

SCHEDULE OF DOCUMENTS – FREEDOM OF INFORMATION REQUEST NO. LS4202

Number.	Date	Size	Description
1	22/3/2011	1 page	Public notice on use of the electronic Roll (e-Roll) displayed in AEC Offices where access to thee-Roll is given (Appendix A).
2	1/12/2011	4 pages	Extract from the AEC's on-line General Enrolment Manual ('GEM') Version 2 issued December 2011 relating to public access to the roll and its attachment headed Managing use of the E-Roll kept on the AEC's intranet (Appendix B).
3	17/2/2012	5 pages	Email from [name redacted], State Manager, Victoria to all AEC staff in Victoria Appendix C) with personal names, addresses and phone numbers redacted].

PUBLIC NOTICE ON USE OF THE ELECTRONIC ROLL (E-ROLL)

The Electronic Electoral Roll (E-ROLL)

E-Roll is provided to allow public inspection of the electoral roll.

**Please act responsibly when viewing the electoral roll.
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.

If you are experiencing problems, please see an AEC staff member for assistance.

You must not use the E-Roll continuously for more than 45 minutes without taking a break of at least 15 minutes.
This requirement is in line with industry Occupational Health and Safety guidelines.

If there are other people waiting, please only use E-Roll for a maximum of 15 minutes.

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



EXTRACT FROM GEM VERSION 2

1. GEM: Public Access to the Roll

-
- The following are the key references to the electoral Roll being made available for public inspection. Each * indicates that the text is located in a different area of GEM.

Note that the [link](#) in the text below goes to further information on the intranet.

2. *Publicly Available Rolls

- [Electronic Roll \(e-Roll\)](#)
- [Printed Copy of Roll](#)
- [Requests for Written Confirmation of Public Roll Searches](#)

The right of inspection of the publicly available roll does not include the right to copy or record by **electronic** means the roll or a part of the roll. [s.90A CEA]

2.1 Electronic Roll (e-Roll)

The Electoral Commission decides the manner and form in which roll information is made available. [s.90(1) CEA] Under this provision, the roll is available in electronic format (the 'e-Roll'). The AEC provides the e-Roll in DOs and SOs for public inspection free of charge. [s.90 & 90A CEA]

See also: [Electoral Roll](#)

The e-Roll is available in DOs and State Offices displays the roll for all divisions.

The AEC policy on public access to the roll must be displayed in all **public areas** where access to e-Roll is provided. A copy of the policy can be accessed and printed for display using this link: [Policy on using the e-Roll](#). [See attachment below]

Note:

- Members of the public accessing the e-Roll are required to vacate the terminal after 15 minutes, if other users are waiting.
- **Authorisation of the use of cameras, including mobile phone cameras, should not be granted to allow photography of e-Roll.**
- **Personal computers to record information are acceptable so long as the computer has its own power supply and no attempt is made to connect the computer to the AEC computer or AEC computer network.**

2.2 Printed Copy of Roll

The printed copy of the roll is a public document and **cannot be sought under the Freedom of Information Act (FOI) and is not available for purchase.**

2.3 Requests for Written Confirmation of Public Roll Searches

Any requests from persons checking the publicly available electoral roll, for written confirmation that a check has been conducted or what a check has shown **must be declined**. There are no provisions in the *CEA* or the *Electoral Referendum Regulations 1940* to allow for the issue of written confirmation of searches undertaken on the publicly available electoral roll.

If a person is insistent that they require written confirmation for personal, business or legal matters, the person should be referred to the Enrolment Manager (EM) in SO. The EM may wish to refer the matter to NO for further guidance.

DRO's should make a file note of any referrals to the EM and place it in the divisional filing system.

3. *The Electoral Roll

3.1 Inspecting the Electoral Roll

The AEC must make a copy of the electoral roll available for public inspection during normal office hours at no charge. [s.90A(1), (2) & (4) CEA]

The Electoral Commission chooses the manner and form that the roll is made available. [s.90(1) CEA] Currently it is available electronically (e-Roll).

The right of inspection of the publicly available Roll does not include the right to copy or record by electronic means the Roll or a part of the Roll. [s.90(A)(5) CEA]

*Processing GPV Registrations

Note: It is still necessary for all States/Territories to keep the **GPV** Register (print-out from RMANS) for public viewing. [s.184B CEA]

3.2 * Rolls for Public Access

Silent elector applications must be processed promptly, so an applicant's address does not appear on an updated roll or roll product. The electronic public access roll 'eRoll' is updated nightly therefore extra care must be taken when processing applications relating to silent electors.

