



Commonwealth Volunteers Protection Act 2003

No. 2, 2003

**An Act to protect volunteers working for the
Commonwealth from civil liability, and for related
purposes**

Note: An electronic version of this Act is available in SCALEplus
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)

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**An Act to protect volunteers working for the
Commonwealth from civil liability, and for related
purposes**

[Assented to 24 February 2003]

The Parliament of Australia enacts:

Section 1

Part 1—Preliminary

1 Short title

This Act may be cited as the *Commonwealth Volunteers Protection Act 2003*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	24 February 2003
2. Sections 3 to 11	A single day to be fixed by Proclamation, subject to subsection (3)	24 August 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.
- (3) If a provision covered by item 2 of the table does not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, it commences on the first day after the end of that period.

3 Extended operation of Act

This Act extends to every external Territory.

4 Definitions

(1) In this Act:

Commonwealth includes the following:

- (a) a Federal Court;
- (b) a Department of the Parliament;
- (c) a body (not being a body corporate) established or continued in existence for a public purpose by or under a Commonwealth law, other than a body established by or under:
 - (i) the *Australian Capital Territory (Self-Government) Act 1988*; or
 - (ii) the *Norfolk Island Act 1979*; or
 - (iii) the *Northern Territory (Self-Government) Act 1978*.

Commonwealth authority means a body corporate established or continued in existence for a public purpose by or under a Commonwealth law, but does not include:

- (a) an Aboriginal association incorporated under Part IV of the *Aboriginal Councils and Associations Act 1976*; or
- (b) an association of employees that is an organisation within the meaning of the *Workplace Relations Act 1996*; or
- (c) a body specified in the regulations for the purposes of this paragraph.

organised includes directed and supervised.

recreational drug means a drug consumed voluntarily for non-medicinal purposes and includes alcohol.

voluntary basis has the meaning given by subsections (2) and (3).

Section 4

Meaning of voluntary basis

- (2) An individual does work for the Commonwealth or a Commonwealth authority on a *voluntary basis* if the individual:
- (a) either:
 - (i) receives no remuneration for doing the work other than the reimbursement of reasonable expenses incurred by the individual in doing the work; or
 - (ii) receives remuneration for doing the work less than the amount, if any, prescribed or determined in accordance with the regulations; and
 - (b) does not do the work under a court order.
- (3) An individual also does work for the Commonwealth or a Commonwealth authority on a *voluntary basis* if:
- (a) the individual continues to receive remuneration from the individual's usual employer while doing the work but receives no other remuneration for doing the work other than:
 - (i) reimbursement of reasonable expenses incurred by the individual in doing the work; or
 - (ii) remuneration less than the amount, if any, prescribed or determined in accordance with the regulations; and
 - (b) the work is of a kind that is usually done for the Commonwealth or the Commonwealth authority by persons who either:
 - (i) receive no remuneration for doing the work other than the reimbursement of reasonable expenses incurred in doing the work; or
 - (ii) receive remuneration for doing the work less than the amount, if any, prescribed or determined in accordance with the regulations; and
 - (c) the individual does not do the work under a court order.

Acts and omissions of individuals covered

- (4) A reference in this Act to a thing done by an individual includes a reference to the omission by an individual to do a thing.

5 Application

This Act applies only in relation to civil liability for a thing done by an individual after the commencement of this Act.

Part 2—Protection from civil liability

6 Protection from liability

Protection

- (1) An individual does not incur civil liability for anything that the individual has done in good faith in doing work for the Commonwealth or a Commonwealth authority if it is work:
 - (a) done by the individual on a voluntary basis; and
 - (b) organised by the Commonwealth or the Commonwealth authority.

Third-party insurance or defamation

- (2) Subsection (1) does not apply to:
 - (a) a liability that is covered by a scheme of compulsory third-party motor vehicle insurance; or
 - (b) a liability for defamation.

Individual affected by drugs

- (3) Subsection (1) does not apply if the individual's ability to carry out the work properly was, at the relevant time, significantly impaired by a recreational drug.

Individual acting outside scope of authority or instructions

- (4) Subsection (1) does not apply if:
 - (a) the individual was acting, and knew or ought to have known that he or she was acting, outside the scope of the activities authorised by the Commonwealth or the Commonwealth authority; or
 - (b) the individual was acting, and knew or ought to have known that he or she was acting, contrary to instructions given by the Commonwealth or the Commonwealth authority.

7 Commonwealth or Commonwealth authority to incur liability

- (1) The Commonwealth or a Commonwealth authority incurs any civil liability that an individual would, except for section 6, incur in respect of a thing done by the individual while doing work for the Commonwealth or the Commonwealth authority.
- (2) Subsection (1) does not apply to a Commonwealth authority if:
 - (a) a provision in an Act gives protection to the Commonwealth authority from civil liability; and
 - (b) under the provision, the Commonwealth authority would be protected from civil liability in relation to the thing done by the individual.

8 Volunteer to assist in defence of actions etc.

If the Commonwealth or the Commonwealth authority requests the individual to assist the Commonwealth or the Commonwealth authority in any action, claim or demand relating to a civil liability that the Commonwealth or Commonwealth authority may incur or incurs under section 7, then the individual must comply with the request.

9 Certain indemnities to have no effect

An indemnity given by an individual against a liability that the Commonwealth or a Commonwealth authority incurs under this Act in respect of work done by the individual has no effect.

10 No overriding of Damage by Aircraft Act

This Act does not override or limit the operation of the *Damage by Aircraft Act 1999*.

11 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Part 2 Protection from civil liability

Section 11

*[Minister's second reading speech made in—
House of Representatives on 23 October 2002
Senate on 5 December 2002]*

(221/02)