

Competent Persons for Health and Safety

Employers are legally required to ensure that people who have health, safety and welfare responsibilities in the workplace are competent. There is no statutory requirement to be a technically qualified H&S professional, just to have the necessary competence.

This duty comes from the Management of Health & Safety at Work Regulations 1999 (MHSWR), Regulations 7 and 8. These Regulations require employers to appoint competent persons to assist them in meeting their legal obligations for health, safety and welfare of employees (and also anyone else who may be affected by the employer's activities). They need competent persons in at least the following capacities:

- Someone to be in overall charge of HS&W - like a safety officer, manager or director,
- People to assess risks under Regulation 3 of the Management Regulations, and
- People to take charge of workplace evacuation in emergency situations – these will be mostly fire wardens and monitors.

The Duties imposed on employers by MHSWR Regulation 7

- Reg 7(1) requires employers to appoint one or more competent persons to assist him in meeting his legal duties
- Reg 7(2) requires the employer to make arrangements for ensuring adequate co-operation between the persons so appointed
- Reg 7(3) requires the employer to ensure that the number of persons, the time available to them to undertake their functions and the means at their disposal are all adequate
- Reg 7(5) says that a person shall be regarded as competent where they have sufficient training and experience or knowledge and other qualities to enable them to properly assist in undertaking the measures required

The Approved Code of Practice (ACoP) that accompanies Regulation 7 gives more detail. *Paragraph 46* says that employers are solely responsible for ensuring staff appointed are competent, and are given adequate information and support. It also says that the employer needs to know and understand the work involved, the principles of risk assessment and prevention, and current health & safety standards and legislation. The employer must ensure that anyone they appoint is capable of applying these things to whatever task they are assigned.

ACoP Paragraph 47 focuses on the competent persons particularly devising and applying protective measures. It also reminds employers that they have a duty to consult with trade union safety representatives on the appointment of such competent persons. This duty is imposed on your employer by the Safety Representatives and Safety Committees Regulations 1977 (SRSCR); Regulation 4A(1)(b).

Note: The 1999 amendment to the MHSWR introduced a new Regulation – Regulation 4. This had the effect of changing the numbering of the subsequent regulations. So the references in the SRSCR Regulation 4A(1)(b) to consult on the appointment of persons appointed under Regulations 6(1) and 7(1)(b) of the Management of Health & Safety at Work Regulations 1992 should now be read as Regulations 7(1) and 8(1)(b) of the MHSW Regulations 1999. There are 2 footnotes to Regulation 4A in the latest version of the SRSCR booklet that point out this change.

Guidance: *Paragraph 51* says that simple situations may only require an understanding of best practice, an awareness of one's own limitations of experience and knowledge, and the willingness to seek help and advice. *Paragraph 52* reminds employers that there will be more complex or technical circumstances that will require a higher level of knowledge. For example, a higher standard would be required under the Ionising Radiation Regulations 1999 (IRR99); Regulation 13, which requires employers to consult with a radiation protection advisor on their observance of IRR99. The HSE have produced guidance on competence under IRR99 which gives some clues about what might be covered in more general definitions of competence

The Duties imposed on employers by Regulation 8(1) require them to establish appropriate procedures to be followed in cases of serious and imminent danger, and to nominate a sufficient number of competent persons to ensure the safe evacuation of employees from the premises in such cases. *Regulation 8(3)* repeats the requirement that such appointed people have sufficient training and experience or knowledge and other qualities (to enable them to properly implement the evacuation procedures).