



Australian Government

Comcare

WHS-EPH TRAINING COURSE REQUIREMENTS

Guidance 2

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WHS-EPH training course
requirements for the
commonwealth jurisdiction

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WHS-EPH TRAINING COURSE REQUIREMENTS FOR THE COMMONWEALTH JURISDICTION

INTRODUCTION

Work Health and Safety Entry Permit Holder (WHS-EPH) training should provide guidance on the powers and functions of WHS-EPHs as provided under the *Work Health and Safety (WHS) Act 2011* (WHS Act) and Work Health and Safety Regulations 2011 (WHS Regulations). A training package has been developed to support the implementation of harmonised WHS-EPH training across all jurisdictions. This package focuses on developing the skills, knowledge and understanding of WHS-EPHs to perform their functions and exercise their powers.

The training package was endorsed by a Safe Work Australia (SWA) advisory body, which includes WHS regulators, union and employer representatives. It has been approved for use in the Commonwealth jurisdiction. WHS-EPH training providers have the option of:

- > using the approved Comcare training package
- > developing their own training package against the agreed learning outcomes and submitting it with their application for assessment.

This guidance material is for training providers who wish to develop their own training package. It should be read in conjunction with *How to become an approved provider of WHS entry permit holder training for the Commonwealth jurisdiction—Guidance 1*.

LEARNING RESOURCES

To ensure consistency in WHS-EPH training across all jurisdictions, additional resources have been developed for training providers to use when developing and delivering WHS-EPH training.

Comcare resources: www.comcare.gov.au

Safe Work Australia resources: www.safeworkaustralia.gov.au

Fair Work Australia resources: www.fwa.gov.au

PART 1—UNDERPINNING PRINCIPLES FOR THE DEVELOPMENT OF AN ORIGINAL WHS-EPH TRAINING COURSE

1.1 BACKGROUND INFORMATION

One of the aims of introducing model WHS legislation was to ensure work health and safety regulation consistency across jurisdictions, including workplace consultation, representation and participation arrangements.

Part 7 of the WHS Act provides authorised union officials with a right of entry, for specific reasons, to workplaces where there are 'relevant workers'. A 'relevant worker' is a worker:

- > who is a member—or eligible to be a member—of the union which the permit holder represents
- > whose industrial interests the relevant union is entitled to represent
- > who works at that workplace.

The authorising authority—Fair Work Australia—may issue a work health and safety entry permit to an official of a union, on application, if that official:

- > has satisfactorily completed prescribed work health and safety training
- > holds—or will hold—an entry permit under the *Fair Work Act 2009*.

1.2 REQUIREMENTS FOR APPROVAL OF AN ORIGINAL COURSE OF TRAINING

To obtain a WHS entry permit from Fair Work Australia it is mandatory to complete WHS-EPH training.

Under sections 131 and 133 of the WHS Act and regulation 25 of the WHS Regulations, this training must include:

- > right of entry requirements—Part 7 of the WHS Act
- > issue resolution requirements—WHS Act and Regulations
- > the duties under, and the framework of, the WHS Act and Regulations
- > requirements for the management of risks—section 17 of the WHS Act
- > the meaning of 'reasonably practicable'—section 18 of the WHS Act
- > the relationship between the WHS Act, WHS Regulations and *Fair Work Act 2009*.

The training must also include direction to guidance material published by Comcare about the WHS Act and Regulations.

1.3 DELIVERY MODE

Training should be delivered in a way which maximises participation and engagement. To achieve this training must be delivered 'face-to-face' so WHS-EPHs can interact and learn from each other. 'Face-to-face' mode of training delivery is defined as participants being in the same physical location, i.e. in the same room, at the same time.

The course must be delivered in a way that meets the individual needs of WHS-EPHs in line with adult learning principles. It should also be conducted in a safe and inclusive learning environment.

1.4 COURSE DURATION

The course must cover all the learning outcomes and should run for approximately one day.

PART 2—LEARNING OUTCOMES FOR WHS-EPH TRAINING COURSES

This part of the document covers the agreed learning outcomes for an original course of training for WHS-EPHs.

The learning outcomes should be read with the underpinning principles in the previous part of the document, as both aspects provide the context for designing and writing the course content.

The learning outcomes have been grouped under four learning objectives. These objectives represent the knowledge and skills that would enable WHS-EPHs to perform their functions and exercise their powers.

The learning objectives are presented in no particular order and are not intended to suggest a sequence of course delivery or content. The course content should be written with a holistic and integrated approach so participants are exposed to a range of complementary learning methods and activities.

PART 3—LEARNING OBJECTIVES

The following section outlines and describes the four broad learning objectives, the associated learning outcomes for each, and the expected learner application required.

The matrix required with your application should demonstrate that your course addresses each of these elements and should follow the sequencing numbering system below.

LEARNING OBJECTIVE A—RIGHT OF ENTRY REQUIREMENTS

Learning outcome	Expected learner application	Key legislative provisions
A1 Outline the requirements for obtaining and maintaining a WHS entry permit	A1(a) Outline the process and eligibility requirements for obtaining a WHS entry permit from the authorising authority	WHS Act sections 131–140
	A1(b) Discuss the circumstances under which a WHS entry permit expires, is withdrawn or revoked	
	A1(c) Compare these provisions with the provisions under industrial law	
A2 Describe the circumstances under which a WHS-EPH can enter a workplace	A2(a) Explain what would constitute a ‘suspected breach’ or ‘consulting or advising workers’	WHS Act sections 117, 121, 56(2) 80(1)
	A2(b) Explain the significance of ‘relevant worker’	
	A2(c) Discuss other situations where a WHS-EPH may be requested to enter a workplace to assist workers, e.g. for consultation arrangements or issues resolution	
	A2(d) Compare these provisions with those under industrial law	
A3 Outline the notification requirements before entering a workplace	A3(a) Explain the requirements when intending to enter and enquire into a suspected breach or consult or advise workers	WHS Act sections 119–120 WHS Regulations 26–30
	A3(b) Outline the information that must be supplied to the person conducting a business or undertaking (PCBU) when seeking to enter a workplace	
	A3(c) Discuss how the requirement to give notice of entry—after entry to a workplace to enquire into a suspected breach—can be met	
	A3(d) Compare these provisions with those under industrial law	
A4 Explain the rights and obligations of a WHS-EPH when entering and while present at the workplace	A4(a) Discuss what a WHS-EPH is able to do concerning safety issues in the workplace, accessing information and consulting workers	WHS Act sections 118, 119, 127–130, 144 and 29
	A4(b) Discuss the obligations of WHS-EPHs to comply with workplace safety requirements	
	A4(c) Explain the circumstances under which a right of entry may be disputed and how this may be resolved prior to regulator intervention	
	A4(d) Compare these provisions with those under industrial law	
A5 Explain the role of the regulator when right of entry is disputed	A5(a) Discuss the role of the regulator in attempting to resolve the dispute	WHS Act sections 141–142
	A5(b) Outline the options a WHS-EPH or PCBU has if the issue cannot be resolved	
	A5(c) Compare these provisions with those under industrial law	

LEARNING OBJECTIVE B—ISSUE RESOLUTION REQUIREMENTS

Learning outcome	Expected learner application	Key legislative provisions
B1 Outline the requirements of an issues resolution procedure	<p>B1(a) Discuss the role of issues resolution in workplace consultation</p> <p>B1(b) Explain the steps involved in an effective issue resolution procedure that conforms with the default procedure in the Regulations</p>	<p>WHS Act section 80</p> <p>WHS Regulations Part 2.2</p>
B2 Explain the role of relevant parties in the issues resolution procedure	<p>B2(a) Explain who should be involved in various contexts, such as multiple PCBUs where there are—or are not—WHS-EPHs</p> <p>B2(b) Describe who might be called in by the parties to assist in resolution</p> <p>B2(c) Explain the role of the WHS-EPH if called in to assist in the issues resolution</p> <p>B2(d) Discuss how any decision on the resolution of the issue should be communicated to the workplace</p> <p>B2(e) Discuss when the regulator may be requested to assist in the resolution and the effect of such a request on the rights and powers of workers and WHS-EPHs</p> <p>B2(f) Explain the powers of an Inspector called in to assist in resolving the dispute</p>	<p>WHS Act sections 80, 81(3), 82</p>

LEARNING OBJECTIVE C—DUTIES UNDER; AND THE FRAMEWORK OF THE WHS ACT AND REGULATIONS

Learning outcome	Expected learner application	Key legislative provisions
C1 Nominate the main duty holders and explain their duties	<p>C1(a) Discuss the concept of a PCBU and the types of PCBUs that the WHS-EPH will encounter when visiting a workplace</p> <p>C1(b) Explain the duties of PCBUs and how these duties should be exercised—particularly when there is more than one PCBU in a workplace</p> <p>C1(c) Explain the duties of officers and what officers they are likely to encounter in the workplace</p> <p>C1(d) Explain who are workers and their duties in the workplace</p> <p>C1(e) Explain who are others in the workplace and their duties</p> <p>C1(f) Discuss the duties of WHS-EPHs as others in the workplace</p>	<p>WHS Act sections 19–26, 46</p>
C2 Explain the consultation duties of PCBUs	<p>C2(a) Discuss the nature of consultation and when PCBUs are required to consult workers</p> <p>C2(b) Discuss the mechanisms for consultation and how they are established</p> <p>C2(c) Discuss how the duty to consult can be exercised when workers do not wish to have WHS-EPHs or committees</p>	<p>WHS Act sections 27–29, 47–49</p>
C3 Explain the role of regulations and codes of practice in complying with duties	<p>C3(a) Explain how the WHS Regulations specify duties that are imposed under the Act</p> <p>C3(b) Explain the role and status of codes of practice in enabling duty holders to meet their duties particularly in relation to performing their duty ‘as far as is reasonably practicable’</p>	<p>WHS Act sections 18, 275</p>

LEARNING OBJECTIVE D—MANAGING RISKS

Learning outcome	Expected learner application	Key legislative provisions
D1 Explain the significance of the requirements to manage risk under section 17	D1(a) Discuss the difference between the section 17 requirements and risk management D1(b) Discuss the significance of section 17 for compliance activity undertaken by the regulator	WHS Act sections 17–19
D2 Describe the role of consultation in risk management	D2(a) Discuss when consultation is required when risk management processes are undertaken in the workplace and who should be involved D2(b) Discuss how consultation must be incorporated into the risk management process	WHS Act section 49
D3 Explain the role of regulations, codes of practice and guidance material in managing risks	D3(a) Discuss the significance of the WHS Regulations and Codes of Practice as well as other guidance material for eliminating and minimising risks in relation to the 'reasonably practicable' provisions of the legislation D3(b) Discuss the place of the hierarchy of controls in the WHS Regulations and Codes of Practice	WHS Act sections 18, 275 WHS Regulations Part 3.1 Codes on managing risks and consultation

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