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Impact of new model Work Health and Safety Act for volunteer directors and officers.

Volunteering Australia has received a number of enquiries from volunteers and volunteer involving organisations in relation to the impact of the proposed new model Work Health and Safety (WHS) legislation particularly in respect to the personal liability of volunteer directors and executive officers.

Since the National Agenda on Volunteering was developed by VA on behalf of the volunteering sector, inconsistency in OHS and other legislation across jurisdictions has been raised as an issue by the sector.

The harmonization of OHS legislation through a model work health and safety (WHS) Act, regulations, codes of practice and guidance and the inclusion of volunteers means that volunteers are protected in a consistent way across the nation.

The model WHS Act will enable consistency in work health and safety legislation across states and territories in Australia.

The inclusion of volunteers in the definition of 'workers' in s.7 of the Act ensures volunteers receive the same level of work health and safety protection as employees. This protection has been called for and welcomed.

However, concerns have been raised with Volunteering Australia about volunteers on Boards and Committees of Management being prosecuted in the event of failure to comply with a health and safety duty owed by them to another individual

Volunteering Australia has received advice from the Office of Senator Chris Evans, Minister for Workplace Relations and has held discussions with officers from Safe Work Australia. We now understand that the intent of the Act is as follows:

1. Volunteer associations, whether they be incorporated or unincorporated, which are wholly made up of volunteers working for a community purpose, where none of the volunteers employ any workers, will not fall within the model WHS Act. Therefore volunteer directors, officers and workers of these associations cannot be prosecuted under the model WHS laws.
2. If a volunteer association, incorporated or unincorporated, employs any person to carry out work for the association, that association will owe health and safety duties to workers, including volunteers and will be subject to the provisions of the model WHS Act. However volunteer directors/officers will only have duties

of workers/other persons at the workplace and cannot be prosecuted for any failure to comply with the duty of officers. The duty of workers and other persons at a workplace are similar to duties owed by volunteers/workers under current OHS legislation.

Safe Work Australia is presently preparing guidance notes on the application of the model WHS Act to volunteer associations, organisations and volunteers. Volunteering Australia will continue to work with officers from Safe Work Australia to ensure that appropriate advice and information is available to the volunteering sector.

Work health and safety for volunteers has been an integral component of the [National Standards for Involving Volunteers in Not for Profit Organisations](#) developed by Volunteering Australia. The Work and the Workplace elements of these Standards acknowledge the right of volunteers to work in a healthy and safe environment and provide comprehensive guidance for organisations that involve volunteers. Volunteering Australia will continue to review these Standards to ensure they remain relevant and consistent with the obligations under the new Model WHS Act.

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