

THE ENGINEERING PROFESSION'S POSITION

- All professional engineers in Canada have a responsibility to protect public safety, the natural environment, economic interest and the public welfare. Provincial and territorial engineering regulators in Canada have a strict code of ethics, as well as a set of practice standards that must always be upheld by professional engineers. Professional engineers' accountability to the public is managed through provincial legislation; hence it needs to be respected by the federal government.
- Engineers Canada believes that the term "qualified persons," in some cases, infringes on the practice of engineering. The only persons qualified to carry out engineering work are professional engineers licensed with a provincial or territorial engineering regulatory body.
- Legislation referencing 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 qualified and accountable for the engineering 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 licensed with a provincial engineering regulatory body is authorized to carry out engineering work.

The challenge(s)

A "qualified person" is a phrase used in legislation to describe an individual who, because of their knowledge, training, and/or experience, is deemed to be qualified to perform a specified duty safely and properly. While a qualified person may be a licensed professional, a license is not required to be considered a qualified person under this type of legislation. Qualified persons are therefore often not licensed and cannot be held accountable for their work. Without professional regulation, there may not be any recognized body to officially evaluate qualifications and set uniform standards for knowledge, training, and experience; there may be no competence checks or continuing professional development requirements; and qualified persons are not held professionally responsible for their work and subject to professional discipline for offences incurred on projects. Qualified persons may also not be held to practice standards or codes of ethics, potentially placing public safety, economic interests, and the natural environment at risk.

In Canada, the terms "professional engineer" and "engineer" are restricted by provincial law. The terms

refer to an individual who holds a license with a provincial engineering regulatory body. Similar to the medical and legal professions, engineers in Canada are licensed to be held accountable in the provinces or territories in which their engineering work is being conducted.

How Engineers Canada has contributed

The practice of engineering is restricted to engineering license holders by provincial and territorial legislation. Engineers Canada strongly believes that the use of the term "qualified persons," in legislation in some cases, overlaps the practice of engineering where the legislation does not require a licensed engineer to perform an activity that would be considered engineering by provincial or territorial legislation. It is imperative that all individuals providing engineering services, such as those providing engineering services with respect to the design and construction of infrastructure and other important works across the country, are licensed and regulated by provincial and territorial engineering regulatory bodies.

Recommendations to the federal government

Engineers Canada encourages the federal government to:

- Establish legislation requiring only a professional engineer, licensed with a provincial or territorial regulatory body to perform specific acts of engineering within its federal jurisdiction, without creating a perceived exemption in legislation by using the term “qualified person.”
- Encourage all provinces and territories to adopt a similar approach to such work when it is under their jurisdiction.
- Recognize and respect the jurisdiction of the provincial and territorial engineering regulators and acknowledge the constitutional assignment of the authority to regulate the engineering profession to these regulators.
- Ensure that any federal legislation or regulations that refer to engineering work require the involvement of a professional engineer, in accordance with provincial and territorial engineering legislation.
- Require federally regulated industries to mandate that engineering work performed in these industries be performed only using professional engineers licensed with a provincial or territorial engineering licensing authority.
- Avoid using the term “qualified person” as it applies to engineering work and replace it with “professional engineer licensed with a provincial or territorial engineering regulatory body”. This should also apply to other regulated professions where the term “qualified person” is used instead of a licensed professional.

How Engineers Canada will continue to contribute

Engineers Canada will also continue to:

- Encourage federal decision-makers to ensure that legislation, or regulations that require the certification of projects and works by an engineer, retain explicit references to professional engineers in the interest of public safety across Canada.
- Work with provincial and territorial regulators to ensure that engineering work in Canada is appropriately regulated in the public interest.
- Monitor the government agenda, legislative initiatives, and proposed regulations to bring recommendations on “qualified persons” as it applies to engineering work to the attention of government.
- Actively identify opportunities to include requirements to use only professional engineers, with respect to engineering work.