



**Volunteering SA**

**Submission to the Board of Taxation on the draft  
Charities Bill  
Volunteering SA  
August 2002**

Contact Person:  
Rosemary Sage  
Executive Director  
Volunteering SA  
Tel: 8221 7177  
Email: [rsage@volunteeringsa.org.au](mailto:rsage@volunteeringsa.org.au)

## Introduction

Volunteering SA is the peak body for volunteering in South Australia. VSA 's focus is to provide opportunities for people to participate in society, meet social needs and help build stronger communities. VSA's aim, as a peak body, is to promote volunteering and play a key leadership role in advancing volunteering in South Australia.

This submission was prepared after consultation with Volunteering SA's Advisory Committee<sup>1</sup> with additional input from ordinary members of VSA. Some Volunteering SA members may make their own submissions.

## Summary

Volunteering SA supports the review of the Charities Bill, it is very welcome and long overdue. The draft bill does make many positive recommendations for change that are supported by Volunteering SA.

Volunteering SA supports, in its broad directions, the ACOSS submission "A Charity by any other name...".

Volunteering SA's key concern with the draft bill is with the possible affects on small charitable organisations in forming partnership – auspicing arrangements with non charities.

Another key issues is the importance of establishing a Charities Commission to provide an independent impartial simple method of dealing with the decisions around charities and taxation.

Volunteering SA supports the notion of a similar review for the DGR and PBI status.

This Bill has the potential to have a negative effect upon a part of the volunteer sector. The small not for profit community organisations, most of whom are managed and operated by volunteers are likely to be disadvantaged if the interpretations of the bill are managed in a punitive manner .

There is a degree of concern in the sector around organisations retaining their charitable status for taxation purposes. Without which they would cease to operate.

Volunteering SA has number of concerns about the workability of such a bill on volunteers, the volunteering sector and the organisations that involve volunteers in the delivery of their services.

Volunteering SA has five key points it wishes to raise around the workability of the bill:

- Partnership – Auspicing Arrangements
- Definition of Altruism
- Transparency - Independence from the ATO and establishment of a Charities Commission
- Disqualifying purpose - Advocacy
- Confusion around DGR, PBI and Charitable status

---

<sup>1</sup> The Advisory Committee has representatives from the following organisations: Northern Volunteering, FVRC, SACOSS, ALRM, SAPOL, Department of Veterans Affairs, Sports SA, Conservation Council, Country Arts SA, Lyell Mc Ewin Hospital, AAVA, SES, CANH, SA Volunteer Fire Brigade, Multicultural Communities Council, Youth Affairs Council of SA., Royal Society for the Blind.

# Issues

## 1. Partnership - Auspicing Arrangements

Part 2 – Charities

Clause 4 of the draft bill provides a “Core Definition” of charity.

VSA broadly supports the core definition and welcomes the provisions for self help groups.

VSA is concerned that one word in point (1) (f) partnership could cause some not for profit organisations to lose their charitable status if there was a literal interpretation of the term partnership.

*(1) (f) is not an individual, **partnership**, a political party, a superannuation fund or a government body.*

### Background of concern

Due to the high cost of insurance premiums (increases in the range of 50% of their total income) many community organisations that have charitable status are finding they are unable to continue as independent charitable bodies. Some charities are seeking partnerships or to be auspiced by Local Government or other larger not for profit organisations to be covered by the larger bodies' insurance.

Concern has been expressed about the ongoing charitable status of those partnerships or being auspiced by Local Government or an agency that is not included in the definition of a charity.

Will these organisations lose their charitable status if they are auspiced by Local Government?

Conversely could the charity lose its status as a charity if it developed a partnership with a business/corporate for philanthropic purposes. The nature/ equality of the partnership may vary considerably with organisations. i.e. a mining company totally funds an environmental organisation.

## 2. Definition - Altruism

Volunteering SA defines altruism as:

Having regard to the welfare, well being or best interests of others.

It can be individual focus or a collective.

## 3. Disqualifying Purpose

Under clause 8

*(2) Any of these purposes is a disqualifying purpose:-*

*(a) the purpose of advocating a political party or cause;*

*(b) the purpose of attempting to change the law or government policy;*

*if it is, either on its own or when taken together with one or both of the other of these purposes, more than ancillary or incidental to the other purposes of the entity concerned.*

Volunteering SA believes the attempt to limit the scope of advocacy is not workable.

