

Administrative Instrument establishing a Competent Person Register for Occupational Health and Safety Practitioners

OCCUPATIONAL HEALTH AND SAFETY AUTHORITY

Administrative Instrument No. 1 of 2025 OHSA/ADMIN INST/01-2025

Our Ref: OHSA/ ADMIN INST/01-2025 of the 4 March 2025

Preamble

The Occupational Health and Safety Authority (OHSA) is issuing this Administrative Instrument in furtherance of its mandate under Chapter 646 of the Laws of Malta and specifically in accordance with Article 17 of the Health and Safety at Work Act. Recognising the critical role competent persons play in safeguarding workplace health and safety, this instrument aims to establish and regulate the Occupational Health and Safety Practitioners (OHS practitioners) within the Competent Person Register. By specifying the minimum accreditations required for individuals to be deemed competent persons, this instrument ensures the availability of qualified persons to support duty holders in meeting their legal obligations. The anticipated outcomes include enhanced workplace safety, increased accountability, which will promote the recognition of the profession among registered competent persons to perform any task relating to the safeguard of health and safety at work.

1. Citation

This instrument may be cited as the Administrative Instrument establishing a Competent Person Register for Occupational Health and Safety Practitioners

2. Commencement

This Administrative Instrument shall come into force on 4 March 2025.

3. Interpretations

"Administrative Instrument" means such instruments in accordance with article 17 which are required to discharge the Authority's functions and shall include any order, directive, protocol, guideline, explanatory memorandum, information circular, including notices, or other publication issued by the Authority as established by Chapter 646;

"Authority" means the Occupational Health and Safety Authority as established by Article 4 of the Act, Chapter 646;

"competent person" means a person possessing adequate qualifications and minimum accreditations in terms of law or where required, as established by the Authority through administrative instruments, suitable training and sufficient knowledge, experience and skill for the safe performance of the specific task or work required, and who provides advice with regard to the health and safety at work preventive and protective measures required to be taken, and whose name appears in the competent person register administered or otherwise delegated by the Authority in relation to such matters which are regulated by the Authority;

"duty holder" means any person who has a duty or obligation to fulfil and, or the responsibility to ensure that a duty or an obligation is fulfilled by virtue of any requirement of this Act or of subsidiary legislation, and shall include as the case may be, an employer, a self-employed person, a worker, a client, a project supervisor for health and safety matters, a manager who is responsible for workers, a supervisor who is responsible for workers, an HSRO and any other person to whom this Act or any subsidiary legislation made thereunder assigns a duty or responsibility;

"Tribunal" means the Health and Safety Tribunal as established by Article 23 of the Act, Chapter 646.

4. Scope and Applicability

This Administrative Instrument shall have the force of law and be binding in its generality to establish the requirements for the registration of Occupational Health and Safety Practitioners

(OHS practitioners) within the Competent Person Registry, as provided by article 17 of the Health and Safety at Work Act, Chapter 646 of the Laws of Malta (“the Act”).

5. General Provision

The Competent Person Register is established by this Administrative Instrument issued by OHSMA in terms of law. The registration of practitioners listed and published in this Register is an endorsement that such a person has gained the necessary competencies and capabilities which are required to assist duty holders in the protection of occupational health and safety and the prevention and control of occupational risks, as required by Act, Chapter 646 and its subsidiary Legislation.

The Authority has no responsibility for the actions of registered competent persons. The Register serves solely as a guide for duty holders in identifying competent persons in accordance with legal requirements.

Saving any other competent person possessing adequate qualifications and minimum accreditations in terms of law.

6. Eligibility Requirements for Registration

To be included in the Competent Person Register an OHS Practitioner must provide evidence of the following:

- a. They must be citizens of Malta or of a country within the European Union, or residents of Malta who have obtained the necessary permits for this purpose from the relevant Authorities, as well as written confirmation that they are registered with Jobsplus from the same Agency.
- b. Academic Qualification: A qualification certified by the Malta Qualifications Recognition Information Centre (MQRIC) at a Level five (5) minimum, (60 ECTS) or higher in occupational health and safety.

- c. Proven Experience and Competence: A minimum of two years of verifiable practical experience and competence in occupational health and safety.
- d. Proficiency in English or Maltese.
- e. Police Conduct Certificate: In the case of a Maltese certificate, issued within the last six (6) months from the application date, and clean from any breaches, related to the profession and Occupational Health and Safety (OHS) legislation.

