



▶ **Submission to Select Committee on the Health and Safety at Work (Volunteer Associations) Amendment Bill**

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▶ **Contact Details**

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## 1. ABOUT US

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### **Volunteering New Zealand**

Volunteering New Zealand is the “voice of volunteering” in Aotearoa. Our vision is for a New Zealand that promotes, values and supports effective volunteering for the benefit of individuals and communities – and our mission is to promote, support and advocate for volunteering.

We are the only national organisation in New Zealand that focuses purely on volunteering. We hold the ‘big picture’ and are in a position to liaise, work with, and advise volunteers, government and business sectors. This helps ensure that volunteering occurs within a positive environment where it is encouraged and fostered.

Over the past 17 years, VNZ has raised the profile of volunteer groups, activities, and management. We promote volunteering and its value to New Zealand society through advocacy, sharing stories, and producing tools like the Best Practice Guidelines and Competencies for Managers of Volunteers.

We have a membership of 80 national and regional member organisations that involve volunteers in their work programmes. Our membership organisations are typically associations or “peak bodies” that in turn represent a large number of local and regional volunteer involving organisations. We advocate on behalf of these organisations and for other groups that are not members but are aligned to our mission and values.

### **New Zealand’s Voluntary Sector**

New Zealand has more than 120,000 non-profit organisations, contributing to 4.4% of GDP when taking into account the volunteer labour contribution, and is similar to the contribution of the entire construction industry.

The most up-to-date data on the volunteer sector states that in New Zealand there are more than 1.2 million volunteers who give more than 157 million hours of unpaid labour to the sector. In 2008, 67% of the Community and Voluntary Sector workforce was made up of volunteers; 90% of New Zealand non-profit organisations employ no staff, and rely solely on volunteers.<sup>1</sup>

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<sup>1</sup> From the *The New Zealand Non-profit Sector in Comparative Perspective*, 2008

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## 2. EXECUTIVE SUMMARY

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Volunteering New Zealand (VNZ) appreciates the invitation to make a submission to the Select Committee on the Health and Safety at Work (Volunteer Associations) Amendment Bill. We view the Select Committee as an opportunity to align any amendments to the Health and Safety legislation with the Government Policy on Volunteering (2002), and our mission to promote, support and advocate for effective volunteering.

After consultation with our members and constituents from the wider sector, VNZ has received unanimous support for our position that we **oppose the Bill as it is currently written**.

While we are aware that not every volunteer organisation opposes the Bill (and some actively support it), we believe that VNZ is in a unique position to ascertain the will of the VIO (volunteer-involving organisation) community as a whole.

Summary grounds for our opposition:

1. Our position is consistent with the Government Policy on Volunteering (2002), which states that the government commits to ensure volunteers “have appropriate protection under law.”
2. On the basis of our annual survey and the correspondence we have received on this specific Bill, we do not accept the argument that Health and Safety regulation is negatively affecting the vast majority of volunteer organisations in terms of recruitment and retention.

Our abiding concern is the Health and Safety of volunteer workers. Keeping the existing law in place means that, at least for those organisations defined as PCBUs, paid and unpaid workers are given the same level of protection.

While not specifically addressed here, VNZ would also support moves to extend protections to volunteers where they do not currently exist (see Endorsements in the Member Feedback section).

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### 3. BACKGROUND

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In Volunteering NZ's 2014 submission to the original Health and Safety at Work Bill, VNZ sought to navigate two competing impulses: "to ensure that volunteers have appropriate protection under law" and also "that barriers associated with volunteering in legislation, policy and practice are reduced." In that submission, VNZ actually argued that the Bill, as it was then worded, was "too onerous a burden," especially for those partially volunteer-based organisations captured by the legislation as PCBUs.

The Select Committee will note that this language mirrors the language of supporters of this proposed Amendment – hence the belief that an exemption for associations "that employ a person or persons for not greater than 100 hours per week" represents less of a "burden."

Our previous position reflected the concern of our members that the Act would create barriers to volunteering. Since the Act has come into force, those concerns have subsided. The reality has not met the expectation.

This does not mean that compliance costs and labour have disappeared as a concern for volunteer organisations, and in particular Boards of organisations. However, compliance *in general* should not be conflated with the specific requirements of the HSAW 2015 Act.

VNZ feels that the current Act is working well and is not "too onerous" as claimed by supporters of the Amendment. Furthermore, we would argue that the best way to ensure universal compliance is through adequate resourcing for VIOs.

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### 4. VOLUNTEERING NZ'S POSITION ON THE AMENDMENT BILL

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VNZ opposes the Amendment Bill on the following grounds:

4.1 There is not enough evidence that the Health and Safety at Work Act 2015 is disadvantaging volunteer associations in the way that was previously feared. In other words, the Act is not overly burdensome nor is it a major barrier to recruitment and retention.

