



Government of **Western Australia**
Department of **Mines, Industry Regulation and Safety**
Consumer Protection

A guide to compulsory professional development:

Settlement agents, business settlement agents

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This booklet contains general information that was current at the time of publication. If you have specific enquiries about matters relating to your situation then you are strongly urged to seek independent professional advice.

This publication is available in other formats on request to assist people with special needs.

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Introduction

Compulsory professional development requirements

The Compulsory Professional Development (CPD) program for settlement agents and business agents commenced from January 2009.

The CPD program forms part of the licensing regime for the settlement industry. As such, licensees are accountable for completing their CPD requirements to the Commissioner for Consumer Protection (the Commissioner) as the licensing authority.

The broad aims of the CPD program are to increase levels of consumer protection and public confidence as well as promote professionalism across the industry. The purpose of the CPD program is to assist licensees to update their knowledge and skills in the area of industry developments, legislative changes and work practices related to these broad aims.

This publication is intended as a guide to the program for all individuals licensed to carry on business in Western Australia as settlement agents with current triennial certificates.

More information about the CPD program can be obtained by visiting the Department of Mines, Industry Regulation and Safety (DMIRS) website at <http://www.dmirs.wa.gov.au>, by sending an email to cpd@dmirs.wa.gov.au or by contacting the Advice Line of the Consumer Protection Division (Consumer Protection) of DMIRS on 1300 304 054.

Related legislation and publications

This publication should be read in conjunction with the following relative legislation:

- *Settlement Agents Act 1981* (the Act)
- *Settlement Agents Regulations 1982* (the Regulations)
- *Settlement Agents Code of Conduct 1982* (the Code)

The *Settlement Industry e-Bulletins* are used to inform the industry about policy and best practice recommendations of DMIRS. Archived issues of the Settlement Industry e-Bulletins are available in the website's publication section.

Visit www.dmirs.wa.gov.au/CP/Publications

1 CPD Program Outline

The CPD program operates on an annual cycle based on the calendar year. The CPD program includes activities such as seminars, lectures, workshops and distance educational activities. To be valid, a CPD activity must have educational outcomes relevant to the aims of the program and be specific to the industry. CPD activities are categorised as either mandatory or elective.

Compliance with CPD requirements is checked when licensees apply to renew their triennial certificate. At renewal, each licensee will be required to complete details of the times, dates, places and approval numbers of all CPD activities they have undertaken.

If a licensee has not complied with their CPD requirements, the Commissioner **may refuse to renew**, or place a condition on, a triennial certificate.

1.1 New licensees

When the Commissioner grants a new settlement agent individual licence, the following CPD condition applies:

“That the licensee undertakes a trust account seminar within six months of the granting of this licence”

In addition to the above CPD requirement, any person seeking to renew a triennial certificate must comply with the educational requirements set out in section 4B of the Regulations. You will be required to have accrued CPD points for each full calendar year immediately succeeding the year in which the certificate was granted. This arrangement means that licensees who obtain a new triennial certificate part way through the year (e.g. on 1 August 2014) are required to commence the CPD program from 1 January the following year (e.g. from 1 January 2015). After the first triennial certificate renewal date, all subsequent renewals will require accrual of CPD points for each of the three years preceding the year in which the renewal falls due.

2 Structure of the CPD Program

The CPD program for settlement agents comprises activities that accrue six points each year. Each CPD year, the Commissioner approves subjects listed in Schedule 1A of the Regulations as core CPD subjects and approves activities in respect of these core subjects. The Commissioner may also approve one or more educational activity in relation to other CPD activities as prescribed elective subjects. The Regulations provide for the Commissioner to specify the value in points to be allocated to each CPD activity.

2.1 Core and prescribed elective CPD activities

Core activities are determined by the Commissioner prior to commencement of a calendar year and are published on the DMIRS website. All licensees must accumulate the core CPD points each year by completing the core CPD activities.

Prescribed elective activities are education activities the licensee chooses to complete from amongst activities approved by the Commissioner for this purpose. Information pertaining to prescribed elective activities is published on the DMIRS website together with information about the training provider.

