

Senate Finance and Public Administration Legislation Committee
ANSWERS TO QUESTIONS ON NOTICE
BUDGET ESTIMATES 2013-2014

Finance and Deregulation Portfolio

Department/Agency: Australian Electoral Commission

Outcome/Program: General

Topic: Access to Electoral Roll

Senator: Ryan

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Type of question: Written

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Number of pages: 15

Question:

Given that section 90A (2)(a) of the Electoral Act provides that:

(2) “A copy of the following are to be available, at any time during ordinary business hours, for public inspection without fee at each capital city office of the Electoral Commission:

(a) the Roll for each State and Territory; ...”

And;

Section 91A (2A) of the Electoral Act provides that:

(2A) *The permitted purposes in relation to a person or organisation other than a Senator, member of the House of Representatives, political party or prescribed authority are:*

(a) *any purpose in connection with an election or referendum; and*

(b) *monitoring the accuracy of information contained in a Roll; and*

(c) *any other purpose that is prescribed.*

I ask the following:

Has the Commissioner or any officer of the AEC:

- a) Prescribed protocols regarding public access to the electoral roll that restrict public access to an open inspection of the complete electoral roll to which the above sections refer?
 - b) Limited or denied access to inspections of the electoral roll to representatives of the media seeking to access or verify enrolment information?
 - c) Limited access to public inspections of the electoral roll to the purposes of:
 - i) Checking your own enrolment details, and/or
 - ii) Making an objection to the enrolment of another elector?
- 2) If the answer to any of the above questions is ‘Yes’ please provide:
- a) Copies of any protocols, advice to officials and/or internal communications that have communicated such advice to officers or representatives of the AEC;
 - b) An explanation as to the legal basis for the denial of requests to inspect the roll given the broad provisions in section 91A (2A) and that such use does not conflict with the prohibition on the use of the roll for commercial purposes.

- 3) If the answer to any part of question (1)(c), above, is ‘yes’ please explain how an elector is supposed to make an informed objection of another elector if they cannot inspect the roll in the first instance?
- 4) Does the Commissioner consider that media requests to access the electoral roll for the purposes of verifying information constitutes use of the roll for commercial purposes?
- 5) Does the Commissioner consider that there is a public interest in continued media access to the roll consistent with the broad public access provisions outlined in s 90A?
- 6) Does the Commissioner consider that media access to the roll for the purposes of inspection is supported by section 91A (2A), which provides for inspections of the roll for “any purpose in connection with an *election* or *referendum*” or “*monitoring the accuracy of information contained in a Roll*”?

Answer:

- 1)
 - a) Yes. Information about accessing the Roll available for inspection under section 90A(2)(a) of the *Commonwealth Electoral Act 1918* (Electoral Act) is available on the AEC’s website at http://www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/.
 - b) Access by the media to the publicly available Roll is available on the same basis as any other member of the public. The publicly available Roll is used by the public at divisional offices around Australia. Where a member of the public is using it for a purpose which is not permitted, they will be instructed to cease using the publicly available Roll for that purpose and to leave the AEC premises.
The AEC is aware of two instances where people who would be described as representatives of the media have enquired about being denied access to the publicly available Roll:
 - A Sydney-based journalist enquired about being denied access to the Roll and the reasons for such, without providing details of the purpose for which they were using it.
 - A Melbourne-based journalist was denied access to the Roll for the purposes of finding an address for a witness in a criminal case.
 - c) No. The AEC has provided guidance in relation to permitted use which is for the purpose of the conduct of elections and referendums. These uses are wider than just the two categories listed in the question and could include other activities such as confirming that a claimed member of a political party that is seeking registration is on the Roll or that the nominators of an independent candidate are supported by electors who are on the Roll in the relevant state, territory or division.
- 2)
 - a) Copies of currently applicable material are at Attachment A.
 - b) Section 91A(2A) only applies to Roll information that has been released under section 90B of the Electoral Act and not to information that has been the subject of public inspection under section 90A.

- 3) Inspecting the Roll for the purpose of making an objection is one of the explicit purposes for which the publicly available Roll can be used as this purpose directly relates to the conduct of elections and referendums.
- 4) As noted at question 1b above, members of the media can access the publicly available electoral Roll on the same basis, and the same purposes, as any other member of the public. However, if a member of the media stated that the purpose of the access they were seeking to access the Roll did not involve electoral purpose, then such a request would be denied.
- 5) It is the AEC's view that the role of the publicly available Roll is to provide integrity and transparency to the conduct of elections and referendums. In addition as noted above, there are other purposes directly related to the administration of the Electoral Act. There is a separate regime for access to the Roll contained in section 90B of the Electoral Act which is clearly subject to the restrictions and safeguards contained in sections 91A and 91B of the Electoral Act. The purposes to which the electoral Roll should be put is a matter for the Parliament to determine, and may well be the subject of discussion at future Joint Standing Committee's on Electoral Matters.
- 6) As with Question 5, the media is treated no differently than any other member of the public when accessing the Roll.