3.3 *Address on Rolls

The enrolled address of an **itinerant** elector will not appear on the public roll. 'No Fixed Address' will appear in the address field. The enrolled address will appear on the certified list.

The enrolled address of a person who enrolled from outside Australia will not appear on the public roll. 'Eligible Overseas Elector' will display in the address field. The enrolled address will appear on the certified list.

The Norfolk Island elector's address appears as 'Norfolk Island' on both public rolls and certified lists.

3.4 * Specifics for Silent Electors

There are two registers for **silent** electors: the Register of Silent Electors and the register of General Postal Voters - Silent Electors. These must be kept in a locked secure storage area at all times when not in use. When in use, they must be kept well clear of the public area. They are never made available for public access.

.....
Silent elector address details must **never** be made available to the public, including members of government, whether local, state or Commonwealth. The Register of Silent Electors and the register of General Postal Voters - Silent Electors are exempt documents under the FOI Act, and are not available for public access. If state or local government electoral authorities need an address, arrangements must be made through State Office.

Managing use of the E-Roll

Last updated: 04 May 2011 ([Roll management](#))

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.

If a member of the public is using an electronic device to copy the roll, AEC staff should take the following steps:

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 then continues to copy roll information ask them to please leave the office.
3. If the client does not stop, inform the client that you will call the Police to remove them from the office.
4. Advise your Manager of the incident immediately.

At no time should AEC staff place their own personal safety or that of other staff members and clients at risk.

AEC staff should also read the [Personal Safety Guidelines](#) for more information.

Content migration notes:

[\[top of page\]](#)

EMAIL FROM STATE MANAGER, VICTORIA TO ALL AEC STAFF IN VICTORIA

From: [name redacted]
Sent: Friday, 17 February 2012 1:29 PM
To: All VIC Staff
Subject: FW: Inspection of the public version of the Electoral Roll [SEC=UNCLASSIFIED]

UNCLASSIFIED

Colleagues: I have recently been made aware that the Australian Consortium for Social and Political Research Incorporated (ACSPRI) has visited a number of divisional offices in Victoria and has been copying substantial amounts of information from the PAT terminals for research purposes. This is in contravention of the CEA. A letter from [name and position redacted] and the response from [name redacted] are set out below.

This incident reinforces the importance of ensuring that visitors to your offices do not copy significant amounts of information from the public access terminals in your office. Please be quite vigilant in ensuring that the Act is complied with, in particular section 90A of the Commonwealth Electoral Act which states "(5) 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." Many thanks.

[Name redacted]
Australian Electoral Officer and State Manager for Victoria

Australian Electoral Commission

T: [telephone number redacted] | M: [mobile number redacted] | F: [fax number redacted]



UNCLASSIFIED

From: [Name redacted]
Sent: Friday, 17 February 2012 1:04 PM
To: [Email address redacted]
Cc: [Name redacted]
Subject: RE: Inspection of the public version of the Electoral Roll [SEC=UNCLASSIFIED]

UNCLASSIFIED

[Name and address redacted]

Original by email

Dear [Name redacted]

I refer to your email dated 13 February 2012 addressed to the Electoral Commissioner, [name redacted], in which you have asked for official confirmation that your staff are able to attend an office of the AEC to take name and address details from the Commonwealth electoral Roll and to enter this information onto a laptop computer or to transcribe them in handwriting. I also refer to our telephone conversation of 16 February 2012.

Let me clearly state at the outset that the AEC does not agree that the process outlined in your email complies with the requirements of the *Commonwealth Electoral Act 1918* (Electoral Act), particularly in relation to the use and disclosure of the protected information contained on the Commonwealth electoral Roll. Accordingly, the AEC will not be permitting you or your staff to attend AEC premises to continue this activity. If there is some legitimate reason for seeking access to information from the Commonwealth electoral Roll for the purposes of research that is demonstrably in the public interest, then the appropriate process for gaining such access is a formal application to the Electoral Commissioner seeking that he exercise the powers under item 3 of the table in subsection 90B(4) of the Electoral Act. Let me explain the reasons for this conclusion.

The primary purpose of the collection of the “personal information” that comprises the Commonwealth electoral Roll is for the purpose of the conduct of federal elections and referendums. Any action or secondary use that detracts from this primary purpose will be strongly resisted by the AEC. In this regard the AEC notes that in April 2010 the Australian National Audit Office expressed the view in the report entitled “the Australian Electoral Commission’s Preparation for and Conduct of the 2007 Federal General Election” that the AEC should work with the Privacy Commission to “assess the extent to which broad use of electoral-roll information by non-government entities may be adversely impacting on the willingness of Australians to enrol to vote”. Accordingly, it is apparent that there are concerns that any third party access and use of the information contained on the Commonwealth electoral Roll may have an impact on eligible Australians who should otherwise be on the Roll and therefore the ability of the AEC to conduct elections and referendums.

