



Australian Government

Comcare

HOW TO BECOME AN APPROVED PROVIDER OF WHS ENTRY PERMIT HOLDER (WHS-EPH) TRAINING FOR THE COMMONWEALTH JURISDICTION

Guidance 1

December 2017

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INTRODUCTION

Part 7 of the *Work Health and Safety Act 2011* (WHS Act) details the function, obligations and powers of Work Health and Safety Entry Permit Holders (WHS-EPHs) and the requirement to satisfactorily complete prescribed training.

The WHS Regulations provide that WHS-EPH training must be either provided by, or approved by, Comcare.

When assessing an application for approval, Comcare may consider:

- > the content and quality of the curriculum, including its relevance to a WHS-EPH's functions and powers
- > the capability and capacity of the applicant to provide training
- > the qualifications, knowledge and experience of the person who is to deliver the course.

Training organisations, companies and sole traders may apply for approval to provide WHS-EPH training.

WHS-EPH TRAINING COURSE REQUIREMENTS

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. See Appendix 1 for details of the training package contents.

The training package was endorsed by a Safe Work Australia 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.

Course requirements are outlined in Part 3 of this document and detailed in the Comcare guidance document *WHS-EPH training course requirements—Guidance 2*.

Note: You can request Safe Work Australia (SWA) endorsed and Comcare approved WHS-EPH training course content from Comcare. The materials cannot be used in training until Comcare grants approval.

PURPOSE

This document should assist training providers to apply for approval to conduct WHS-EPH training under the Commonwealth WHS Act. It includes the process for applying for approval and information about:

- > how to submit an application
- > the course development process—if not using the approved Comcare training package
- > the conditions of approval
- > minimum trainer qualifications
- > monitoring and quality assurance processes.

This document applies to all applications for approval made to Comcare from 1 January 2012. To facilitate continuous improvement and national consistency, the conditions and requirements will be reviewed when considered necessary by WHS regulators. This document was last reviewed in December 2017.

PART 1: THE APPROVAL PROCESS

An application must be made to Comcare for approval to deliver WHS-EPH training.

1.1 WHO CAN APPLY?

A training organisation, company or sole trader may apply for approval to deliver WHS-EPH training.

1.2 FEES

The scheduled application fee is **\$550** and is payable with the application. This fee accounts for the right to use Comcare's approved training package, or for the cost of assessing an original course developed by the applicant.

If an application for assessment of an original course is unsuccessful after a first and second assessment, a new application and associated fee of \$550 will be required.

1.3 WHAT SHOULD BE SUBMITTED?

Applications for approval to become a provider of Comcare's approved WHS-EPH training package for the Commonwealth jurisdiction must include:

- > a completed application form (see Attachment 1) with all associated documentation
- > trainers' details (see Part 2)
- > the prescribed fee
- > a signed request to use the approved training package, and acknowledgement that it will not be changed without approval from Comcare.

Applications for approval to become a provider of an original WHS-EPH training package for the Commonwealth jurisdiction must include:

- > a completed application form (see Attachment 1) with all associated documentation
- > trainers' details (see Part 2)
- > the prescribed fee
- > a full set of the proposed original training course materials including:
 - course timetable
 - session plan (content, delivery approach, duration of exercises and activities)
 - trainer's guide
 - participant guide, with exercises and activities
 - supplementary material (handouts, PowerPoint presentations, videos/DVDs)
 - method of recording attendance
 - administration documents including course evaluation processes, process for completing and issuing course certificates and replacement certificates
 - course evaluation form
 - course certificate template
- > a matrix that demonstrates where each prescribed learning outcome has been covered in the submitted course (see the guide *WHS-EPH Course Requirements*).

A checklist to assist new applicants is provided at Attachment 1.

Applications that do not include all of the submission requirements will not be assessed until all of these have been met.

1.4 HOW WILL THE APPLICATION BE ASSESSED?

For **all** applicants Comcare will consider:

- > the qualifications, knowledge and experience of the trainer(s) who will deliver the training.