Terms and conditions for use of the electronic electoral roll (e-roll)

E-roll is provided to allow public inspection of the electoral roll for the purposes of:

- Checking your own enrolment details; or
- Making an objection to the enrolment of another elector.

The right of public inspection does not allow for the copying or recording of e-roll information for such purposes as conducting private investigations, surveys, reunions and genealogies.

Election candidates or a member of a political party or their representatives may use e-roll however before you commence please see AEC staff.

No information from the e-roll may be copied, recorded or photographed with any electronic device.

If you ignore this instruction you will be asked to leave the premises and your actions may be referred to the police.

By accessing the e-roll you are accepting these terms and conditions of use.

Please see an AEC staff member if you need assistance.

The AEC accepts no liability for any injury or damage caused by use of this system.

Managing public access to the Roll

The primary purpose of the collection of personal information that is included in the Roll is for the conduct of elections and referendums.

Availability of the electoral roll for public inspection is legislated under section 90A of the Commonwealth Electoral Act 1918 (CEA).

Public access to this information is defined for the purposes of checking an individual's own enrolment details or for objecting to the enrolment details of another person and does not include the right to copy or record by electronic means the electoral roll or part of (section 90A(5)).

In an effort to raise the awareness of members of the public to the proper use of Public Access Terminals (PATs) [this information](#) is now included on the AEC website.

[http://www.aec.gov.au/Enrolling_to_vote/About Electoral Roll/](http://www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/)

Guidelines for staff on the management of public access to the roll and the sign to be displayed near all PATs have also been updated and [are available](#) on the intranet.

<http://intranet/rollmgt/policies-and-guidelines/managing-e-roll.html>

Further development will include acceptance of 'Terms and Conditions' when a user is logging onto a PAT.

Web Content Review

[http://www.aec.gov.au/Enrolling_to_vote/About Electoral Roll/](http://www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/)

About the Commonwealth electoral roll

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Electoral roll information

When you enrol to vote, your name and address is added to the 'electoral roll' — the list of people entitled to vote in an election.

You only need to complete one enrolment form to enrol for federal, state and local government elections.

If you are an Australian citizen aged 18 and over, you are required by law to keep your details on the electoral roll correct and up-to-date.

Where can I view the electoral roll?

An electronic copy of the current electoral roll is available for public inspection at any [AEC office](#). You may inspect the publicly available electoral roll for the purposes of:

- Checking your own enrolment details, or
- Making an objection to the enrolment of another elector.

You may not copy, record or photograph any information from the electoral roll with any electronic device.

You can also [check your enrolment details online](#) but you must enter your details *exactly* as they appear on the electoral roll.

Under section 90A in the *Commonwealth Electoral Act 1918*, the right to access the electoral roll is integral to the conduct of free and fair elections as it allows participants to verify the openness and accountability of the electoral process.

The AEC also protects personal information on the electoral roll from being misused under the provisions of the *Privacy Act 1988*.

The AEC does not keep historic electoral rolls for public viewing. However, past electoral rolls (before 2006) are available from the National Library of Australia or may be available from state or local libraries.

The roll is not available for sale in any format. Consistent with the restrictions that are in place for roll information provided under section 90B of the Act (section 91B contains offences on the commercial use of section 90B information with penalties of up to \$170,000), the AEC discourages any inspection of the roll information that involves some commercial or other non-electoral use of this information.

Use of E-roll by political parties and candidates

A person (or their representative) who is registering a new political party or is nominating as an independent candidate for an election may attend an AEC office to check the enrolment details of their supporters or use the Online Enrolment Verification Facility (OEVF) available on the AEC website at www.aec.gov.au.

