

DETERMINATION OF ‘COMPETENT PERSON’ TO CONDUCT INSPECTIONS OF CERTAIN PLANT UNDER THE WORK HEALTH AND SAFETY REGULATION 2017 – APPLICATION

DECEMBER 2014

Competent person

Determining a ‘competent person’ to conduct inspections of amusement devices, passenger ropeways or registered mobile and tower cranes.

Clause 235 in the WHS Regulation requires that the person with management or control of a registered mobile crane or tower crane at a workplace ensure major inspections of such cranes are carried out by ‘competent persons’.

Clause 241 in the WHS Regulation requires that the person with management or control of an amusement device or passenger ropeway at a workplace ensure annual inspections of amusement devices and passenger ropeways are carried out by ‘competent persons’.

The WHS Regulation provides that a ‘competent person’ for these clauses is a person who:

- has acquired through training, qualifications or experience the knowledge and skills to inspect the plant
- is qualified to be a member of Engineers Australia with the status of Chartered Professional Engineer, or is qualified to be entered on the National Professional Engineers register administered by the Institution of Engineers Australia.

For inflatable amusement devices, such as jumping castles, that have a platform height less than nine metres, a ‘competent person’ need only demonstrate that they have acquired through training, qualifications or experience the knowledge and skills to inspect these types of devices.

The WHS Regulation also provides that, if exceptional circumstances exist, SafeWork NSW can make a determination that someone is a ‘competent person’ to conduct the required inspections.

Exceptional circumstances include:

- where there may be a shortage of Chartered Professional Engineers or persons that are qualified to be entered on the National Professional Engineers register to conduct the required inspection within the next eight weeks (for amusement devices and passenger ropeways) or the next six months (for registered mobile and tower cranes), or

- where the plant is located in a remote area where there are no Chartered Professional Engineers or persons that are qualified to be entered on the National Professional Engineers register that are resident in the area or are prepared to provide the inspection service in that area.

SafeWork NSW will consider a range of criteria before deciding on an application for a determination that a person is a ‘competent person’ for these inspections, including:

- whether the person is independent of the person with management or control of the plant who is required to ensure the inspection is undertaken
- what knowledge the person has about the type of plant to be inspected, including relevant non-destructive examination techniques
- what relevant professional industry experience the person has had and any membership of relevant professional organisations
- the person’s reputation
- the person’s understanding of the requirements of work health and safety laws.

Full details of the criteria to be assessed are included on the attached form.

Applications for a determination can be made by:

- the person with management or control of the relevant type of plant who is required to ensure the inspections are conducted by a ‘competent person’, or
- a person wishing to be determined as a ‘competent person’ so that they can conduct the inspections.

Applications should be made using the attached form, or otherwise in writing, and sent to Workplace Health and Engineering Services, Work Health and Safety Division, SafeWork NSW, Locked Bag 2906, Lisarow, NSW 2252. The applicant may be required to attend an interview or provide other information before a decision is made on whether or not a determination will be made.

Determinations made by SafeWork NSW may include conditions.

SECTION 2. EXPERIENCE

State information which supports that you (or the person you wish to conduct the inspections) should be determined by SafeWork NSW to be a 'competent person' (see page 4 of this form for detailed criteria).

Knowledge must be able to demonstrate

Industry experience must be able to demonstrate

Professional activity must be able to demonstrate

Reputation

Work health and safety legislation understanding

Industry association

Independence

SECTION 3. CRITERIA SAFEWORK NSW WILL CONSIDER BEFORE DECIDING ON AN APPLICATION FOR A DETERMINATION THAT A PERSON IS A 'COMPETENT PERSON'

Knowledge (must be able to demonstrate)

- Can the person demonstrate they understand the operation of relevant types of plant, how they are manufactured, how they are maintained, inspected and tested?
- Does the person have knowledge and skills in assessing the condition of the material and means of joining the material (eg seams and anchorage points for inflatable amusement devices with a platform height in excess of 9m, or welding or bolted joints for registered mobile and tower cranes)?
- Does the person have knowledge of non-destructive examination (NDE) techniques, what types of NDEs should be applied to detect potential failures and how the results are interpreted?
 - Can the person describe common failure modes for the relevant type of plant?
 - Can the person estimate the remaining life of worn areas and components to ensure that the relevant plant is safe to operate till the next annual or major inspection?
 - Can the person describe and demonstrate the safety features of the relevant plant?
 - Is the person familiar with technical standards for the relevant plant?
 - Does the person have relevant formal trade or academic qualifications to demonstrate the knowledge?
 - If no formal qualifications, can the person establish (through other means) that they have knowledge of, and experience with, plant of the same type and characteristics?
- Does the person hold any relevant high risk work licence (holding the relevant crane operator's licence is neither mandatory nor sufficient on its own, but may show that the person is familiar with the operation of a crane)?
- Is the person familiar with hazard identification and risk assessment processes common to work health and safety procedures?

Industry experience (must be able to demonstrate)

- Has the person worked in industries associated with the relevant plant and had the opportunity to evaluate their safety features?
- How many years experience in examining and working on relevant plant does the person have? A minimum of two years experience is recommended.
- Does the person have evidence of the industry experience and currency (eg logbooks, references, position profiles)?

Professional activity (must be able to demonstrate)

- Can the person demonstrate recent professional activity with the relevant plant?
- How long has the person been professionally active in this industry?
- Can the person demonstrate that they have maintained their knowledge and skills to ensure they are familiar with new safety technology associated with the relevant plant?

Reputation

- Is the person reputable and able to provide referees who can attest to the quality and nature of their work?

Work health and safety legislative understanding

- Is the person familiar with the relevant work health and safety legislation and its requirements (eg recent attendance of update programs on work health and safety legislation)?

Industry association

- Is the person a member of an amusement industry association (eg AALARA, AAA, Showmen's Guild of Australasia), a crane industry association, or Engineers Australia)? This is not compulsory.

Independence

- Is the person independent of the relevant person with management or control of a registered mobile or tower crane or amusement device?