

THE ENGINEERING PROFESSION'S POSITION

- Engineers Canada believes that the term “qualified persons,” in some cases, infringes on the practice of engineering. The only person qualified to carry out engineering work is, by definition, a professional engineer.
- Legislation surrounding engineering work must specify that a professional engineer must carry out said work, rather than a qualified person.
- Self-regulation of the engineering profession upholds public safety and welfare by ensuring that practitioners are appropriately qualified and remain accountable for the work being conducted in communities across Canada.
- Use of the term “qualified person” with respect to government legislation that impacts engineering work must ensure that only a professional engineer is authorized to carry out engineering work.

The issue

In Canada, the terms “professional engineer” and “engineer” are restricted by provincial law. The terms can be defined as pertaining to an individual who holds a licence or a temporary licence, such as a provisional licence to engage in the practice of engineering.¹ Similar to the medical and legal professions, engineers are licensed in order to be held accountable to the provinces in which their engineering work is being conducted.² Provincial and territorial engineering regulators in Canada have a strict code of ethics, as well as a set of practice standards that must be followed and upheld by professional engineers at all times. All professional engineers in Canada have a responsibility to protect public safety, the natural environment, and the public's economic interests.³

On the other hand, a qualified person is, with respect to a specified duty, a person who, because of their knowledge, training and experience, may or may not be qualified to perform that duty safely and properly. These individuals are often not regulated under a provincial or territorial regulator. They are not licensed members under provincial statutes and are therefore not professionally responsible nor are

they subject to professional discipline for offences incurred on projects. Qualified persons may also not be aware of practice standards or codes of ethics put in place by the provincial and territorial regulators; and therefore they potentially place public safety, economic interests, and the natural environment at risk.

Additionally, there are often additional criteria that a professional engineer must satisfy. These include years of related industry experience, good standing of recognized professional association, and relevant experience in subject matter expertise to name a few.

How Engineers Canada has contributed

Engineers Canada strongly believes that the term “qualified persons,” in some cases, infringes on the practice of engineering. Engineers Canada believes that provincial and territorial governments must assume all responsibility for the consequences of exempting an individual from having to hold an engineering licence to perform an act of engineering in communities across Canada. It is imperative that all individuals providing engineering services, such as those providing engineering services with respect to infrastructure and construction projects across the country, are licensed

and regulated by provincial and territorial statutes. This ensures that public safety, economic interests, and the natural environment are upheld.

Recommendations to the federal government

Engineers Canada encourages the federal government to establish legislation requiring a professional engineer to do specific acts of engineering within its jurisdiction, without creating an exemption in legislation through the use of the term “qualified person.” Furthermore, the federal government should encourage all provinces and territories to adopt a similar approach to such work when it is under their jurisdiction.

The federal government must also recognize and respect the jurisdiction of the provincial and territorial regulators, and acknowledge that provincial and territorial governments have delegated authority to regulate the engineering profession to the regulators. The federal government must:

- Ensure that any federal legislation or regulations that refer to engineering work requires the involvement of a professional engineer, in accordance with provincial and territorial engineering acts.
- Clarify and work with provincial and territorial regulators to educate and enforce regulations, rules, guidelines, and standards that call for professional engineers to perform work that protects the public when safety management and regulatory compliance is delegated to federally regulated industries.

How Engineers Canada will contribute

Engineers Canada, together with provincial and territorial regulators, will work with both federal and provincial governments, as well as other organizations, in order to create an appropriate designation in place of the term “qualified persons.” This may include the designation of limited licence holders, or equivalent, to practise engineering where such persons are licensed to practice engineering under provincial legislation.

Engineers Canada will also continue to:

- Request that decision-makers ensure that legislation, or regulations that require the certification of projects and works by an engineer, retains explicit references to professional engineers in the interest of public safety across Canada.
- Work with provincial and territorial regulators to enforce the engineering acts.
- Monitor the government agenda, legislative initiatives, and proposed regulations to bring recommendations on “qualified persons” to the attention of government.
- Actively identify opportunities to include requirements to use professional engineers within federal legislation and regulations where such involvement is necessary to ensure that the acquired knowledge and experience of a professional engineer are essential to protect the public interest.

¹ Government of Ontario (2016). “Professional Engineers Act, R.S.O. 1990, c. P28.” Retrieved November 21, 2016 from: <https://www.ontario.ca/laws/statute/90p28>.

² Professional Engineers Ontario (2013). “What is a Professional Engineer?” Retrieved November 21, 2016 from: http://www.peo.on.ca/index.php?ci_id=1813&la_id=1.

³ Ibid.