

South Australia

# Volunteers Protection Act 2001

An Act to protect volunteers in the community from personal liability; and for other purposes.

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## Preamble

- 1 The Parliament recognises that volunteers make a major contribution to the South Australian community and seeks to foster and encourage volunteering in the community by all possible means.
  - 2 The Parliament recognises, however, that a major disincentive to volunteering is the prospect of incurring—
    - (a) serious personal liability for damages; and
    - (b) legal costs in proceedings for negligence.
  - 3 The Parliament seeks to achieve a reasonable and expedient balance between the need to protect volunteers against personal liability and the interests of those who suffer injury, loss or damage in the following ways:
    - (a) by limiting the personal liability for negligence of a volunteer who works for a community organisation and transferring the liability that would apart from this Act attach to the volunteer to the community organisation;
    - (b) by limiting the right to bring proceedings against the volunteer personally and hence reducing the risk to a volunteer of incurring legal costs as a result of the voluntary work.
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## The Parliament of South Australia enacts as follows:

### 1—Short title

This Act may be cited as the *Volunteers Protection Act 2001*.

### 3—Interpretation

In this Act—

**community organisation** means a body corporate that directs or co-ordinates the carrying out of community work by volunteers, and includes the Crown;

**community work** means—

- (a) work for any one or more of the following purposes:
  - (i) for a religious, educational, charitable or benevolent purpose;
  - (ii) for promoting or encouraging literature, science or the arts;
  - (iii) for looking after, or providing medical treatment or attention for, people who need care because of a physical or mental disability or condition;
  - (iv) for sport, recreation or amusement;
  - (v) for conserving resources or protecting the natural environment from harm;
  - (vi) for preserving historical or cultural heritage;
  - (vii) for a political purpose;
  - (viii) for protecting or promoting the common interests of the community generally or a particular section of the community; or
- (b) work classified by regulation as community work,

but does not include work excluded by regulation from the ambit of this definition;

**recreational drug** means a drug consumed voluntarily for non-medicinal purposes, and includes alcohol;

**voluntary basis**—a person works on a voluntary basis if the person—

- (a) receives no remuneration for the work; or
- (b) is remunerated for the work but within limits fixed by regulation for the purposes of this definition,

but a person who carries out community work under the order of a court or a condition of a bond is not to be regarded as working on a voluntary basis;

**volunteer** means a person who carries out community work on a voluntary basis.

### 4—Protection from liability

Subject to the following exceptions, a volunteer incurs no personal civil liability for an act or omission done or made in good faith and without recklessness in the course of carrying out community work for a community organisation.

**Exceptions—**

- 1 The immunity does not extend to—
  - (a) a liability that falls within the ambit of a scheme of compulsory third-party motor vehicle insurance; or
  - (b) a liability for defamation.
- 2 The immunity does not operate if the volunteer's ability to carry out the work properly was, at the relevant time, significantly impaired by a recreational drug.
- 3 The immunity does not operate if—
  - (a) the volunteer was acting, and knew or ought to have known that he or she was acting, outside the scope of the activities authorised by the community organisation; or
  - (b) the volunteer was acting, and knew or ought to have known that he or she was acting, contrary to instructions given by the community organisation.

**5—Application of doctrine of *respondet superior* to volunteers**

- (1) A liability that would, but for this Act, attach to a volunteer attaches instead to the community organisation for which the volunteer works.
- (2) A person (the *injured person*) who suffers injury, loss or damage as a result of the act or omission of a volunteer may not sue the volunteer personally unless—
  - (a) it is clear from the circumstances of the case that the immunity conferred by this Act does not extend to the case; or
  - (b) the injured person brings an action in the first instance against the community organisation but the community organisation then disputes, in a defence filed to the action, that it is liable for the act or omission of the volunteer.

**6—Regulations**

The Governor may make regulations for the purposes of this Act.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act

Year	No	Title	Assent	Commencement
2001	65	<i>Volunteers Protection Act 2001</i>	6.12.2001	15.1.2002 ( <i>Gazette 15.1.2002 p188</i> )

### Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>s 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	