

Australian Bureau of Statistics: survey powers

1. Summary

The [Australian Bureau of Statistics](#) ('ABS') has been given wide powers under the [Census and Statistics Act 1905 \(Cth\)](#) to gather statistical information.

It is an offence for an individual to refuse to answer a survey which compelled them to disclose personal information relating to their shopping activities unless they were refusing to do so on religious grounds.¹ The information however would remain confidential and cannot be disclosed unless it is already publicly available or the individual gave the ABS permission to disclose the information.²

2. Details

The principal legislation determining the functions and responsibilities of the Australian Bureau of Statistics are the [Australian Bureau of Statistics Act 1975 \(Cth\)](#) and the [Census and Statistics Act 1905 \(Cth\)](#). The [Census and Statistics Act 1905 \(Cth\)](#) ('the Act') governs the collection of statistical and census information.

2.1 What Information can an ABS Statistician collect?

Under Section 9 of the Act an ABS Statistician may collect statistical information on:³

- (a) migration;
- (b) births, deaths, marriages and divorces;
- (c) population and the social, economic and demographic characteristics of the population;
- (d) health, health services and quarantine;
- (e) health benefit and health insurance schemes;
- (f) social and welfare services;
- (g) pension and superannuation schemes;
- (h) accidents and injuries;
- (i) public safety;
- (j) law;
- (k) crime;
- (l) the Defence Force and police forces;
- (m) local government;
- (n) education;
- (o) scientific research and development;
- (p) recreation and entertainment;
- (q) cultural activities;
- (r) tourism;
- (s) energy;
- (t) water resources;
- (u) conservation and environment;

¹ [Census and Statistics Act 1905 \(Cth\)](#) s 14.

² [Census and Statistics Act 1905 \(Cth\)](#) s 19.

³ [Statistics Regulations \(Cth\)](#) r 5.

- (v) agricultural, apicultural, poultry, dairying and pastoral industries and related service industries;
- (w) fishing, hunting and trapping;
- (x) mining, mineral and petroleum exploration, quarrying and related service industries;
- (y) forestry, saw milling and related service industries;
- (z) manufacturing;
- (aa) housing;
- (ab) construction and demolition;
- (ac) repairs and maintenance;
- (ad) wholesaling and retailing;
- (ae) food preparation and food consumption;
- (af) transport and storage;
- (ag) wages, earnings, hours of employment and workers' compensation;
- (ah) conditions of employment;
- (ai) employment and unemployment;
- (aj) industrial disputes and arbitration;
- (ak) employers' and employees' associations;
- (al) income, expenditure and savings in relation to a person, household or family;
- (am) prices and charges;
- (an) business, professional, personal and household services;
- (ao) trade and commerce;
- (ap) overseas transactions;
- (aq) banking;
- (ar) insurance;
- (as) finance;
- (at) ownership and control of property;
- (au) assets, liabilities and financial operations and transactions of a natural person or an organisation;
- (av) land tenure and occupancy;
- (aw) real estate including land and property development;
- (ax) taxation;
- (ay) investment;
- (az) communications.

2.2 Is the Survey compulsory?

Initially, an individual will be requested to complete the survey.

If the individual refuses, the Statistician has authority under Subsections 10(4) and 11(2) of the Act to direct the individual to answer the survey. This direction must be given in writing. Once given this direction, a person cannot refuse to answer the survey, unless they are objecting on religious grounds. A person who, without reasonable excuse fails to complete the survey upon direction of the Statistician is guilty of an offence punishable by a fine of no more than \$100 per day that they fail to provide the information, after the deadline specified in the written direction.⁴

⁴ *Census and Statistics Act 1905* (Cth) s 14.

A person may not make a statement, either orally or in writing, or furnish a document containing information, that is to his or her knowledge false or misleading in a material particular. Penalty is \$1000.⁵

2.3 Can the Statistician enter a person's home?

The Statistician or an authorised officer cannot enter a dwelling house (including a flat or home unit or premises occupied or used for the purposes of residence or sleeping). They may however at all reasonable times, enter any other premises for the purpose of:⁶

- (a) Supplying persons with forms;
- (b) collecting forms that have been supplied to persons; and
- (c) making inquiries for the purposes of the Act.

2.4 What Will the ABS do with the information?

The Act prohibits the disclosure of identifiable information of a personal or domestic nature and requires that information can only be published in a manner that is not likely to enable the identification of a particular person or organisation.⁷

Information other than personal information may occasionally be released under the circumstances of a ministerial determination. The determination provides for the disclosure of certain classes of information, which are unlikely to be of concern to the respondents involved. Examples of information which can be disclosed under the determination include information which is already in the public domain or information disclosed with the consent of the respondent.

The secrecy provisions of the Act provides a fine of up to \$5,000 and/or a penalty of 2 years imprisonment for an unauthorised disclosure of information collected under the Act.

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⁵ *Census and Statistics Act 1905* (Cth) s 15.

⁶ *Census and Statistics Act 1905* (Cth) s 18.

⁷ *Census and Statistics Act 1905* (Cth) s 19.