In 2004 the Parliament enacted the *Electoral and Referendum Amendment (Access to Electoral Roll and Other Measures) Act 2004* (Act No. 78 of 2004) and inserted the then new sections 90A, 90B, 91A and 91B into the Electoral Act which specifically protect and restrict access to information from the Commonwealth electoral Roll. The Second Reading Speech to the Bill that became this Amending Act (see House of Representatives Hansard 1 April 2004 page 27929 particularly at page 27930) made it clear the new Bill was to cover the field in relation to access to the electoral Roll. The then Minister went on to state that:

“The bill will amend the roll access provisions to improve clarity, remove contradictions and improve privacy protections. Access to roll information will be set out in a tabular form. The tables will include all information that is currently provided for in the Electoral Act. They list who is entitled to roll information, what information they are entitled to and how often they will receive it...”

There are several further provisions contained in the Electoral Act that support the sensitivity of information that forms part of the Commonwealth electoral Roll. Section 390 of the Electoral Act creates absolute privilege in relation to claims for enrolment and transfers for enrolment being produced to a Court. Paragraph 390(1)(b) extends this absolute privilege to “any matter or thing in relation to” such claims. As the Commonwealth electoral Roll is the resultant database within the AEC that records these claims and details, it is apparent that the Roll itself will fall within the scope of this section together with

any applications for enrolment and transfer of enrolment. Section 390A of the Electoral Act exempts these records from search warrants issued under the *Crimes Act 1914*.

Where Commonwealth electoral Roll information is lawfully disclosed by the AEC under section 90B of the Electoral Act, subsection 91A(1) of the Electoral Act continues to apply to the use and further disclosure of that information by the recipient and precludes any further use or disclosure of that protected information for other than a permitted purpose. This is enforceable by a criminal sanction of 100 penalty units (i.e. \$11,000.00). In addition, section 91B of the Electoral Act also continues to apply to prohibit any further disclosure or use for a commercial purpose. This is enforceable by a criminal sanction of 1,000 penalty units (i.e. \$110,000.00).

I also note that section 47A of the *Freedom of Information Act 1982* prevents any third person obtaining enrolment details of another person pursuant to an FOI request. Accordingly, any FOI request from person (other than the elector themselves) seeking enrolment information would be refused by the AEC as those records are exempt documents.

Section 90A of the Electoral Act provides a right for “public inspection” of the Roll during ordinary business hours at premises occupied by the AEC. The right of public inspection does not specifically include a right to copy or transcribe the information from the Roll for the purposes that you have indicated. Such action would be inconsistent with the “inspection” right and undermine the safeguards contained in sections 91A and 91B of the Electoral Act which prevent the further use and disclosure of information contained on the Commonwealth electoral Roll.

In 2010, the Electoral Act was specifically amended item 1 of Schedule 7 to the *Electoral and Referendum Amendment (Modernisation and Other Measures) Act 2010* (the Amendment Act). The Explanatory Memorandum to the Amendment Act described this as:

“Item 1 – At the end of section 90A

Item 1 amends section 90A which requires a version of the electoral Roll, which includes an elector’s name and address, to be publicly available for viewing at the office of each DRO, the capital city offices of the Electoral Commission and such other places as the Electoral Commissioner determines.

Item 1 inserts new subsection 90A(5) that clarifies that there is no right to copy or record by electronic means the publicly available Roll. Subsection 90A(5) does not provide for an offence.

The amendment in Item 1 is based on the unanimously supported recommendation 53 of the JSCEM Report.”

The electronic copying and dissemination of Roll information is therefore expressly forbidden. Further the AEC is of the view that any large-scale copying of information from the Commonwealth electoral Roll is not just the “inspection” of the Roll and therefore beyond the right that is given in section 90A of the Electoral Act. Such action is not only in conflict with the requirements of the Electoral Act itself but also raises serious concerns about the operation of the *Privacy Act 1988*. Of particular relevance are the obligations set out in Information Privacy Principle 4 in relation to taking action to protect the “personal information” from being misused.

Way forward

Item 3 in the table in subsection 90B(4) of the Electoral Act provides the Electoral Commissioner with a discretion to disclose certain information from the public version of the Commonwealth electoral

Roll. That information is limited to name and address and does not include either date of birth information or the sex of an elector (see subsection 90B(7)).

