



COMPETENCE

(Notes published in response to DEL Guidelines for a Competent Person)

As a general requirement, employers are responsible for their employees. This is buttressed by the Occupational Health and Safety Act and its regulations. Therefore, when the DEL guideline refers to the employer's responsibility to ensure the competence of employees under her/his control, it simply follows the law.

But that must not be interpreted to mean that the employer must perform the task of evaluating competence it simply states that the employer is **responsible** to ensure that the tasks were undertaken.

If the employer happens to be an accredited **constituent assessor**, then it is possible for such an employer to declare the employee as being competent.

However, this can only happen if all the necessary processes have been followed including uploading the learner's (employee) results to the QCTO and obtaining the statement of results and also ensuring that the employee has the necessary, knowledge, training and experience.

It is highly unlikely that many employers are constituent assessors.

The vast majority of employees will need to be trained by an accredited training provider against the identified skill sets and that the constituent assessor, working with the training provider, will undertake the task of evaluating the competence of the employee -on behalf of the employer

Therefore, the responsibility still rests with the employer to ensure that the employees are competent but the actual training and evaluation will be done by professional persons under contract to the employer.

What is important in this process of evaluation is that it does not replace Professional Designations which are regulated by SAQA recognised Professional Bodies. A professional designation is a direct statement of competence.

With respect to the statement in the guideline :- *"The first part of the definition in point 1 above allows for two scenarios:*

- a) for persons with previous knowledge, training and experience, but do not have a formal qualification, and*
- b) for persons with a formal qualification, as well as knowledge, training and experience."*

For Scenario (a) it is still a legal requirement that assessments be carried out to determine the knowledge, training and experience of the person. This is where RPL (recognition for prior learning) becomes important. Professional Bodies can and must RPL against their designations so that these persons can legally be declared as being competent.

Take note of the legal provisos contained in the actual definitions.

- In the case of Driven Machinery Regulations 2015 it states “a person who has the knowledge, training , experience and qualifications specific to the work being performed..... “
- In the case of Construction Regulations 2014 it states “ ...a person who has in respect to the work or task to be performed the required knowledge, training , experience and , **where applicable**, qualifications, specific to that work or task.....”
- In the case of Ergonomic Regulations 2019 it states “ .. “ a person who has in respect to the work or task to be performed the required knowledge, training and experience in ergonomics and , **where applicable**, qualifications, specific to ergonomics

Thus for Driven Machinery Regulations 2015 – qualifications are mandatory

For Construction Regulations 2014 – the specific work or task to be performed will define the necessary competence and in the case of Working at Height, all these competent persons do have qualifications albeit as Unit Standards which in the Skills Development Act are recognised as component parts of qualifications. Thus, the proviso which states “where applicable” will mean that qualifications in the working at height field are a legal requirement.

For Ergonomic Regulations 2019 - The knowledge, training and experience are defined as is the qualification but this is a new discipline and appropriate qualifications might not have yet been registered with the SAQA.?

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(SEE GUIDELINE ISSUED BY DEL BELOW)

COMPETENT PERSON

GUIDELINE



WHAT MAKES A PERSON COMPETENT

It is the responsibility of both the employer and person being appointed as competent, to ensure that the level of competence is appropriate, according to the criteria listed above. The employer must require the person to demonstrate the appropriate level of competence that is appropriate for the complexity of the work or task. While one person may be deemed competent, it may be beneficial and encouraged by the Department, to draw on the knowledge and competencies of associated fields of competence, to effectively manage Health and Safety using a multidisciplinary approach.

For a person to be regarded as competent in the health and safety aspects of their work, they will have at least the following requirements:

- a) be qualified through knowledge, training, and experience, and where applicable a formal qualification to do the assigned work or tasks;
- b) have knowledge about the hazards and risks associated with the work or the tasks to be performed;
- c) know how to recognize, evaluate and control these hazards and risks; and
- d) have knowledge of the laws and regulations that apply to the work or tasks.

The abilities to satisfy competency can be learned or acquired through a combination of a person's knowledge, skills and experience. Some abilities will be gained through experience and practice, other abilities may be learned through informal and formal education and training. The person must have training that is appropriate to the work or tasks to be executed or plant and machinery that will be used. Employers can prepare a person or persons to be competent by facilitating the appropriate education, training, skills development and experience. Methods of gaining experience can include, but not limited to, mentorship, assistance from senior employees, scenario-based training and observation.

Knowledge can be defined as knowing both what to do as well as how to do it.

Skill can be defined as having the ability to perform the activity correctly. Skills often require technical know-how, expertise, practice, measurement and feedback to develop into ability.

Formal qualifications required by the competent person are usually earned through a formal education programme, training course, etc., or a combination of education and practical experience.

The abilities to satisfy competency can be learned or acquired through a combination of a person's knowledge, skills and experience.

The employer is responsible for evaluating and deciding if a person is competent, according to the hazards and risks associated with their specific workplace and the level of complexity of the required work or tasks. This evaluation of competency does not replace the process of registration with a professional organisation for professional certification.

CONCLUSION

The person deemed competent will need to demonstrate the appropriate level of competence, keeping in mind that the level of competency required, will depend on the complexity of the work or tasks. The person appointed as the competent person does not have to be a full-time employee. A mandatory, as defined in the Occupational Health and Safety Act, 85 of 1993 as amended, who can demonstrate an appropriate level of competence with the hazards, risks and tasks of that workplace, may also be appointed.

It is not possible for the Department of Employment and Labour to provide a general list of professions and the exact knowledge, training, and experience required. Every employer must determine their own requirements for each level of competency required for work or tasks to be performed, however the Department may require an employer, industry or sector to improve their competency requirements where health and safety standards may be compromised.

In general, the employer should be able to defend their reasons for selecting a competent person and the person claiming to be competent should also be able to appropriately defend their level of competency.





DEPARTMENT OF EMPLOYMENT AND LABOUR

COMPETENT PERSON

GUIDELINE

AIM

To provide supplementary information to employers and employees, to assist in identifying and appointing a competent person.

HOW DOES OCCUPATIONAL HEALTH AND SAFETY LEGISLATION DEFINE A COMPETENT PERSON?

Regulations currently refer to a competent person to assist an employer to perform certain work or tasks required by the regulations. The requirements for specific competent persons are defined within each regulation and must be used to identify and appoint the competent person to perform the work or task required. The definitions within the regulations have two aspects for competent person:

- 1) has in respect of the work or task to be performed the required knowledge, training and experience in a "specific field"* and, where applicable, the relevant qualifications specific to a "specific field"*: provided that where appropriate qualifications and training are registered in terms of the provisions of the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), those qualifications and that training must be regarded as the required qualifications and training; and
- 2) is familiar with the Act and the applicable regulations made under the Act;

The first part of the definition in point 1 above allows for two scenarios:

- a) for persons with previous knowledge, training and experience, but do not have a formal qualification, and
- b) for persons with a formal qualification, as well as knowledge, training and experience.

* NOTE:

please refer to each regulation for the specific fields of competence required.

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