For applicants not using the Comcare approved training course Comcare will consider:

- > whether the content is aligned with the learning outcomes
- > the content and quality of any submitted training materials
- > the extent to which the submitted training materials are relevant to the rights, obligations and powers of a WHS-EPH.

When assessing an application, Comcare may need to verify information provided by the applicant and consider information provided by other WHS regulators. Comcare follows procedural fairness requirements. Applicants are therefore provided with an opportunity to provide further information if Comcare makes other enquiries.

If Comcare assesses an original course as not meeting the requirements for approval, applicants will have the opportunity to make corrections and resubmit. After the second submission, Comcare will notify the applicant in writing if approval has not been granted. There is no appeal process under the WHS Act for a decision made under Regulation 25 of the WHS Regulations. However, Comcare will undertake an internal review of the decision if requested. The applicant may also choose to make a new application, or elect to use the approved training package instead.

1.5 PERIOD OF APPROVAL

Approval will be granted for a period of up to five years. In that time the approved provider will need to continue to satisfy all the conditions of approval including trainer qualifications and course requirements.

1.6 CAN APPLICANTS BE APPROVED TO OFFER TRAINING IN MORE THAN ONE JURISDICTION?

Applicants can be approved to deliver training in more than one state/territory and the Commonwealth. Applicants should make an initial application to the WHS regulator in the jurisdiction in which they intend to conduct the majority of WHS-EPH training, or where their head office or registered business address is located. Information about any other state or territory in which an applicant intends to deliver WHS-EPH training should accompany the initial application for approval.

Once approval has been granted in one jurisdiction, an applicant may apply for approval in other jurisdictions. Applicants must meet any requirements particular to any jurisdiction in which they apply.

Note: Approval to deliver WHS-EPH training in one jurisdiction does not guarantee that approval will be given in another state, territory or the Commonwealth.

PART 2: TRAINER QUALIFICATIONS

All trainers of approved WHS-EPH training must have (as a minimum):

- > Certificate IV in Training and Assessment—TAE40116; or TAE40110 / TAA40104 with TAELN411 (Address adult language, literacy and numeracy skills) or higher; and
 - a) a minimum of two years relevant experience in a role or field where occupational or work health and safety was a major part of the position responsibilities; or
 - b) relevant tertiary or vocational qualifications in a field related to occupational or work health and safety—for example, a Graduate Diploma of Occupational Health and Safety.

Once an application is approved, the training provider has responsibility for ensuring that trainers employed by them understand the entitlements, functions, powers and protections of a WHS-EPH under the WHS Act. Providers must also ensure that their approved trainers undertake professional development activities to ensure their occupational or work health and safety industry experience and facilitation/training skills remain current.

All casual and permanent trainers engaged by a training provider following initial approval must have the required qualifications and experience. The provider must seek Comcare approval for any additional trainer prior to delivering WHS-EPH training.

PART 3: REQUIREMENTS FOR APPROVAL OF AN ORIGINAL COURSE OF TRAINING

Applicants must develop their original course material based on the learning outcomes outlined in the guidance document *WHS-EPH Course Requirements—Guidance 2*.

For the purposes of sections 131 and 133 of the WHS Act, and Regulation 25 of the WHS Regulations, the prescribed WHS-EPH training course must include:

- > the right of entry requirements under Part 7 of the WHS Act
- > the issue resolution requirements under the WHS Act and Regulations
- > the duties under—and the framework of—the WHS Act and Regulations
- > the requirements for managing risks under section 17 of the WHS Act
- > the meaning of ‘reasonably practicable’ as set out in section 18 of the WHS Act
- > the relationship between the WHS Act and Regulations and the *Fair Work Act 2009*.

PART 4: CONDITIONS OF APPROVAL

In addition to the requirements outlined in Parts 2 and 3 above, the following conditions of approval—and ongoing approval—also apply. These conditions relate to:

- > governance
- > interaction with WHS regulators
- > record keeping
- > marketing
- > compliance with legislation
- > ongoing quality assurance of approved WHS-EPH training (courses and delivery).

Comcare may also impose additional specific conditions for training providers, trainers or course requirements. The training provider will be notified and provided with an opportunity to make submissions before a final decision about imposing variations is made.