Key points to note

- Funding is provided for attendance at required core and prescribed elective CPD activities for licensed settlement agents. The cost of attendance at any extra CPD activities must be borne by the licensee.
- An activity must be approved by the Commissioner and published on the DMIRS website before attendance can accrue CPD points. CPD points cannot be claimed retrospectively.
- When a CPD activity includes an assessment, the licensee must pass the assessment to be able to claim the CPD points related to the activity.
- Only the hours spent on the actual activity may count towards accruing CPD points (time spent on travel, preparation, meetings or networking does not count).
- If a licensee participates in more CPD activities than required, excess points are not carried over to the next CPD year without the express approval of the Commissioner or delegate
- Distance learning packages are provided for mandatory CPD activities for licensees who are in remote locations or are otherwise unable to attend face-to-face mandatory activities. Further information is available on the DMIRS [website](#) or by emailing cpd@dmirs.wa.gov.au.

2.2 Remote licensees

Licensees are considered to be in remote locations if their principal places of business are outside a 100km radius of Perth, Kalgoorlie, Geraldton, Albany, Broome, Bunbury, Port Hedland, Karratha, Northam, Margaret River or Busselton.

Distance learning packages are provided for core and prescribed elective CPD activities for licensees in remote locations or for those who otherwise are unable to attend face-to-face CPD activities. . Further information is available on the DMIRS [website](#) or by emailing cpd@dmirs.wa.gov.au.

2.3 Key legislative provisions

Listed below are key legislative provisions in respect to compulsory professional development. (See **Appendix B** for the full text of the legislation.)

| Description | Legislative Reference |
|---|-------------------------------------|
| Commissioner may refuse to renew a licensee's triennial certificate if the licensee has not met prescribed educational requirements | Section 31(2A) of the SA Act |
| Penalty of up to \$5000 to licensee for failure to comply with prescribed educational requirements | Section 41B of the SA Act |
| Commissioner may impose special conditions on licence or triennial certificate | Section 34AA of the SA Act |
| Prescribed educational requirements | Regulation 4B of the SA Regulations |
| Professional development subjects | Schedule 1A of the SA Regulations |

3 Exemptions and Extensions

In exceptional circumstances, the Commissioner may exempt an agent from completing part of their CPD requirements. To apply for exemption, please email the CPD Team at cpd@dmirs.wa.gov.au . The email must explain the reasons for seeking an exemption. Such applications will be considered on a case-by-case basis.

Partial exemption from the requirement to complete CPD requirements may be considered in the following circumstances:

- a) when a licensee has been absent from the industry for all or part of the year due to serious illness, parenting leave, extended leave or another reason; or
- b) when an agent did not hold a current triennial certificate for part or all of the year.

A licensee's CPD point's requirement will be proportionally reduced when a partial exemption is granted. For each month not worked during a calendar year, the six CPD points required will be reduced by one-half of a point. Such exemptions only apply to elective CPD points. For example, if an agent works for eight months of a particular year, that person is required to obtain only four CPD points for that year.

Individuals who do not hold a current triennial certificate (i.e. the licence has been placed "on hold") are not required to complete CPD activities during that period. Those with licences "on hold" that return to the industry, will be expected to ensure that their knowledge and skills are up to date, and are encouraged to participate in the fully funded CPD program while their licence is "on hold". When a triennial certificate is renewed, the licensee may be required to "catch up" core CPD activities they have not completed to ensure that they are well informed about current issues and changes that will affect their work as settlement agents.

Upon renewing a triennial certificate, a pro-rata reduction in elective CPD points may be given for time out of the industry in a particular year, however the licensee will be required to recommence the CPD program in the year that the licence is renewed.

4 Monitoring Compliance

Consumer Protection requires evidence from participants at renewal of their triennial certificates that they have complied with the CPD requirements for the three years prior to renewal. It is the responsibility of each licensee to maintain personal CPD records for each CPD year. An example of a Training Log Sheet is provided in [Section Nine](#) of this Guide. Whatever form the log sheet takes, it must include all of the following details:

- CPD activities undertaken;
- CPD activity approval numbers;
- date each CPD activity was undertaken;
- details of the training provider conducting the CPD activities; and
- number of CPD points accrued.

