



# Volunteers and the model Work Health and Safety Act

## LEGISLATIVE FACT SHEET SERIES

### Overview

This fact sheet provides information about the duties owed to and by volunteers under the model WHS Act. In this fact sheet, the term 'volunteer organisation' is used to describe all volunteer organisations including not for profit and community service organisations, whether or not they are covered by the model work health and safety laws.



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The model Work Health and Safety (WHS) Act aims to protect the health and safety of all workers nationwide, including volunteers. Protecting the health and safety of volunteers demonstrates that their commitment is valued and recognises the vital role they play in the community.

This fact sheet provides information about the duties owed to and by volunteers under the model WHS Act. In this fact sheet, the term 'volunteer organisation' is used to describe all volunteer organisations including not for profit and community service organisations, whether or not they are covered by the model work health and safety laws.

## Am I protected under the model work health and safety laws?

You are a volunteer under the model work health and safety laws if you are not working for payment or financial reward although you may receive reimbursement for out-of-pocket expenses. All 'workers', including volunteer workers, are protected under the model WHS Act.

## Who owes me duties?

Whether you are owed health and safety duties as a volunteer worker under the model WHS Act depends on the type of organisation for which you carry out your activities or work. Volunteers may carry out unpaid work for:

- businesses, or
- not-for-profit volunteer organisations that are run by volunteers for community purposes.

### *'Persons conducting a business or undertaking'*

The main health and safety duty under the model WHS Act is owed by a 'person conducting a business or undertaking' (PCBU). The duty is to ensure, so far as is reasonably practicable, the health and safety of workers engaged in work for the business or undertaking. This duty is owed to a PCBU's workers including to volunteer workers.

A PCBU may be a corporation, a partnership, an unincorporated or incorporated association, a self employed person, a sole trader or the Crown. Some volunteer organisations, such as those that run retail businesses for example, may also be PCBUs.

If you carry out work for a PCBU, as a volunteer or other worker, then you are owed duties under the WHS Act. If your volunteer organisation employs staff as well as volunteers, it owes you duties under the model work health and safety laws while you are carrying out work for the organisation.

### *'Volunteer associations'*

There are some volunteer organisations, called 'volunteer associations' which the model work health and safety laws explicitly exclude. These are groups of volunteers, whether unincorporated or incorporated associations, working together for one or more community purposes, which do not employ any workers to carry out work for the organisation. For more information about volunteer associations, see the fact sheet [Volunteer organisations and the model Work Health and Safety Act](#).

Even where the work health and safety laws do not apply, the general law duties of volunteer organisations to volunteers are well established. Australian courts have long recognised that volunteers are owed a general duty of care by the people and the organisations they support.

## What does the organisation I volunteer for need to do to protect me?

If the work health and safety laws apply to your volunteer organisation, the organisation must ensure, so far as is reasonably practicable, the health and safety of all of its workers including volunteer workers. This does not mean that the organisation has an absolute duty to ensure that no harm occurs. If an organisation is run by volunteers this is a factor that will be taken into account in determining what is reasonably practicable for the organisation to do in any given circumstances.

Volunteers carry out a wide variety of work in a variety of environments, and the level of care that is required from the volunteer organisation will depend on the individual circumstances.

What the organisation is required to do to protect you depends on things like:

- the type of company or organisation you work for
- the type of work you carry out

- the nature of the risks and potential injuries associated with that work, and
- the location or environment where the work is carried out.

Risks you may encounter from the working environment or work equipment will depend on the type of work you carry out and may include:

1. exposure to and use of machinery, vehicles and chemicals
2. unstable or unsafe structures
3. working at heights
4. unsafe entrances, exits, steps, stairs and ramps
5. slippery floors
6. cramped work spaces
7. poor ventilation, excessive noise or insufficient lighting
8. non-ergonomic work stations
9. insufficient or non-hygienic toilets and hand basins
10. challenging client behaviour, and
11. excessive workload.

The organisation or company you work for should make an assessment of the hazards and risks volunteers are likely to encounter and take reasonably practicable steps to eliminate or minimise those risks. These steps should include making sure that:

1. the workplace itself is safe and without risks to health and safety
2. equipment and machinery provided for use is safe
3. there are adequate facilities at the workplace, such as first aid and toilet facilities, and
4. necessary information, instruction and training is provided to allow volunteers and workers to perform their work safely.

The organisation should also consult with its volunteer workers regarding the management of health and safety generally and should ensure volunteers have a reasonable opportunity to contribute to the improvement of health and safety.

## As a volunteer, do I have duties under the model WHS Act?

People who are 'workers' have duties under the WHS Act. As a volunteer worker, you only have duties if you carry out work for an organisation which is a PCBU.

If so, you have the same duties as other 'workers' at the workplace:

1. to take reasonable care for your own health and safety
2. to take reasonable care that your conduct does not adversely affect the health and safety of others
3. to comply with any reasonable instruction that is given to you by the PCBU (to help it to comply with the WHS Act), and
4. to cooperate with any reasonable policy or procedure relating to health and safety at the workplace.

If you are a coordinator or manager of volunteers and you work in a paid role, you will have the same duties to take reasonable care as other 'workers'.

## Can I be prosecuted if I don't meet my duties under the WHS Act?

Volunteers who carry out work for PCBUs are required to take reasonable care for their own health and safety. Like any other duty holders who do not comply with their duties under the WHS Act, workers, including volunteer workers, can be prosecuted. This is the same for any person, including a member of the public, who visits a workplace and is required to take reasonable care for their own health and safety.

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