

South Australia



ANNO QUINQUAGESIMO
ELIZABETHAE II REGINAE
A.D. 2001

VOLUNTEERS PROTECTION ACT 2001

No. 65 of 2001

[Assented to 6 December 2001]

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

SUMMARY OF PROVISIONS

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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.

The Parliament of South Australia enacts as follows:

Short title

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

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. 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.

Protection from liability

4. 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.

Application of doctrine of *respondeat superior* to volunteers

5. (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.

Regulations

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