>> Our annual State of Volunteering surveys reflects this trend. While respondents to the 2015 and 2016 survey commented on the impact of Health and Safety compliance, respondents to the 2017 survey did not consider regulation to be a major concern, perhaps because the Act is now better understood among workplaces in general.<sup>2</sup>

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<sup>2</sup> The 2017 State of Volunteering survey had 1584 survey participants. 501 participants chose to write a "free text" comment (a general comment on the state of volunteering in New Zealand) and of those 501, only three chose to comment on Health and Safety specifically.

- 4.2 Since the Act is already in force, any initial compliance costs expended by existing associations will already have somewhat amortised (i.e. any on-going compliance costs are likely to be minimal).
- >> We are not aware of any evidence that any compliance costs are a strong disincentive for new volunteer associations that employ staff. The greater risk is that volunteers themselves may be dis-incentivised due to costs associated with safely carrying out work (e.g. protective equipment) or that associations, believing that are exempt, may become vulnerable to WorkSafe prosecution.
- 4.3 Creating a new tier of volunteer workers with a new threshold of 100 hours per week may in fact add a new level of complexity for those aiming to comply with the Act.
- 4.4 We believe that if we supported the Amendment Bill, we would be acting inconsistent with our constitution (e.g. s3.1.5 – promoting ethical and effective practice in volunteering).
- 4.5 Under the Government Policy on Volunteering adopted in 2002, the government of the day endorsed a policy framework that ensured “volunteers have appropriate protection under law,” encouraged VIOs to “develop and maintain good practice in supporting and involving their volunteers” and promised to “consult volunteers and their organisations on policy and operational changes that impact on volunteering.”
- >> We believe that our position is consistent with those first two points. To the last point: VNZ is in a unique position to ascertain the will of the VIO (volunteer-involving organisation) community as a whole. We ask that supporters of the Amendment do not misrepresent these views when speaking on behalf of volunteers.
- 4.6 The Act works on the principle of universal coverage for all workers. Rather than viewing Health and Safety as a “burden,” we believe that a positive culture of Health and Safety needs to be normalised as far as possible.

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## 5. MEMBER FEEDBACK

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VNZ has undertaken a membership consultation process asking for feedback on the draft submission before the Board. All the respondents were in agreement with our position.

*Here is some of the general language used:*

“I totally support your stance on this, volunteers should not be subject to a lower level of protection at all.”

“I can say with all honesty that there is broad-based acceptance that regular volunteers [volunteer workers] deserve the same right to a safe work place as paid staff.”

"We have not received much in the way of concerns about how the act is working now, and it does indeed seem to be well understood by our member organisations. The additional regulation does not seem to have been a burden in the way organisations initially feared."

"...whether a staff member, contractor or volunteer, we expect them all to be able to return from their work each day safely and unharmed."

"If smaller associations are struggling with meeting the requirements, we should not change the legislation, but ensure they receive more support so that they can meet the requirements. New Zealand would not operate without the input of its volunteers and NZ can't afford to lose this contribution, therefore adequate support for the sector is essential."

"While it was a huge amount of work over the last 2 years to develop a Health and Safety policy and roll-out training to our 500+ volunteers, now that we have it in place we want to continue to focus on the safety of our volunteers."

*A specific concern was also made that expressed concern that their VIO would not be able to survive the cost of defending a prosecution from WorkSafe nor can it "insure against fines imposed under the Health and Safety at Work Act."*

- >> Unfortunately, the view (expressed above) that compliance is a threat to VIOs, rather than a normal part of doing business, is widely-held amongst member organisations. In VNZ's opinion, this is avoidable. WorkSafe could do more in its messaging to reassure VIOs that the Health and Safety standard of the original Act is simply one of "reasonably practicable" steps. We recommend an education campaign along these lines.

### **Endorsements**

Finally, VNZ endorses the joint submission made by the United Fire Brigades' Association of New Zealand (UFBA) and the Forest and Rural Fires Association of New Zealand (FRFANZ). This joint submission concerns a specific clause (section 14) which was inserted exempting volunteer workers from the entirety of Part 3 of the current HSAW 2015 Act. This exemption deals with worker engagement, participation, and representation.

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## **6. RECOMMENDATIONS**

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1. Volunteering NZ submits in opposition to the Amendment Bill. VNZ feels that the existing Act is working well and that a change would erode efforts to universalise and normalise a culture of Health and Safety amongst all workers.
2. VNZ recommends that WorkSafe address the specific needs of the volunteer sector in an education campaign. The aim of such a campaign should be to normalise compliance rather than present it as a threat. It should address the responsibilities of volunteers themselves, employees of volunteer organisations and Board members.

Such a campaign need not be a costly exercise but, at the same time, it should recognise the valuable contribution volunteering makes to our economy and society.

3. Finally, VNZ also recommend moves to strengthen Health and Safety protections for volunteer workers. Currently duty of care applies equally to workers and volunteer workers except with regard to worker engagement, representation and participation duties. We recommend moving closer to the equivalent Australian law which preserves these rights. Again, the principle of universal coverage for all workers applies here.

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## **7. NEXT STEPS**

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Volunteering New Zealand would like to take the opportunity to speak at Select committee on our submission.