Organisations spend varying time in their advocacy role and it would be impossible to apply this definition in a fair and consistent manner across the sector.

There needs to be clarity and certainty around whether or not an organisation undertakes an advocacy role as an ancillary or incidental role. How do you codify the percentage of time used for advocacy in an organisation, it would change from month to month and year to year depending on what changes are made to government policy and legislation.

Government expects and or requires some organisations to provide best advice/advocate on behalf of their sector. Volunteering SA is funded by the SA government to provide Best Advice to Government on volunteering issues. Volunteering SA's best advice/advocacy role would be around 8% of our total work load over the past year.

Could VSA lose their charitable status because of this?

In these cases the level of advocacy conducted by the organisations often depends on changes in government social policy.

Volunteering SA supports the view that organisations set up to change the law with no benevolent or altruistic purpose should not be included as charities. These organisations are those Advocacy Groups such as Gun Lobby or Right to Life and Anti vivisectionists.

Volunteering SA supports the ACOSS Proposal viz.:

*"A Charity may have public advocacy purposes (which could be described in the explanatory material as including "attempts to change the law or government policy"), provided those purposes:*

- (1) Further, or aid, or are ancillary or incidental to, its dominant charitable purpose or purposes; and*
- (2) Do not promote a political party or a candidate for political office, unless such purposes are ancillary or incidental to its dominant charitable purpose or purposes."*

#### **4. Transparency - Independent Charities Commission**

The current role of the ATO in regulating charities is inappropriate given the limited expertise and understanding of this sector by the ATO. It is a conflict with their public revenue-raising role.

In order for there to be transparency in dealing with the taxation status of charities Volunteering SA supports the proposal for the establishment of an independent Charities Commission as set up in the UK. It would enable independence and autonomy across levels of government when providing advice on tax rulings and guidelines regarding charitable status.

Volunteering SA's primary concern is the experience within, and the ability of, the ATO to understand the complexities of the not for profit sector and thus avoid a conflict of interest when dealing with issues around the regulation of charities and PBI's. It appears that there are some organisations (Amnesty) who obtain charitable and PBI status through political processes and legislation rather than by meeting the criteria and definition.

#### **5. Confusion around PBI, DGR and Charities**

It is noted that there is a great deal of confusion around this review with regard to whether the review is of PBI, and DGR status as well as the review of Charities.

It would be practicable to modernise/ review all three definitions at this time rather than just the charity. The definition of a PBI is closely related to that of a charity.

## **APPENDIX TO SUBMISSION**

### **1. The importance of volunteering**

Volunteering SA is particularly committed to creating opportunities for people to participate in community life, thus promoting a strong community with participants contributing to a civil society.

Civil society is one in which citizens are engaged in community life. It demonstrates a balance between private and public interests, and a shared sense of purpose and values. In a civil society, citizens pursue their self-interest in a manner that is alive to the needs of others, and that fosters a high level of trust, cooperation and tolerance. Civil society has as an underpinning philosophy that participation in community life promotes positive health outcomes as well as increasing the stock of social capital.

Volunteering improves the quality of life in our communities through cultural and community based programs, through activities that sustain our ethnic cultures and through self help groups that add vitality to our daily lives. Through volunteering people lead healthier, more productive and more fulfilling lives. Volunteering is about solving problems, building healthier communities and empowering people. It is about shared responsibility and creating a culture of social responsibility. The volunteering sector includes much that is entrepreneurial, innovative and risk taking in providing community services to the community.

The contribution made by volunteers across every sector of South Australia is immense. It consists of a diverse range of volunteers and volunteer involving organisations. Recent estimates indicate that there are over 419,300 volunteers, more than 38% of the state's population, providing nearly 80.4 million hours per year between them. (ABS 2000).

Volunteers come from all walks of life and are involved in almost every sector of our society – arts, heritage, community services, consumer services, education, emergency services, environment, health services, justice, migrant support, sport and recreation, tourism and women's services.

The work they undertake is as diverse as the opportunities that exist for paid employment. Their involvement spans from individual efforts to participation in small informal groups, organised clubs, community organisations and community businesses.

Volunteering is the fundamental building block of civil society. Without volunteer commitment, and that of volunteer involving organisations, our society and its social fabric would be the poorer. Volunteering SA hopes that this bill does not have a negative impact on volunteering or the fine reputation volunteering has within the community.