Certain activities may require that licensees successfully complete an assessment. Assessments may be requested when a licensee is seeking to claim CPD points for an educational activity attended by means of audio link or video link, viewing a recording of an educational activity or participation in a course of study or a specified component of a course of study.

Licensees should retain evidence supporting the completion of each activity (e.g. certificate of attendance, statement of attainment or record of completion) for four years. It is recommended that full details of the training be retained and listed on the Training Log Sheet. Any documents or certificates presented should also be retained with the log sheet.

All licensees are required to certify that they have obtained the required six CPD points for each of the relevant previous years at the time of applying to renew their triennial certificates. This is done by completing and signing the appropriate section on the renewal application form. Failure to supply records or submitting incorrect or incomplete records could result in a licensee being unable to demonstrate compliance with the CPD program and may put the licence at risk. The Commissioner may refuse to renew a triennial certificate if not satisfied that the licensee has complied with the annual CPD requirements.

5 Training Providers

5.1 CPD activity approval

Training providers seeking approval for elective activities must submit details of each activity for assessment to the Commissioner for Consumer Protection. Activities submitted for approval as electives are assessed to determine whether the activity is relevant to the industry and the aims of the CPD program. While elective CPD activities may cover a wide range of material, it is expected that each activity will include some core concepts contributing to increasing consumer protection, enhancing public confidence in the industry and increasing professionalism. Activities that do not meet these criteria will not be approved and cannot be claimed as CPD activities. An [Application for Approval of CPD Elective Activity](#) is available on the DMIRS website.

5.2 Activity duration

Elective activities must run for the length of time stipulated on the application form when the activity was originally approved. If the length of time for an activity changes, the training provider must notify Consumer Protection as the number of CPD points may need to be amended.

5.3 Late arrival

Any licensee who arrives late to a CPD session by 30 minutes or more will not be eligible to claim CPD points for that session. If a licensee arrives more than 30 minutes late and stays for the remainder of the activity, they will only be eligible for the CPD points when they reschedule the same activity with the same provider to complete the period of the session they initially did not attend. Licensees are responsible for withdrawing or re-scheduling the activity prior to the arranged attendance if they cannot make it on time.

5.4 CPD online

Consumer Protection maintains data about CPD attendance. Training providers must notify Consumer Protection about CPD activity participation by logging attendance on the CPD online system within 14 days after each activity has taken place. In the event that login and/or password details become misplaced or compromised, training providers should contact the CPD team directly on 1300 30 40 64 (option 8) or email cpd@dmirs.wa.gov.au.

5.5 Maintaining and storing records

Training providers are required to issue participants with evidence of attendance after they complete a CPD activity and, when relevant, with proof that any assessment was undertaken and passed. Evidence may take the form of a certificate of attendance, a statement of attainment or a record of completion.

Training providers are required to maintain and hold for a period of four years, appropriate records of attendance at mandatory and elective CPD activities. Ideally, these records should be in electronic format, so participant attendance can be verified if required by Consumer Protection.

A *statement of attainment* is granted by a Registered Training Organisation when an assessable component of a unit of competency in a National Training Package is successfully completed. A statement of attainment is required in order to claim CPD points for activities under Elective Learning Category One.

A *certificate of attendance* is provided by a training provider to participants who attend a CPD activity that may not have an assessable component as verification of attendance. A certificate of attendance can be evidence of completing a mandatory CPD activity, or a CPD activity under Elective Learning Categories Two, Three or Four.

A *record of completion* is issued by a training provider to a participant who successfully completes the assessments required for an activity that is not aligned to a National Training Package. A record of completion is suitable proof of completing CPD activities under Elective Learning Categories Two, Three or Four.

