

A-Z Guide

QUALIFICATIONS



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Overview

1. All representations made in respect of qualifications should be verified.
2. Employers and principals should verify representations made in respect of qualifications before employing or hiring the person who makes those representations.
3. While the law provides for remedies for misrepresentation, it is easier, legally and practically, to verify a person's representations in respect of qualifications before entering into a contractual relationship.
4. Qualifications are readily checked with the institutions that award or issue them.

Introduction

This **A-Z Guide** sets out some of the issues around qualifications. Depending on the circumstances, the term “qualification” can mean a variety of different things; it can refer to a formal diploma or degree obtained from an academic institution, or it can refer to a certificate that entitles the bearer to practice in a particular field of employment or work. In some circumstances a required qualification may be merely a licence to drive a motor vehicle.

Employers most often rely on the integrity of their prospective employees in respect of the qualifications they hold themselves out as having, and sometimes that reliance proves to be too great. Not only are there many ways now in which a less than honest person can obtain false qualifications, but it seems that there are many situations when a prospective employee will misrepresent their qualifications to a prospective employer.

With a little care and vigilance it is possible to avoid some of the pitfalls of employing an employee whose qualifications turn out to be false or insufficient.

Qualifications in employment

If you are going to rely on a person having the qualifications that person states that they have, then you need to ascertain the truth of their representations. Many outward manifestations, or proof, of qualifications are readily obtainable by dishonest means. You should not trust the paper the qualification is printed on, but rather consider it merely as evidence of a person's representations to you and take it at face value.

Whether you are hiring a contractor or employing an employee, you will have specified the minimum qualifications the successful candidate must have, and perhaps determined the qualifications you consider to be desirable. The people applying for the work will make representations to you in the process of their applications about the qualifications they have in reference to the qualifications you are seeking.

Representations may be made in curriculum vitae, letters of application, portfolios of work and in personal testimonials. Often physical evidence will be provided in support of a representation as to a qualification. At a bare minimum, the integrity of any physical evidence should always be confirmed with the institution alleged to have issued it. This guide encourages you to go further than that and look behind that physical evidence and any representations as to qualifications.

It is far easier, legally and practically, to decline or discontinue an application, than it is to terminate a contract for services or an employment agreement. The information provided in this guide focuses on qualifications; information about the wider issue of



Qualifications

recruitment and selection is provided in the **A-Z Guides** on:

- Application for Employment
- Pre-Employment Checks
- Recruitment and Selection
- Privacy



Academic qualifications

Examples:

- Degrees
- Diplomas
- Certificates
- Unit standards

All academic institutions keep academic records of their former attendees. Each institution, including those outside New Zealand, will have its own protocol on the checking of academic records and what you must do in order to obtain information from the institution.

In New Zealand, most tertiary education providers (universities, technical institutes, polytechnics, private colleges and institutes) have an academic registrar or bursar. This person, or their office, will be able to advise you how to obtain information about a person in relation to the academic qualifications that person claims to have gained at that institution.

To source information from a New Zealand academic institution you will be required to obtain authorisation from the individual concerned. That individual must consent to the collection by you, and disclosure by the academic institution, of their personal information.

Professional qualifications

Examples:

- Registration or enrolment with a professional council, society, guild, association, authority, college, or institute
- Practising certificates

In order to work in some vocations, careers, or jobs, a person is required to maintain a practising certificate or registration, or both, with a body empowered by law to maintain and issue those.

For example, in New Zealand barristers and solicitors must be admitted to the High Court of New Zealand, be a member of a district law society, and hold current practising certificate before they can practise as a lawyer.

To practise medicine in New Zealand, doctors must be registered with the New Zealand Medical Council and hold a current practising certificate.

You are entitled to, in the first place witness, and in the second place validate, the content of any practising certificate. You may do that by contacting the organisation that issued the certificate. Many registers, compiled and maintained pursuant to a statute, are open to the public for inspection.



Competency qualifications

Examples:

- Drivers' licences
- Certificates of competence
- Divers
- Scaffolders
- First Aiders
- Trade certificates
- Unit standards

If you require a person to have a qualification in respect of a certain level of competency that you require, and a person represents to you that they have that qualification, then you should seek proof of that.

For example, if you are seeking a sales representative who will be required to drive a motor vehicle in the course of their employment, you will require the successful candidate to hold a full and current drivers' licence. At some point in the recruitment process, in respect of each applicant, you should witness their drivers' licences and obtain authorisations to validate the currency and status of each licence.

Discrimination

To discriminate means to distinguish and select; discrimination is a necessary part of employing or engaging a person to do the job you want them to do. The method of discrimination can be utilised positively where it enables employers and organisations to distinguish and select the best person for the job. It is not unlawful to discriminate on the basis of qualifications, competencies, and skills. There are however grounds for discrimination that is prohibited by the Human Rights Act 1993 and is unlawful.

You cannot exploit the right to discriminate on the basis of qualifications, competencies, and skills if you do not ascertain the truth of the representations made to you concerning any of these.

Misrepresentation

Misrepresentation under this heading refers to a body of law that entitles one party to a contract to cancel the contract on the basis of the other party's misrepresentation. It does not apply to representations if no contract is entered into.

The Contract and Commercial Law Act 2017 applicable to all types of contract, including employment agreements. It provides remedies for misrepresentation.

Both the Employment Relations Authority and the Employment Court may, in any matter related to an employment agreement, make any order that the High Court or the District Court may make under the Contract and Commercial Law Act 2017.

Refer to the **Contract and Commercial Law Act 2017** for more information.



Conclusion

Whenever you require a prospective employee or contractor to establish that they are qualified to do the work you want them to do, and that person makes representations to you in respect of qualifications, then you should verify those representations and the integrity of the qualifications involved.

Your recruitment and selection procedures, and your processes for engaging contractors, should include this verification step.

You are entitled to ensure that a person who represents themselves to you as holding a particular qualification does hold that qualification and that that qualification is current and valid.

Remember

- Always call AdviceLine on 0800 300 362 to check you have the latest guide.
- Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your situation.
- Use our AdviceLine employment advisors as a sounding board to test your views.
- Get one of our consultants to draft an agreement template that's tailor-made for your business.

This guide is not comprehensive and should not be used as a substitute for professional advice.

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