



**Lutheran Church of Australia | National Office |
New Work Health and Safety Laws
Volunteers**
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1.0 Volunteer

(WHS Act Part1 Division4 S7, Part2 Division4 S27-28)

Who is a volunteer?

A volunteer is a person who is **not working** for reward, although they may receive reimbursement of expenses incurred by them.

Do the new Work Health and Safety laws apply to a volunteer organisation?

If members of a charitable, religious, sporting or social volunteer organisation (whether unincorporated or incorporated) employ any person to carry out work for the organisation, the organisation is considered to be conducting a business or undertaking under the Work Health and Safety Act.

This means that the Work Health and Safety laws **do apply** where an organisation employs staff as well as volunteers and the organisation owes health and safety duties to its employees and volunteer workers.

Even where the volunteer organisation does not fall under the work health and safety laws, it is prudent to comply with general work health and safety duties. The general law duties of volunteer organisations and volunteers are well established and Australian courts have long recognised that volunteers are owed a general duty of care by the people and the organisations they support.

Who is a volunteer officer?

A volunteer officer may be a member of a committee, a director, a company secretary or a CEO of a not for profit organisation that is conducting a business or undertaking.

What are the duties of a volunteer officer?

A volunteer officer is required to take reasonable steps under the Work Health and Safety laws that will support a health and safety culture, accountability, the allocation of resources for health and safety and the development of appropriate health and safety policies at the organisation.

Where a volunteer organisation employs people to carry out work, volunteer officers of the organisation, for example board members, committee of management members or executive directors are required to exercise due diligence to ensure that the volunteer organisation complies with its health and safety duties.

Can volunteer officers be prosecuted under the new Work Health and Safety laws?

Volunteer officers have a duty of care to exercise due diligence under the Work Health and Safety laws. A volunteer officer is expected to comply with that duty. However, a volunteer officer cannot be prosecuted for failing to comply with that duty. This immunity from prosecution is designed to ensure voluntary participation at an officer level is not discouraged.

Are Ministers of religion now 'workers' under the new work health and safety laws?

This will depend on whether the minister carries out 'work' and if that work is performed for a person conducting a business or undertaking.

Are members of a church congregation now 'workers'?

Congregational members will only be workers if they actually carry out work for a person conducting a business or undertaking. This does not include activities of a purely social, domestic, recreational nature such as attending a church service.

Are volunteer home-based foster carers now 'workers'?

Volunteer home-based foster carers conduct activities of a purely domestic nature. Activities of this kind are not intended to be captured by the new laws.

Refer to www.safeworkaustralia.gov.au