4.1 GOVERNANCE

The applicant must possess—or have access to—the administration resources and infrastructure necessary to comply with all general and any specific conditions of approval. Approved training providers must:

- > ensure that only trainers with the requisite qualifications, skills and knowledge are engaged to deliver the approved course
- > not sub-contract or on-sell their approved provider status to a third party to deliver an approved WHS-EPH training course
- > provide a training evaluation form to each participant upon completion of the approved course of training
- > issue a certificate of satisfactory completion to each participant who completes the approved WHS-EPH training within 10 working days of completion, unless exceptional circumstances apply.

Certificates of satisfactory completion must contain the following information (as a minimum):

- > the name of the approved WHS-EPH training course
- > the participant's full name, as per the registration details
- > date of attendance at training
- > the name of the trainer
- > the approved training provider's name and, if applicable, registered business name, ABN and Comcare approval number
- > a unique identifying number and the signature of an authorised person of the training provider (for example, the Chief Executive or Authorised Officer)
- > a statement that the course is approved by Comcare in the Commonwealth jurisdiction
- > the date of issue of the certificate.

4.2 INTERACTION WITH WHS REGULATORS

An approved training provider must:

- > cooperate with any reasonable requirements Comcare has for ongoing monitoring and quality assurance of the approved course and individual trainers—for example, notification of future course dates
- > notify Comcare in writing within 14 days of any change to the details of the approved training provider and its trainers or any proposed substantial changes to course content or delivery method
- > provide Comcare with an accurate written report by July 31 each year detailing:
 - the number of courses run per year
 - number of WHS-EPHs trained and certificates of satisfactory completion issued
 - participant details—name, organisation (PCBU), state the training was held and dates of attendance at training
 - any other matters that may be requested in writing by Comcare
- > provide assistance when Comcare is conducting an investigation into any complaints received
- > act with due diligence and in a manner that is consistent with Comcare's requirements.

4.3 RECORD KEEPING

An approved training provider must maintain the following records for seven years:

- > Trainer C.V., qualifications and experience
- > records of all course training dates
- > participant enrolment or registration forms
- > documentary evidence of the dates that each participant was in attendance at approved WHS-EPH training
- > records of all certificates of satisfactory completion (with unique identifying numbers)
- > records of any replacement certificates issued
- > participant evaluation forms
- > any other relevant correspondence between itself and Comcare.

4.4 ACCURACY AND INTEGRITY OF MARKETING

An approved training provider must:

- > provide WHS-EPHs with information about their legislative entitlement to select an approved training course
- > ensure that its marketing and advertising of approved WHS-EPH courses is accurate and consistent with its approval by Comcare.

4.5 STRATEGIES TO PROVIDE QUALITY APPROVED WHS-EPH TRAINING

An approved training provider must:

- > ensure that all training is delivered face-to-face, covers all learning outcomes, and runs for approximately one day
- > ensure that facilities, equipment and training materials are consistent with the delivery requirements contained in the approved course, and also meet with current work health and safety requirements
- > ensure the trainers participate in continuing development of their work health and safety and trainer skills
- > have defined processes that ensure course materials remain current and technically accurate for the duration of its approval period
- > provide a copy of the WHS Act (in any format) to all course participants. However, an official hard copy of the Act must be provided to a course participant if requested

4.6 STRATEGIES TO ADHERE TO THE PRINCIPLES OF ACCESS AND EQUITY AND TO MAXIMISE OUTCOMES FOR WHS-EPS

An approved training provider must:

- > provide WHS-EPHs with training and support services that meet their individual needs in line with adult learning principles
- > provide WHS-EPHs with a safe and inclusive learning environment
- > have a transparent and accessible process available to address WHS-EPH concerns and ensure complaints about the administration and/or delivery of a course are addressed effectively and efficiently
- > ensure the maximum number of participants attending each training date does not exceed 20
- > ensure that those who have completed the training are provided with a replacement certificate of satisfactory completion, if required, on request. This must be annotated as 'replacement' and contain the original unique identifying number

4.7 AUDIT AND INVESTIGATION

An approved training provider must cooperate with and assist Comcare staff or agents:

- > when they observe and monitor the delivery of training to ensure quality and integrity
- > in any systematic audit and review of the approved training provider's conduct to ensure compliance with the conditions of approval
- > during any investigation of an allegation or complaint
- > in relation to any reasonable request for further information or assistance.

