

OHS Legislation in Canada – Competent Fact Sheets



HOW DOES OCCUPATIONAL HEALTH AND SAFETY (OH&S) LEGISLATION DEFINE A COMPETENT PERSON OR WORKER?

In Canada, some jurisdictions formally define “competent” or “competent person”/“competent worker”. The seven jurisdictions that define “competent” are Alberta, Saskatchewan, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, and Nunavut. The four jurisdictions that define a “competent person” or “competent worker” are Saskatchewan, Ontario, Nova Scotia, and Prince Edward Island. (Note: Saskatchewan defines both terms.) The federal and Yukon jurisdictions use the term “qualified person”.

The remaining jurisdictions – British Columbia and Quebec use or imply the terms “competent” and “competent worker” but they do not define the terms.

A table that summarizes how each jurisdiction defines competent, competent person/worker, or qualified worker is provided below.

Jurisdiction	Definition
Alberta: Occupational Health and Safety Code 2009, s. 1	“competent” means adequately qualified, suitably trained and with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision;
Saskatchewan: Occupational Health and Safety Regulations, 1996 S.S., c. 0-1.1, Reg 1. s.2	(l) “competent” means possessing knowledge, experience and training to perform a specific duty (m) “competent worker”, with respect to a particular task or duty, includes a worker who is being trained to perform that task or carry out that duty and who is under close and competent supervision during that training;
Manitoba: Workplace Safety and Health Regulation, Reg. 217/2006, s.1.1	“competent” means possessing knowledge, experience and training to perform a specific duty.
Ontario: Occupational Health and Safety Act, R.S.O. 1990, c. 0.1, s. 1(1)	“competent person” means a person who, (a) is qualified because of knowledge, training and experience to organize the work and its performance, (b) is familiar with this Act and the regulations that apply to the work, and (c) has knowledge of any potential or actual danger to health or safety in the workplace;

<p>Ontario: Construction Projects, O. Reg. 213/91, s.1.(1)</p>	<p>“competent worker”, in relation to specific work, means a worker who, (a) is qualified because of knowledge, training and experience to perform the work, (b) is familiar with the Occupational Health and Safety Act and with the provisions of the regulations that apply to the work, and (c) has knowledge of all potential or actual danger to health or safety in the work;</p>
<p>New Brunswick: General Regulation, Reg. 91-191 s.2</p>	<p>“competent” means (a) qualified, because of such factors as knowledge, training and experience, to do assigned work in a manner that will ensure the health and safety of persons, (b) knowledgeable about the provisions of the Act and the regulations that apply to the assigned work, and (c) knowledgeable about potential or actual danger to health or safety connected with the assigned work;</p>
<p>Newfoundland and Labrador: Occupational Health and Safety Regulations, 2012 N.L.R. 5/12</p>	<p>“competent” means a person who is (i) qualified because of that person’s knowledge, training and experience to do the assigned work in a manner that ensures the health and safety of every person in the workplace, and (ii) knowledgeable about the provisions of the Act and these regulations that apply to the assigned work, and about potential or actual danger to health or safety associated with the assigned work;</p>
<p>Northwest Territories: Occupational Health and Safety Regulations R-039-2015</p>	<p>“competent” means, in respect of a function, task or duty, possessing the knowledge, experience and training to perform the function, task or duty;</p>
<p>Nova Scotia: Occupational Safety General Regulations, N.S. Reg. 44/99, 2.(g)</p>	<p>“competent person” means a person who is (i) qualified because of their knowledge, training and experience to do the assigned work in a manner that ensures the health and safety of every person in the workplace, and (ii) knowledgeable about the provisions of the Act and regulations that apply to the assigned work, and about potential or actual danger to health or safety associated with the assigned work;</p>
<p>Nunavut: Occupational Health and Safety Regulations R-003-2016</p>	<p>“competent” means in respect of a function, task or duty, possessing the knowledge, experience and training to perform the function, task or duty;</p>
<p>Prince Edward Island: Occupational Health and Safety Act General Regulations, EC180/87, s.1.4 (f)</p>	<p>“competent person” means a person who (i) is qualified because of that person’s knowledge, training and experience to do the assigned work in a manner that will ensure the health and safety of persons in the workplace, and (ii) is knowledgeable about the provisions of the Act and the regulations that apply to the assigned work, and about potential or actual danger to health or safety associated with the assigned work.</p>
<p>Yukon: Occupational Health and Safety Regulations, O.I.C. 2006/178, s. 1.02</p>	<p>“qualified person” means a person who has education, experience and training in the recognition, evaluation and control of hazards associated with the work;</p>
<p>Federal: Canada Occupational Safety and Health Regulations, SOR/86-304, s.1.2</p>	<p>“qualified person” means, in respect of a specified duty, a person who, because of his knowledge, training and experience, is qualified to perform that duty safely and properly;</p>

What makes a person competent?

REMEMBER: The information below is a general summary only.

In general, for people to be competent in the health and safety aspects of their work, they will have a combination of the following requirements:

- be qualified because of knowledge, training, and experience to do the assigned work
- have knowledge about the hazards and risks associated with the job or task to be performed (e.g., knows what hazards and risks are present)
- know how to recognize, evaluate and control these hazards and risks (e.g., knows what precautions to take or controls to use/are in place for the different hazards or risks)
- have the ability to work so that their health and safety and the health and safety of others is not in danger
- have knowledge of the laws and regulations that apply to the work being done

These abilities can be learned or acquired through a combination of a person's knowledge, skills, experience, and training. 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. Some abilities will be gained through experience and practice, other abilities may be learned through informal and formal education and training.

As an example, Alberta Labour provides a description of characteristics that may be used to describe a worker as "competent":

"(1) adequately qualified – the worker has some type of qualification, usually earned through a formal education program, training course, etc., or a combination of education and practical experience. With certain exceptions such as professional designations e.g. professional engineer, nurse, physician, etc. or other legal requirement involving qualifications, the employer is responsible for evaluating and deciding if a worker is adequately qualified. ...

(2) suitably trained – the worker must have training that is appropriate to the tasks, equipment, etc., that will be performed or used. ... ; and

(3) with sufficient experience to safely perform work without supervision or with only a minimal degree of supervision – determining whether a worker has sufficient experience to safely perform work is the employer's responsibility. A worker's qualifications, training and experience are no guarantee that work will be performed safely."

In all cases, Alberta Labour states that it is the employer who should be able to justify the basis on which a worker is considered to be "adequately qualified", "suitably trained" or "sufficient experience".

From: Alberta Labour, 2017. OHS Code Explanation Guide 2009

It is not possible to provide a general list of the exact knowledge, training and experience required. Every organization must determine the requirements for each position or task to be done.

In some cases, these abilities can be held by a single individual or by a team of people. Organizations can prepare individuals (or teams) to be competent by facilitating the appropriate education, training, skills development, and experience. Methods of gaining experience can include mentorship, assisting senior workers, scenario based training, observation, etc.

Is a competent supervisor the same as a competent person?

In many ways, yes. However, supervisors also act on behalf of the employer, and have authority over the work and/or workers. There are additional competencies that supervisors require, including:

- directing or organizing the work and how that work is performed
- informing workers about actual or potential dangers, including explaining the laws that apply
- showing workers how to work safely, which may include training or written instructions, or correcting their work performance
- responding to workers concerns
- making sure workers use methods, procedures, and equipment required
- making sure workers work in compliance with the Acts and regulations that apply
- making sure workers use or wear the protective equipment or clothing that the employer requires
- taking every precaution reasonable to protect workers

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