

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.

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>	§