PART 5: RENEWAL OF APPROVED PROVIDER STATUS

An application for renewal of an approval must be made at least three months before an approval expires. If Comcare takes longer than three months to complete an assessment, the approved provider will retain their approval status until the assessment is finalised, or they are deemed not to have complied with the conditions and requirements and their approval status is suspended or cancelled.

An application for renewal takes the same form as an initial application, including the submission of all materials (if submitting their own course) and the payment of the \$550 fee.

For providers using the Comcare approved course, providers will need to complete the application form at Attachment 1 along with the prescribed fee.

For providers that have submitted their own course, if they have been audited by Comcare, finalised any Corrective Action Plan and are submitting the course unchanged (except for accuracy and currency updates), they may submit a statement to that effect in lieu of completing the Learning Outcome Matrix – see application form at Attachment 1.

PART 6: COMPLIANCE MONITORING AND ENFORCEMENT

To ensure that WHS-EPHs are receiving high quality approved training, Comcare may conduct post approval monitoring and quality assurance activities.

Comcare may conduct audits regularly or in response to an issue or complaint raised by a stakeholder, and this may involve:

- > attendance at a training session (at no cost) to ensure the course continues to meet the approval requirements
- > discussing training activities with trainers and participants
- > reviewing completed evaluation forms.

Failure to comply with conditions of approval or reasonable written requests from Comcare may result in suspension or cancellation of the provider's approval status, or the approved course of training, or both.

Comcare's intention to suspend or cancel a training provider's approval status or its course of training will be sent to the provider at least seven business days before the decision is final. The approved provider may be offered the opportunity to provide Comcare with further information in that seven days before the approval status is suspended or cancelled.

Further information on this topic is contained in guidance document *WHS-EPH courses—post approval monitoring*.

APPENDIX 1: CONTENT OF COMCARE APPROVED WHS-EPH TRAINING PACKAGE

The training package was endorsed by a Safe Work Australia advisory body (which includes WHS regulators, union and employer representatives) and has been approved for use in the Commonwealth jurisdiction.

It includes:

- > WHS-EPH delivery timetable (WHS-EPH3)
- > WHS-EPH PowerPoint presentation (WHS-EPH PP1)
- > WHS-EPH session plan and notes (WHS-EPH4)
- > WHS-EPH training exercises (WHS-EPH5)
- > WHS-EPH template notice of entry (WHS-EPH6)
- > WHS-EPH training exercises—answer sheets (WHS-EPH7, WHS-EPH8)
- > Fact Sheet—right to cease or refuse unsafe work (WHS-EPH9)
- > Fact Sheet—WHS-EPH issue resolution procedures (WHS-EPH10)
- > Fact Sheet—WHS codes of practice (WHS-EPH11)
- > Fact Sheet—workers' rights (WHS-EPH12)
- > Fact Sheet—protection from discrimination (WHS-EPH13)
- > Fact Sheet—Fair Work Australia—right of entry (WHS-EPH14)
- > Fact Sheet—union right of entry for WHS issues under the WHS Act (WHS-EPH15)
- > Fact Sheet—right of entry comparison sheet (WHS-EPH16)
- > Fact Sheet—hierarchy of control measures (WHS-EPH17)
- > Course evaluation sheet (WHS-EPH19)
- > Certificate of satisfactory completion (template) (WHS-EPH20)
- > FWC Template WHS Entry Permit – (WHS-EPH21)
- > FWC Form F42—Application for (Industrial) Entry Permit
- > FWC Form F42A—Application for WHS-EP
- > FWC Form F42B—EP Statutory Declaration for WHS-EP
- > WHS Regulation 2011—Amendments—Application outside of Australia

ATTACHMENT 1: APPLICATION FORM AND CHECKLIST

APPLICATION FOR APPROVAL TO DELIVER WHS ENTRY PERMIT HOLDER (WHS-EPH) TRAINING UNDER THE *WORK HEALTH AND SAFETY ACT 2011* (COMMONWEALTH)

INTRODUCTION

Applicants seeking approval or re-approval to conduct WHS-EPH training need to complete the following application form. If you wish to conduct WHS-EPH training in another jurisdiction you should submit an application to that state or territory regulator. Training can only be delivered to WHS-EPHs in the jurisdiction in which approval has been granted.

