) or f (the Criminal Code APR) such that the actuary’s determination of whether or not there is a criminal rate of interest would change, the actuary should so disclose. Alternate calculations may include, but are not limited to, different approaches to the counting of time and thus the measurement of  $t_r$  and  $t_s$ . [Effective June 1, 2024]
- .04 If the calculation produces only one result, then the actuary would report that result. If the calculation produces more than one result, then the actuary would report only those that are positive and real, or zero.

.05 The formulas in paragraphs 4630.01 and 4630.02 apply in most, but not all, situations.

## 4700 Reporting

### 4710 External user report

- .01 For work pursuant to Part 4000, any external user report that is prepared should:
- Identify the person for whom the report was prepared and, if that person is acting on behalf of a party to the dispute, that party to the dispute;
  - State the effective date of the report and the effective date of any actuarial opinions and calculations in the report;
  - Describe any terms of the appropriate engagement that are ~~material~~ relevant to the actuary's work, including the role of the actuary, the scope and purpose of the work, any limitations or constraints on the work and any stipulated assumptions or methods;
  - Where the actuary is aware of circumstances where the independence of his or her expert opinion may reasonably be questioned, disclose such circumstances;
  - Disclose the results of the work;
  - Describe the data, methods, and assumptions used for the work, including the terms and the amounts of the payments relevant to any calculations, for each of the scenarios presented in the report;
  - Identify the assumptions and methods that are constrained by law, regulation, court practice, or established legal principles relevant to the work;
  - Identify the differences between scenarios where the results of multiple scenarios are presented;
  - Identify any margins for adverse deviations that are included, except where the assumption or method is mandated by law, regulation, court practice, or established legal principles relevant to the work, and the rationale for inclusion of any identified margins for adverse deviations;
  - Describe every contingency that has been taken into account, and state that there may be other contingencies that could have a positive or negative effect that have not been taken into account;
  - Disclose the extent of the actuary's reliance on others;
  - List the sources of information on which the actuary has relied; and
  - Include any other information required in accordance with the rules of civil procedure, the rules of law, or other rules that may be applicable for the relevant jurisdiction. [Effective ~~January 1~~ December 4, 2024~~3~~]

- .02 Notwithstanding paragraph 1710.01, the actuary is not required to provide an opinion on assumptions which are stipulated by the terms of engagement provided such assumptions are plausible in accordance with paragraph 4320.03. [Effective January 1, 2023]
- .03 Notwithstanding paragraph 1710.01, the actuary is not required to provide an opinion on assumptions or methods described in paragraph 4340.01 which are within the range of accepted actuarial practice pursuant to paragraph 4340.01. [Effective January 1, 2023]
- .04 The actuary's external user report should be sufficiently detailed to enable another actuary to assess the reasonableness of the results. [Effective January 1, 2023]

- .05 The actuary would prepare any draft reports and other documentation, taking into account the potential disclosure of such documents that may be required as part of the dispute resolution proceedings.
- .06 Where the actuary reports the results of a capitalized value calculation without reservation, the disclosure wording that may be used is:

I have determined the capitalized value of those aspects of the pecuniary damages described herein and prepared this report in accordance with accepted actuarial practice in Canada. It is my opinion that the assumptions and methods for which I have taken responsibility are appropriate in the circumstances of this case and for the purpose of this report.

Respectfully submitted,

[actuary]

Fellow, Canadian Institute of Actuaries

### **Reporting with reservation**

- .07 Reporting with reservation or stating that the reporting requirements have not been followed would not excuse an actuary from these reporting standards.
- .08 Notwithstanding paragraph 4340.01, the circumstances affecting the work may result in deviation from accepted actuarial practice in Canada. For example, the terms of the engagement may require that the actuary use an assumption that is outside of the range that the actuary considers plausible, or that the actuary use a method that the actuary considers is not appropriate, or that the actuary assist counsel with challenging a specific interpretation of the law. In such case, the actuary would disclose such deviation in the report.

### **New information**

- .09 Notwithstanding paragraph 1420.01, where an event occurs, such as the availability of new information, after the actuary has completed his or her report, the actuary would consider the potential effect of such event on his or her work, and would advise his or her client on a timely basis, if appropriate and subject to the terms of the engagement.

**Disclosure of other expert's report**

- .10 The external user report need not disclose any error or shortcoming that the actuary identifies in the report of another actuary or other expert witness.

**4720 Internal user report**

- .01 Unless an internal user report conforms to the recommendations for an external user report, an internal user report should state that it is not to be given to an external user. [Effective January 1, 2023]

- .02 For the purpose of determining whether or not the work is in accordance with accepted actuarial practice, an internal user report continues to be an internal user report even if, in breach of the statement required by paragraph 4720.01, it is given to an external user or utilized in the dispute resolution proceeding.