

Being a Silent Elector in NSW

Legal requirements for becoming a silent elector

Background

Under Australian law, a person may have their address removed from the Electoral Roll if they believe that listing it would risk their personal safety or the safety of their family members (section 104(1) *Commonwealth Electoral Act 1918*).

Provided a person's claim is successful, they may either have their address removed from the Electoral Roll, or claim enrolment without their address being listed. This means they are granted **silent elector status**, and only their name will be shown on the publicly available Electoral Roll.

If you are a silent elector, voting is still compulsory.

Who might want to become a silent elector?

Silent elector status is not automatically granted, and it is important to understand that you cannot become a silent elector simply because you value your privacy.

Rather, each application is assessed by a Divisional Returning Officer and must include details about the relevant risk. In *Country and Australian Electoral Commission* [2002] AATA 884, the Tribunal decided that an Officer could not be satisfied that there was a relevant risk if there was no evidence of a threat of physical harm. In line with this decision, it is unlikely that a person would be granted silent elector status if there were no threat of physical harm.

People who may be eligible and may wish to apply for silent elector status could include sex workers or survivors of domestic violence.

How do I become a silent elector?

If you are already enrolled to vote:

- Complete a silent elector form that corresponds with New South Wales (available on www.aec.gov.au/Enrolling_to_vote/Special_Category/Silent_Electors.htm); and
- Send the form to the AEC with a completed statutory declaration explaining the nature of the risk to you and how it compromises your personal safety.

Please note that a separate silent elector form is needed for each person seeking silent elector status – you cannot complete one for a household. You can provide one statutory declaration as long as it includes the names of all the people applying.

If you have changed your name or address and have already been granted silent elector status, you need not reapply. Simply update your details with the AEC online.

If you are not yet enrolled to vote:

- Enroll online or complete a PDF version of the enrolment form and return it to the Australian Electoral Commission with your silent elector form. Silent elector forms are available on the www.aec.gov.au/Enrolling_to_vote/Special_Category/Silent_Electors.htm

What if my registration to be a silent elector is unsuccessful?

If you are unsuccessful in being granted silent elector status in accordance with section 104(1), you are entitled to request a review of the decision under section 120 of the *Commonwealth Electoral Act*.

To seek internal review, you must apply in writing to the Electoral Commissioner for a review of the decision. The Reviewer must then make a decision:

- Confirming the original decision;
- Varying the original decision; or
- Setting aside the original decision and substituting it with a new one.

If you are still dissatisfied with the internal review decision, you may apply to the Administrative Appeals Tribunal (AAT) for review in accordance with section 121(1)(d) or (e) of the *Commonwealth Electoral Act*.

For more information:

- Contact your local Australian Electoral Commission Office; or
- Visit the AEC website.

This information is current to 25 August 2021 and reflects the law in New South Wales. It is general information and is no substitute for legal advice tailored to your particular circumstances. For assistance, contact the ICLC on 9332 1966.