

Workplace Health and Safety Queensland

Information in this fact sheet relates to the *Work Health and Safety Act 2011* which applies from 1 January 2012.

Not-for-profit organisations

Non-for-profit organisations exist to serve community purposes and do not distribute their surplus funds to owners or shareholders, but instead use them to help pursue their goals. They include organisations for the promotion of art, culture, science, religion, education, medicine or charity. Examples include Meals on Wheels, the St. John's Ambulance Brigade and the Red Cross Society.

In furthering their objectives, not-for-profit organisations may carry on a business or engage in business activity and may employ paid workers as well as volunteers.

Not-for-profit organisations are considered to be a person conducting a business or undertaking (PCBU) under the *Work Health and Safety Act 2011* (the Act). They have a duty of care to ensure, so far as is reasonably practicable, the health and safety of their workers at work and that the health and safety of other people is not affected by the way in which the organisation conducts its business or undertaking.

However, there are not-for-profit organisations that do not conduct any type of business or undertaking, and as such are exempted from the operation of the Act. These organisations are:

- volunteer associations (as defined in the Act)
- bodies corporate of community title schemes that are responsible for common areas used only for residential purposes and do not engage any worker as an employee.

Volunteer associations

To be considered a volunteer association, the organisation must have a community purpose and have no employees.

An example of a volunteer association is a junior sports club where the office bearers are volunteers and fund-raising and other activities of the club are carried out by volunteers such as the parents. The organisation may be incorporated or unincorporated.

If the association exists for a community purpose and all of the work of the association is undertaken by volunteers, the Act does not apply to the association.

If the volunteer association or any of the volunteers of the organisation employ a person to carry out work for the association, the Act will apply to the organisation. For example, if the association has an employee who does their accounts on a weekly basis, the Act will apply to the organisation. However, if the association engages a contractor to audit their accounts or drive a bus on a day trip, the Act will not apply to the organisation.

Volunteer associations with one or more employees have duties and obligations under the WHS Act to those employees and to any volunteers who carry out work for the association.

Where an association is unincorporated, it cannot be prosecuted for a breach of any duty under the Act. However, officers of unincorporated associations may be liable for a failure to comply with the officer's duty and members of unincorporated associations may

be prosecuted for a failure to comply with any duty owed as a worker or other person at a workplace.

For more information regarding volunteers refer to the *Volunteers* fact sheet.

Strata title bodies corporate for residential premises

Under the Act, a body corporate of a community title scheme that is responsible for any common areas used only for residential purposes is not a PCBU in relation to those areas. However if that body corporate engages any worker as an employee it is a PCBU and consequently has duties under the Act.

For information regarding strata title bodies corporate refer to the *Apartment owner occupiers and bodies corporate* fact sheet.

Further information

Further information on workplace health and safety and the new laws is available at www.worksafe.qld.gov.au or by calling the WHS Infoline on 1300 369 915.

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