6 Appendix A: Example CPD Training Log Sheet

The following is an example of a CPD training log sheet to allow participants to keep track of their CPD points. Please refer to the DMIRS [website](#) to confirm the activity approval number and number of CPD points applicable to any approved CPD activity.

| Date activity was completed | Name or description of activity | Training provider | Learning category | Activity approval number | No. of CPD Points | Yearly subtotal |
|-----------------------------|---------------------------------|-------------------|-------------------|--------------------------|-------------------|-----------------|
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| TOTAL CPD POINTS: | | | | | | |

Certificates of attendance, statements of attainment, records of completion and other supporting evidence should be retained for a period of **four** years for verification purposes.

7 Appendix B: References

The full text of the relevant statutes, Regulations and Code of Conduct mentioned in this publication is available from the State Law Publisher.

Relevant Links

Settlement Agents Act 1981

https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_890_homepage.html

Settlement Agents Regulations 1982

https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_2045_homepage.html

Settlement Agents Code of Conduct 2016

https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_13817_homepage.html

8 Glossary

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|---|---|
| Agent | A natural person who is a settlement agent |
| Approved | Approved by the Commissioner for Consumer Protection |
| Approved training provider | A recognised industry association that has been approved by the Commissioner for Consumer Protection to deliver elective CPD activities for the purposes of the CPD program. |
| Business settlement agent | Means any person who arranges or effects a settlement of a business transaction for reward or who, whether for reward or otherwise, carries on business arranging or effecting settlements of business transactions and whether or not that business is carried on in conjunction with or as part of or associated with any other profession, trade, occupation or employment, but does not include the exceptions specified in section 4(1) of the SA Act. |
| Certificate of attendance | A document provided by a training provider to participants who attend a CPD activity (that may not have an assessable component) as verification of attendance. |
| Commissioner for Consumer Protection | The person designated as the Commissioner under section 55 of the <i>Fair Trading Act 2010</i> , or an officer acting with the specific delegated authority of the Commissioner. |
| Consumer Protection | The Consumer Protection Division of the Department of Mines, Industry Regulation and Safety. |
| Core CPD activity | A CPD activity prescribed by the Commissioner for Consumer Protection that all licensees are required to undertake in a particular CPD calendar year. |
| CPD | Compulsory professional development for settlement agents and business settlement agents in Western Australia. |
| CPD points | The point value allocated to a CPD Activity. |
| DMIRS | Department of Mines, Industry Regulation and Safety |
| Elective CPD activity | Any learning activity that is industry-specific with an educational outcome and is approved by the Commissioner for Consumer Protection. |
| Industry specific | Relevant to the carrying out of an occupation in the settlement industry |
| Licensee | A person licensed under the <i>Settlement agents Act 1978</i> . |
| Real estate settlement agent | Means any person who arranges or effects the settlement of a real estate transaction for reward or who, whether for reward or otherwise, carries on business arranging or effecting settlements of real estate transactions and whether or not that business is carried on in conjunction with or as part of or associated with any other profession, trade, occupation or employment, but does not include the exceptions specified in section 4(1) of the SA Act. |
| RTO | Registered Training Organisation has the same meanings as in section 5(1) of the <i>Vocational Education and Training Act 1996</i> ; ie. an organisation registered by the Training Accreditation Council to deliver nationally accredited training |
| Remote location | Any agent or sales representative whose principal place of business lies outside a 100km radius of Perth, Kalgoorlie, Geraldton, Busselton, Bunbury, Port Hedland, Broome, Karratha, Northam, Margaret River or Albany |
| Settlement Agent | Means a person who is a real estate settlement agent or a business settlement agent or both a real estate settlement agent and a business settlement agent but does not include the exceptions |

| | |
|--------------------------------|---|
| | specified in section 4(1) of the SA Act. |
| Statement of attainment | The document granted by a Registered Training Organisation when an assessable component of a unit of competency in a National Training Package is successfully completed. |
| Triennial certificate | The certificate granted by the Commissioner to a licensee which permits the licensee to carry on business as a real estate agent or settlement agent. A triennial certificate is granted for three years and may be renewed for further three year periods for as long as the licensee continues to trade |

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Website: www.dmirs.wa.gov.au/consumerprotection



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