See [Information for Candidates](#)

Supply of elector information

Under the *Commonwealth Electoral Act 1918*, the electoral roll (containing names and addresses) may be supplied to prescribed authorities, such as members of parliament, political parties, approved medical researchers, and public health programs. It is also used to maintain joint Commonwealth and state and territory electoral rolls. For more details see:

- [Prescribed authorities with access to enrolment information](#)
- [Supply of elector information for compliance with identity verification legislation](#)
- [Supply of elector information for use in medical research and public health screening programs](#)

See Also

- [Why was I removed from the roll?](#)
- [A relative has died. How do I remove their name from the roll?](#)
- [A relative has dementia. How do I remove their name from the roll?](#)
- [Can I remove my name from the electoral roll?](#)
- [I don't agree with Australian electoral law, what can I do?](#)

- [Enrolment FAQs](#)
- [Electoral Roll FAQs](#)

Managing use of the E-Roll

Last updated: 03 May 2013 ([Roll management](#))

The publication of the roll is integral to the conduct of free and fair elections. Section 90A of the *Commonwealth Electoral Act 1918* (CEA) provides a right for 'public inspection' of the Roll. Members of the public are able to verify their own electoral details and/or object to the enrolment of any elector.

This information is included on the AEC website ([link](#))

The right of public inspection does not allow for the copying or recording of e-roll information for such purposes as conducting private investigations, surveys, reunions or genealogies. Such action is inconsistent with the 'inspection' right and undermines the safeguards contained in sections 91A and 91B of the CEA which prevent the further use and disclosure of information contained on the Commonwealth Electoral Roll.

Following a recommendation of the Joint Standing Committee on Electoral Matters (JSCEM), section 90A(5) of the *Commonwealth Electoral Act 1918* has been amended to read:

A right of inspection under this section does not include the right to copy or record by electronic means the Roll or a part of the Roll.

A [sign](#) has been developed for [divisional staff](#) to inform the public of this change.

The sign must be printed, laminated and displayed at all e-roll terminals available for public access in national, state and divisional offices.

Monitoring access to public access terminals (PATs)

- The layout of the public area is at the discretion of the local office with consideration to be given to availability and size of the public area
- Where practical, staff are encouraged to place all e-roll terminals in an area visible to staff at all times
- Staff should direct people using e-roll to the sign and provide clarification where required

While at no time placing their own personal safety or that of other staff members and clients at risk, if a member of the public is using an electronic device to copy the roll, AEC staff should:

1. Ask the client to stop copying roll information in a courteous manner and refer them to the sign near the e-roll terminal.
2. If the client continues to copy roll information ask them to leave the office.
3. Advise your manager of the incident immediately.
4. If the client does not stop, inform them you will call the Police to remove them from the office.

Use of the PATs by political parties or their representative

The recent passage of the *Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013* (Act No. 19 of 2013) amended the 500 member requirement so that to be a member the person must be an “elector” which is defined in subsection 4(1) as “any person whose name appears on a Roll as an elector”. Accordingly, party members put forward to support an application for party registration must now be enrolled, as opposed to being entitled to enrolment as was previously the case.

For several years, the Funding and Disclosure Section has encouraged political parties seeking federal registration to check the list of members that they intend to supply along with their application against the public version of the Roll by either using the “Check my enrolment” facility on the AEC website or by using the public terminals in the AEC offices. This has resulted in the more efficient and timely processing of registration applications.

Therefore a person (or their representative) who is registering a new political party for an election may attend an AEC office to check the enrolment details of their supporters.

Prospective political parties will be asked to advise the Registrar of Political Parties (National Office) when they intend to visit an AEC office to conduct this check. The Registrar will then advise the relevant State Manager and AEC office.

However, if AEC staff members are unsure that a person is actually checking a membership list for the purpose of lodging an application for registration as claimed, they can call the Registrar of Political Parties on (02) 6271 4607

Use of public access terminals by candidates or their representative

The recent passage of the *Electoral and Referendum Amendment (Improving Electoral Procedure) Act 2013* (Act No. 19 of 2013) amended the nomination application requirement for signatures of persons entitled to vote at the election for which the candidate is, or the candidates are, nominated from 50 to 100.

Candidates or their representatives may attend an AEC office to check the entitlement of their signatories by confirming their enrolment details.

Excessive Use of the PATs

While there is no time limit for the use of PATs it would be expected that, if used in line with the terms and conditions, a client would not need access for long periods of time. However, this is more difficult to police as clients can still conduct unauthorised searches within any defined period as well as legitimate searches outside a defined period.

Staff should accept a client is adhering to the terms and conditions unless their behaviour indicates otherwise.

In these circumstances staff should refer to the sign and inform them that the AEC has an obligation to protect the personal information held on the roll from being misused.

All AEC staff should familiarise themselves with the Personal Safety Guidelines available on the intranet