COLLECTION OF PERSONAL INFORMATION

Personal information collected by Comcare is used to register, process, assess and evaluate each application, and to verify the qualifications and experience of trainers. You can access the Comcare Privacy Policy at:

http://www.comcare.gov.au/about_us/privacy

The *Work Health and Safety Act 2011* (WHS Act) states that WHS regulators may share information about WHS-EPH training providers. If you seek approval to deliver WHS-EPH training in more than one jurisdiction, WHS regulators may share information contained in your application or obtained in the approval process.

Comcare publishes each applicant's contact details and training provider status on its website. If you do not provide all of the information required by Comcare, your application may not be processed.

DIRECTIONS

- > Complete this application and attach all requested documentation (see Part 1.3 of this guide).
- > Ensure all nominated trainers hold the appropriate qualifications (see Part 2 of this guide).
- > Complete the application checklist.
- > Forward the completed application—with attachments—and appropriate fee to Comcare:

Email: HSR.Course.Approval@comcare.gov.au

or

WHS-EPH Course Approval
Authorisation and Audit Team
Comcare
GPO Box 9905
CANBERRA ACT 2601

Approval process

Comcare will assess applications against the requirements outlined in this guide and, if submitting an original course, in the guidance document *WHS-EPH course requirements—Guidance 2*. Comcare will advise applicants of their decision in writing.

Initial approval is granted for **up to five years**. Training providers may be subject to audits and monitoring during the approval period. Failure to comply with the conditions outlined in this guide may result in suspension or cancellation of the approval.

TRAINING PROVIDER ORGANISATION DETAILS

Please complete the following details. Ensure the form is legible and accurate to avoid delays processing your application.

Type of course being delivered (please check one)

- ☐ **Approved Comcare WHS-EPH training course**
- ☐ Seeking approval of an **original WHS-EPH training course**

Registered business name and ABN

| | | | | | | | |
|--------|--|--------|----------|--------|--|----------|--|
| Name | | | | ABN | | | |
| No. | | Street | | Suburb | | | |
| State | | | Postcode | | | | |
| Phone | | | | Fax | | | |
| URL | | | | Email | | | |
| PO box | | Suburb | | State | | Postcode | |

Principal place of business (if different to above)

| | | | | | | | |
|-------|--|--------|----------|--------|--|--|--|
| No. | | Street | | Suburb | | | |
| State | | | Postcode | | | | |

Postal address (leave blank if same as above)

| | | | | | | | |
|-------|--|--------|----------|--------|--|--|--|
| No. | | Street | | Suburb | | | |
| State | | | Postcode | | | | |

AUTHORISED OFFICER DETAILS

Authorised Officer(s) i.e. Chief Executive or equivalent

| | | | |
|----------|----------------------|----------|----------------------|
| Name | <input type="text"/> | Name | <input type="text"/> |
| Position | <input type="text"/> | Position | <input type="text"/> |
| Phone | <input type="text"/> | Phone | <input type="text"/> |
| Mobile | <input type="text"/> | Mobile | <input type="text"/> |
| Email | <input type="text"/> | Email | <input type="text"/> |

Please note that the Authorised Officer will be responsible for signing the Certificates of Attendance for completed WHS-EPH training.

Applications for approval to become a provider of the approved WHS-EPH training package for the Commonwealth jurisdiction must include:

- > a completed application form with all associated documentation
- > trainers' details (see Part 2)
- > the prescribed fee
- > a signed request to use the approved Comcare training package, and acknowledgement that it will not be changed without consent from Comcare.