Where the applicant is a foreigner, in addition to the above requirements regarding the Maltese certificate, they must also provide an authentic Police Conduct Certificate from their country of origin

- f. Whose name does not appear in the Administrative and Compromise Fines Register on the OHSA webpage.
- g. Applicants holding a foreign qualification shall be required to successfully complete a training module on Maltese Occupational Health and Safety Law and the local Occupational Health and Safety context, as recognised by the Authority.
- h. Supporting Documentation:
 - i. A certified copy of the qualification.
 - ii. An equivalence certificate (if applicable), attesting to the number of ECTS.
 - iii. An updated Curriculum Vitae (CV).
 - iv. Documents attesting to the 2 years' experience.

7. Grandfather Clause

Interested Persons who may not fully meet the updated qualification criteria, a one-time grandfathering provision is being offered if the following criteria are satisfied:

- a. In possession of a diploma level 5 qualification of less than 60 ECTS
- b. Five years of experience in occupational health and safety

- c. A police conduct clean from any breaches, related to the profession and Occupational Health and Safety (OHS) legislation.

The application window for the grandfather clause shall lapse three months after the effective date of this Administrative Instrument.

8. Automatic Eligibility

Practitioners who are already listed in the existing Competent Person Register will be eligible to be included in the new register but are requested to attest and express their interest within three months from the effective date of this Administrative Instrument.

9. Performance Standards

Registered OHS Practitioners in the established Competent Person Register shall adhere to the following standards:

- a. Adhere to all duties and responsibilities as prescribed by the relevant Occupational Health and Safety legislation in the capacity of duty holders.
- b. Provide timely, accurate, and effective occupational health and safety advice in terms of the prevailing laws and regulations.
- c. Ensure that any documentation, risk assessments, safety recommendations and advice prepared by OHS practitioners adhere to applicable legal and technical standards.
- d. Sign and adhere to a Code of Professional Conduct or Code of Ethics, as applicable.
- e. Participate in periodic reviews or feedback sessions as required by OHSA.

10. Monitoring and Compliance Audits

OHSA may conduct regular audits of individuals registered as Competent Persons to ensure:

- a. Adherence to the performance standards outlined in this administrative instrument.
- b. Accurate and effective delivery of services to duty holders, as required by Chapter 646 and its subsidiary legislation.

Non-compliance with these obligations may result in suspension or removal from the Register.

11. Transparency and Accountability

To promote transparency and accountability OHSA will publish, update, and maintain the Competent Person Register on its website.

12. Application Submissions

All applications must be submitted exclusively online via the designated e-form provided on the official OHSA website through the provided link

13. Administration Fee

a. **Initial Application Fee:**

A non-refundable administration fee of €100 is required for the processing and registration of all initial applications, including those submitted under the grandfather clause.

b. **Annual Renewal Fee:**

An annual, non-refundable renewal fee of €75 is applicable to maintain active status, provided that a clean police conduct from any breaches, related to the profession and Occupational Health and Safety (OHS) legislation is maintained, and the applicant's name

does not appear in the Administrative and Compromise Fines Register on the OHSA webpage, along with any applicable conditions.

14. Further Provisions

The Authority may, from time to time, vary, establish additional conditions, procedures, requirements, changes, limitations, or other necessary amendments to the binding instrument regulating the Register of Competent Persons, if the Authority deems it necessary.

15. Appeals and Review Process

Applicants or registrants dissatisfied with decisions made by OHSA regarding registration, renewal or other determinations arising from this Administrative Instrument may appeal before the Tribunal as established under article 23 of the Act within 20 working days in accordance with the procedure established by the Tribunal.

16. Data Protection

All personal data collected under this Administrative Instrument will be processed in compliance with the General Data Protection Regulation (GDPR) (EU Regulation 2016/679) and applicable local data protection laws, including the Data Protection Act (Chapter 586 of the Laws of Malta).

The registrant's name, surname, date of registration, and registration number will be published on the Competent Person Register, which will be made available on OHSA's official website for legitimate administrative purposes. Additionally, the registrant's contact details will only be published on the register upon the registrant's explicit consent, in accordance with GDPR's requirements for freely given, specific, informed, and unambiguous consent. Registrants retain the right to access, rectify, erase, restrict the processing of, or object to the processing of their personal data, as well as the right to data portability, as prescribed by law. OHSA will implement appropriate technical and organisational measures to ensure the confidentiality, integrity, and security of the personal data collected and displayed on the register.



For further details or to exercise their data protection rights, registrants may contact OHSA's Data Protection Officer at the Occupational Health and Safety Authority, 17, Edgar Ferro Str., Pietà, PTA 1533, or by telephone at (+356) 138 or by email at gdpr@ohsa.mt.

Signed by:

A handwritten signature in blue ink, appearing to be 'J. Cutajar', written over a faint horizontal line.

Dr Josianne Cutajar

Chief Executive Officer

Occupational Health and Safety Authority (OHSA)