



## **Submission to safe work australia, on the Exposure Draft for Model Act- Safe Work Act 2009**

By Volunteering Victoria (the peak body for volunteering in Victoria)  
Submission authorised by Dianne Embry, Chief Executive Officer, Volunteering Victoria  
Submission date: 5 November 2009

### **Introduction**

The Australian Bureau of Statistics estimates that more than 5 million Australian volunteers contribute over 700 million hours of unpaid work annually. Volunteering Victoria is pleased to see the Model Act addresses volunteering issues. We support the recognition in section 7 of volunteers as workers.

We also support the broad framework within which volunteering is recognised within the model Act. But given that the volunteer community in Victoria is made up of around 120,000 mostly small, unfunded and unresourced organisations we make the following submissions:

1. While we support the rationale for in effect excluding volunteer (only) associations from the primary duty of care under the Act, the way this is done is unnecessarily complicated. While the discussion paper summarises this, for a volunteer organisation to determine this exclusion it is necessary to

- Read s. 18 to determine the primary duty of care
- Determine the meaning of the term “person conducting a business or undertaking” by looking at s. 5, with a look at section 4 to define “person”
- They then need to look first at s. 5 (3) to identify the relevant exemption from the “business or undertaking” threshold test
- Skip over s.5 (4) and go to s. 5(5) for the definition of “volunteer association”
- Understand that the test applied is whether the association has paid staff and whether the purposes of the association are “community purposes”

2. If an organisation finds it is not exempt because it does meet these requirements, it then must determine the duties and liabilities under the model Act including for volunteer board of management (s.33) and for officers

3. While the s.33 exemption for volunteers from prosecution for breaching duties under Division 5 of the model Act is good policy making, it should be clearer as to the difference between no duty and no liability for prosecution for breaching duties. While we assume that

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there will be an information release upon commencement of state legislation, the information needs of volunteering organisations should be understood while the model Act is assessed for clarity.

4. The principle underlying the submissions above is that one public policy aim of the harmonisation scheme should be to raise the level of work safety literacy among small organisations. To simply tell volunteer associations that (by and large) they are exempt from the model Act misses an opportunity to promote safety culture. Volunteer organisations should be able to engage with the model Act, to identify the safety principles it promotes.

5. **Recommendations.** In light of the above we recommend the following

1. Determine whether further drafting can reduce the five-eight steps required of small volunteer organisations to understand the extent to which they are covered by the principal duties of the model Act.
2. As part of the policy framework which contextualises the model Act, provide a clear statement of intent to promote the principles of work safety among small associations, and raise the safety consciousness of all community members including volunteers.
3. To action 2, consider the training, resourcing and information needs of small organisations. This would represent effective coordinated planning to improve the capacity of the estimated 700,000 volunteer organisations in Australia who access the work of five million Australian volunteers per annum, to raise community levels of understanding about work safety. This represents around a quarter of the total population actively involved in work safety

### **Conclusion**

Taking a planned and coordinated approach to promoting work safety among the 5 million strong volunteering community represents a very effective alignment of the promotion of participation, inclusion and safety. This represents an opportunity to change the culture of both paid work and volunteering. Achieving this change is the underlying principle of the model Act.

While Volunteering Victoria will seek, at the time of enactment of state legislation, to work with the Victorian government we urge that decision makers consider the significant benefits to the community of a planned promotion of safety in the volunteering community could bring.

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