Applications for approval to become a provider of an original WHS-EPH training package for the Commonwealth jurisdiction must include:

- > a completed application form with all associated documentation
- > trainers' details (see Part 2)
- > the prescribed fee
- > a full set of the proposed original training course materials, including:
 - course timetable
 - session plan (content, delivery approach, duration of exercises and activities)
 - trainer's guide (including detailed trainer's notes)
 - participant guide, with exercises and activities
 - supplementary material (handouts, PowerPoint presentations, videos/DVDs)
 - method of recording attendance
 - administration documents including course evaluation processes, process for completing and issuing certificates and replacement certificates
 - course evaluation form
 - course certificate templates
- > a matrix that demonstrates where each prescribed learning outcome has been covered in the course (see *WHS-EPH course requirements—Guidance 2*). This is not required for a renewal application where the course has been audited and no substantial changes have been made.
- > A statement that the previously approved (and audited) course has not been substantially changed and a list of any minor edits that may have occurred. Only applicable for renewal applications.

NOMINATED TRAINER DETAILS (copy this page for additional trainers)

- > A nominated trainer is a person who is employed by, contracted to, partnered with or affiliated with you as the applicant, and who has been nominated by you to deliver WHS-EPH training.
- > You need to provide details of at least one nominated trainer with this application.
- > You must seek Comcare approval for any additional nominated trainer/s before delivering WHS-EPH training.
- > You must validate the claimed skills, experience and qualifications of each nominated trainer. You need to retain evidence of these details for audit purposes.

Nominated trainer name

Title

Given name(s)

Surname

Mobile

Qualification(s)

Experience

It is an offence to make a false or misleading statement in this form and penalties may apply.

CONFIRMATION OF CONDITIONS AND DECLARATION

To be completed by the Authorised Officer(s)

TICK

- ☐ I have read this guide and we meet the requirements and conditions outlined within it.
- ☐ I agree to comply with the conditions of approval in Part 4 of the guide.
- ☐ I have checked, validated and retained evidence of each nominated trainer's formal qualifications and work experience.
- ☐ I acknowledge that any breach of the conditions of approval may result in the suspension or cancellation of our approval to deliver WHS-EPH training, and the return of the developed approved Comcare training package if we have purchased it.

If you are seeking to use the approved Comcare training package:

- ☐ I acknowledge that the training package will not be changed without approval from Comcare.

As Authorised Officer(s) I / we declare:

The information provided in support of this application is true and correct. Where I have provided personal information in connection with this application about any other individual, I am authorised to provide that information.

Name of
Authorised
Officer

Position

Signature

Date

Name of
Authorised
Officer

Position

Signature

Date

APPLICATION FEES

The scheduled application fee for approval of a WHS-EPH training course is \$550 and is payable with this application.

If your application is unsuccessful after a second assessment, you will need to submit a new application and pay another application fee.

Method of payment

- ☐ Cheque/money order payable to Comcare enclosed
- ☐ Credit card

If paying by credit card

Please debit my ☐ Mastercard
☐ Visa

the amount of \$.

to cover my application for initial training course approval/renewal

Card number

Expiry date /

Card holder name

Date / /

APPLICATION CHECKLIST

Please complete this checklist to ensure your application is complete.

- ☐ Application form is complete, signed and dated
- ☐ Trainers' details have been verified
- ☐ Payment details for the prescribed fee completed

If submitting an original course for assessment, you must include a full set of the proposed training course materials:

- ☐ course timetable
- ☐ session plan (content, delivery approach, duration of exercises and activities)
- ☐ trainer's guide (including detailed trainer's notes)
- ☐ PowerPoint presentation
- ☐ participant guide, with exercises and activities
- ☐ supplementary material (handouts, activities, videos/DVDs)
- ☐ method of recording participant attendance
- ☐ administration documents including course evaluation processes, process for handing out course certificates, process for completing and issuing course certificates and replacement certificates
- ☐ course evaluation form
- ☐ course certificate of attendance template
- ☐ a matrix that demonstrates where each prescribed learning outcome has been covered in the submitted course
- ☐ I have included a statement that the previously approved (and audited) course has not been substantially changed with a list of any minor edits that may have occurred (whichever is applicable)