In considering applications for access to an extract from the Commonwealth electoral Roll under this power, the Electoral Commissioner will consider a similar range of information to that which is required to be provided under the "Guidelines under section 95 of the Privacy Act 1988" issued by the National Health and Medical Research Council in March 2000. This information must include such matters as:

- (a) the aims of the research;
- (b) the public interest for the particular research;
- (c) the credentials and technical competence of the researcher;
- (d) the data needed and how it will be analysed;
- (e) the sources of data to be used;
- (f) the study period;
- (g) the target population;
- (h) the reasons why identified or potentially identifiable information is needed rather than de-identified information, and the reasons why it is not proposed to seek consent to the use of personal information;
- (i) the specific uses to which the personal information used during the study will be applied;
- (j) the proposed method of publication of results of the research;
- (k) the estimated time of retention of the personal information;
- (l) the identity of the custodian(s) of the personal information used during the research;
- (m) security standards to be applied to the personal information. In particular, that personal information will be retained in accordance with the *Joint NHMRC/AVCC Statement and Guidelines on Research Practice* (Appendix 3), and in a form that is at least as secure as it was in the sources from which the personal information was obtained unless more stringent legislative or contractual provisions apply;
- (n) a list of personnel with access to the personal information;
- (o) the standards that will be applied to protect personal information disclosed by a Commonwealth agency;
- (p) the proposed methods of disposal of the personal information on the completion of the research;
- (q) the standards that will be applied to protect privacy of personal information where it is made available to other researchers or third parties if that is proposed.
- (r) any other information that the researcher believes to be relevant in weighing up the competing public interests.

Until such time as the Electoral Commissioner (or his delegate) is provided with the above information, the AEC is unable to authorise or permit the continued access and proposed use of the Commonwealth

electoral Roll as outlined in your email. I note that at this time I have the delegated authority to deal with such requests on behalf of the Electoral Commissioner.

I trust that the above information is clear.

Yours sincerely

[Name redacted]

Chief Legal Officer

Legal and Compliance Branch

Australian Electoral Commission

T: [telephone number redacted] F: [fax number redacted]

From: [Email address redacted]

Sent: Monday, 13 February 2012 4:18 PM

To: [Name redacted]

Subject: Inspection of the public version of the Electoral Roll

Dear Commissioner,

I represent the Australian Consortium for Social and Political Research Incorporated (ACSPRI). ACSPRI is a consortium of universities and government research agencies, established as a non-profit organisation in 1976 to support and promote social science. It runs intensive courses on social science research methods; supports and collaborates with the Australian Data Archive; develops Open Source survey software; and undertakes surveys for university researchers.

ACSPRI undertakes a national social survey that constitutes the Australian component of the International Social Survey Project (ISSP). The survey is the Australian Survey of Social Attitudes. This survey and its predecessor constitute the principal source of data for the scientific study of the social attitudes, beliefs and opinions of Australians, how they change over time, and how they compare with the approximately 40 nations who participate in the ISSP.

We use the electoral roll to select a representative sample of Australians for this survey. Our sample design is based on standard scientific procedures. It involves staff viewing the electoral roll at an AEC office, and manually entering names and addresses into a file on a laptop computer.

Today, one AEC office employee has told us that our staff member would not be allowed to continue this work from tomorrow. The issue is the interpretation of the subsection of section 90A of the Commonwealth Electoral Act :

"(5) 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."

I imagine it might take a lot of time and effort to achieve a definition of 'copying and recording by electronic means' that can determine if manually entering names and addresses into a file on a laptop computer was proscribed by the Act. However, my understanding is that official confirmation that ACSPRI is permitted to use laptops would satisfy the AEC staff, and it may be that this can be provided without requiring a universally applicable interpretation of subsection 5. So I propose to write to you to request permission specifically for ACSPRI staff to collect names and addresses, as described above, for the purpose of undertaking its survey activities.

In the mean time, we are currently part way through sample selection for the first of four stages of the 2012 Australian Survey of Social Attitudes. Pending my written request to you for future survey activities, I would like to ask now that ACSPRI be permitted to continue its sampling selection for the Australian Survey of Social Attitudes through till Monday 20 Feb, using terminals at the Victorian AEC offices in Ringwood, Camberwell, Thornbury and Mulgrave

Information about ACSPRI is available at www.acspri.org.au

Information about the ISSP is available at www.issp.org

Regards,

[Name Redacted]

Executive Director, ACSPRI

UNCLASSIFIED