

A

B I L L

TO

Make provision for volunteering and voluntary organisations; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Interpretation

In this Act—

“charitable purposes” means purposes as are recognised as exclusively charitable under the law of England and “charity” shall be construed accordingly; 5

“employee engaged in volunteering” (“employee”) means any natural person employed by a voluntary organisation or volunteering body, who shall carry out any additional responsibilities for, or provide any additional services to, a voluntary organisation or volunteering body for the benefit of others without payment or the expectation of payment whether in money or money’s worth beyond his contractual salary and the reimbursement of any reasonable and proper expenses incurred by that person in connection with the provision of those services; 10

“institution” includes any trust or undertaking whether or not formally constituted; 15

“voluntary organisation” means—

- (a) a charity; or
- (b) an institution other than a charity which is established for benevolent or philanthropic purposes; 20

“volunteer” means—

- (a) any natural person, other than an employee, who shall provide to, or on behalf of, any voluntary organisation or volunteering body any services, under an arrangement concluded with the voluntary organisation or volunteering body, without payment or the expectation of payment whether in money or money’s worth, other than the reimbursement of any reasonable and 25

	proper expenses incurred by that person in connection with the provision of those services;	
	(b) a farmer or other land owner who shall permit any members of the public access to any land owned by the farmer or other land owners for the purpose of carrying out any voluntary activity on that land or for the purpose of any educational activity; or	5
	(c) any Royal Army, Royal Navy, Royal Air Force or police cadet instructor whether or not such person is paid.	
	“volunteering body” means –	
	(a) an institution other than a voluntary organisation which, whether or not in the course of its business, provides services other than for commercial gain; and includes commercial organisations which provide any services other than for commercial gain ; or	10
	(b) any school or institute of further or higher education providing out of school hours learning activities, including school sports and adventure training;	15
2	Statements of Inherent Risk	
(1)	A volunteer, employee, volunteering body or voluntary organisation may present –	20
	(a) to any person of full age (“the adult person concerned”); or	
	(b) to the parent or guardian of any person not of full age (“the child concerned”),	
	who is to undertake any activity or activities administered or managed by or under the control of the volunteer, voluntary organisation or volunteering body, a written statement (“the Statement of Inherent Risk”) setting out the principal risks which are inherent to the activity or activities undertaken, whether or not such risks shall involve risks of personal injury or harm or risks to property.	25
(2)	The Statement of Inherent Risk shall be in writing and shall explain that if the adult person concerned or the parent or guardian of the child concerned accepts and agrees to the Statement of Inherent Risk that the person or parent or guardian shares responsibility for the safe conduct of the activity.	30
(3)	The Statement of Inherent Risk shall –	
	(a) only list any risk or risks as are intrinsic or incidental to the activity or activities undertaken by the adult person or child concerned and may not list any further or other risks;	35
	(b) not purport to exempt or exclude the volunteer, employee, voluntary body or voluntary organisation or any of its servants or agents from any criminal liability;	40
	(c) not apply to –	
	(i) any activity which the adult person concerned is obliged to undertake for contractual, employment or other compulsory reasons, or	
	(ii) school activities which the child concerned is obliged to undertake or where there is no choice or alternative.	45
(4)	Where in accordance with the provision of this Act any volunteer, employee, voluntary organisation or volunteering body shall have produced a Statement of Inherent Risk and that Statement shall have been agreed with the adult	

person concerned or the guardian or parent of the child concerned, in any subsequent proceedings for negligence or breach of statutory duty, in considering any liability of the volunteer, the employee's voluntary organisation or volunteering body, a court shall—

- (a) have regard to the Statement of Inherent Risk so as to recognise that certain risks are inherent to activities and that accidents may occur without negligence; 5
 - (b) take note of the Statement of Inherent Risk in determining whether the person or persons suffering harm had knowingly accepted that there were risks involved; and 10
 - (c) only uphold any claim for negligence or breach of statutory duty where it would manifestly be unreasonable not to do so.
- (5) The Secretary of State shall by regulations make provision for training courses for members of the judiciary about volunteering, including, in particular, sport and adventure training, and the workings of this Act. 15
- (6) Regulations under this section may prescribe that Sport England, the Central Council for Physical Recreation and such other bodies as the Secretary of State may see fit shall establish training courses pursuant to subsection (5).
- (7) The Lord Chancellor shall in each year lay a report before each House of Parliament setting out— 20
- (a) the training courses provided to members of the judiciary under this section; and
 - (b) the numbers of judges who have attended—
 - (i) training courses provided under this section; or
 - (ii) any other training about the provisions of this Act. 25

3 Amendment of the Financial Services Act 1986

- (1) The Financial Services Act 1986 is amended as follows.
- (2) In section 45(1) there is inserted—
 - “(ja) any voluntary organisation in respect of the sale of, the provision of advice in connection with, taking out or purchasing, a contract of insurance. 30

4 Amendment of the Data Protection Act 1998

- (1) The Data Protection Act 1998 is amended as follows.
- (2) After section 30, there is inserted—
 - “**30A Voluntary bodies and organisations** 35
 - (1) Any voluntary organisation, volunteering body, or statutory body is entitled to reveal—
 - (a) contact details relating to, and
 - (b) the names of officers of
 any voluntary organisation or volunteering body, provided that this information is disclosed in good faith and other than for commercial gain. 40
 - (2) Any voluntary organisation or volunteering body or volunteer shall not be guilty of an offence if, in good faith and other than for

commercial gain, it or he discloses any data in circumstances where the disclosures of that data was, in the opinion of the volunteer, voluntary organisation or volunteering body, necessary for, or desirable in, the public interest

- (3) In this section, “voluntary organisation” and “volunteering body” have the same meanings as in the Promotion of Volunteering Act 2004.”. 5

5 Persons assisting those injured or suffering not to be liable at common law

Any person who—

- (a) without payment or the expectation of payment, assists any other person, and 10
(b) has reasonable grounds for believing that the other person is suffering or injured or faces imminent serious injury,

shall not as a consequence of any action performed by him in good faith be liable at common law for any harm caused to that person unless he intended to cause harm. 15

6 Financial provision

There shall be paid out of money provided by Parliament—

- (a) *any expenditure incurred by the Secretary of State by virtue of this Act;*
(b) *any increase attributable to this Act in the sums payable out of money so provided by virtue of any other enactment.* 20

7 Short title, commencement and extent

- (1) This Act may be cited as the Promotion of Volunteering Act 2004.
(2) This Act extends to England and Wales only.

Promotion of Volunteering Bill

A

B I L L

To make provision for volunteering and voluntary organisations; and for connected purposes.

*Mr Julian Brazier
supported by
Mr Iain Duncan Smith, Mr Bruce George,
Mr Chris Smith, Mr Tim Boswell,
Mr John Burnett, Mrs Gwyneth Dunwoody,
Mr Nick Hawkins, Charles Hendry,
Mr Jimmy Hood, Mr Lindsay Hoyle
and Mr Ian Taylor*

*Ordered, by the House of Commons,
to be Printed, 7th January 2004*

© Parliamentary copyright House of Commons 2004
*Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St. Clements House, 2-16 Colegate, Norwich, NR3 1BQ*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx net