

STATUTORY FRAMEWORK FOR PUBLIC ACCESS TO INFORMATION

Local Government Act 1995

5.94. Public can inspect certain local government information

A person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection —

- (a) any code of conduct;
- (aa) any regulations prescribing rules of conduct of council members referred to in section 5.104;
- (ab) any register of complaints referred to in section 5.121;
- (b) any register of financial interests;
- (c) any annual report;
- (d) any annual budget;
- (e) any schedule of fees and charges;
- (f) any plan for the future of the district made in accordance with section 5.56;
- (g) any proposed local law of which the local government has given Statewide public notice under section 3.12(3);
- (h) any local law made by the local government in accordance with section 3.12;
- (i) any regulations made by the Governor under section 9.60 that operate as if they were local laws of the local government;
- (j) any text that —
 - (i) is adopted (whether directly or indirectly) by a local law of the local government or by a regulation that is to operate as if it were a local law of the local government; or
 - (ii) would be adopted by a proposed local law of which the local government has given Statewide public notice under section 3.12(3);
- (k) any subsidiary legislation made or adopted by the local government under any written law other than under this Act;
- (l) any written law having a provision in respect of which the local government has a power or duty to enforce;
- (m) any rates record;
- (n) any confirmed minutes of council or committee meetings;
- (o) any minutes of electors' meetings;
- (p) any notice papers and agenda relating to any council or committee meeting and reports and other documents that have been —
 - (i) tabled at a council or committee meeting; or

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

- (ii) produced by the local government or a committee for presentation at a council or committee meeting and which have been presented at the meeting;
- (q) any report of a review of a local law prepared under section 3.16(3);
- (r) any business plan prepared under section 3.59;
- (s) any register of owners and occupiers under section 4.32(6) and electoral rolls;
- (t) any contract under section 5.39 and variation of such contract;
- (ta) a report on a supplementary audit prepared under section 7.12AH(1);
- (u) such other information relating to the local government —
 - (i) required by a provision of this Act to be available for public inspection; or
 - (ii) as may be prescribed.

[Section 5.94 amended by No. 49 of 2004 s. 42(7); No. 1 of 2007 s. 7; No. 5 of 2017 s. 9.]

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

5.95. Limits on right to inspect local government information

- (1) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information —
 - (a) which is not current at the time of inspection; and
 - (b) which, in the CEO's opinion, would divert a substantial and unreasonable portion of the local government's resources away from its other functions.
- (2) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (m), (n), (p) or (u) of that section if the information relates to any debt owed to the local government by a person other than the first-mentioned person.
- (3) Subject to subsection (4), a person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (n) or (p) of that section if the meeting or that part of the meeting to which the information refers —
 - (a) was closed to members of the public; or
 - (b) in the CEO's opinion, could have been closed to members of the public but was not closed.
- (4) Subsection (3) does not apply in relation to information —
 - (a) that is a record of the decisions made at a meeting of a council, a committee or electors; or
 - (b) of a kind prescribed as being information that can be inspected by members of the public despite subsection (3).
- (5) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (t) of that section if —
 - (a) the information relates to a matter other than the salary or the remuneration or benefits payable under the contract; and
 - (b) the information is prescribed as being of a private nature.
- (6) Subject to subsection (7), a person's right to inspect information referred to in section 5.94 does not extend to the inspection of information —
 - (a) referred to in a paragraph of that section that is prescribed as being confidential information for the purposes of this subsection; or
 - (b) referred to in that section of a type prescribed as confidential for the purposes of this subsection,

for the period of time prescribed in relation to the information.
- (7) Subsection (6) does not apply in respect of information in relation to a local government if —
 - (a) the information is prescribed as information that is confidential but that may be available for inspection if the local government so resolves; and

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

(b) the local government has resolved that the information is to be available for inspection.

(8) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in paragraph (m) of that section if the information is information that has been omitted by regulations made under section 4.38 from the electoral roll for the protection of an elector or his or her family.

[Section 5.95 amended by No. 49 of 2004 s. 54.]

5.96. Copies of information to be available

If a person can inspect certain information under this Division, the person may request a copy of the information and, unless regulations prescribe otherwise, the local government is to ensure that copies are available and that the price at which it sells copies does not exceed the cost of providing the copies.

[Section 5.96 amended by No. 17 of 2009 s. 31.]

5.97. Freedom of Information Act 1992 not affected

Nothing in this Division affects the operation of the *Freedom of Information Act 1992*.

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

LOCAL GOVERNMENT (ADMINISTRATION) REGULATIONS 1996

Part 7 — Access to information

[Heading inserted in Gazette 26 Aug 2011 p. 3487.]

29. Information to be available for public inspection (Act s. 5.94)

(1) Subject to sub regulation (2), the information prescribed for the purposes of section 5.94(u)(ii) is —

- (a) the information contained in a register to which section 5.18 applies; [register of delegations to committees]
- (b) the information contained in a register to which section 5.46(1) applies; [register of delegations to CEO and employees]
- (ba) the information contained in an electoral gift register established and maintained under regulation 30G(1) of the *Local Government (Elections) Regulations 1997*;
- (baa) the information contained in a register maintained under regulation 12(5) of the *Local Government (Rules of Conduct) Regulations 2007*;
- (bb) the information contained in a register of notifiable gifts referred to in regulation 34B(5);
- (bc) details of a regional price preference policy adopted in accordance with Part 4A of the *Local Government (Functions and General) Regulations 1996*;
- (c) unconfirmed minutes of council or committee meetings;
- (d) notice papers and agenda relating to any council or committee meeting and reports and other documents which —
 - (i) are to be tabled at the meeting; or
 - (ii) have been produced by the local government or a committee for presentation at the meeting,and which have been made available to members of the council or committee for the meeting;
- (e) the information contained in a **tenders register** kept under the *Local Government (Functions and General) Regulations 1996*.

(2) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in sub regulation (1)(c) if the meeting or that part of the meeting to which the information refers —

- (a) was closed to members of the public; or
- (b) in the CEO's opinion, could have been closed to members of the public but was not closed,

unless the information to be inspected is a record of a decision made at the meeting.

(3) A person's right to inspect information referred to in section 5.94 does not extend to the inspection of information referred to in sub regulation (1)(d) if, in the

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

CEO's opinion, the meeting or that part of the meeting to which the information refers is likely to be closed to members of the public.

[Regulation 29 amended in Gazette 23 Apr 1999 p. 1718; 25 Feb 2000 p. 969; 21 Aug 2007 p. 4189-90.]

29A. Limits on right to inspect local government information (Act s. 5.95)

(1) For the purposes of section 5.95(5)(b), the following information is prescribed as being of a private nature —

- (a) the name, address and other personal details of the employee; and
- (b) details regarding a bank, or other financial institution, where the employee's remuneration and other benefits are to be credited.

(2) For the purposes of section 5.95(6), the following information is prescribed as information that is **confidential** but that, under section 5.95(7), may be available for inspection if a local government so resolves —

- (a) information referred to in section 5.94 that would reveal the determination by the local government of a price for the sale or purchase of property by the local government; and
- (b) information referred to in section 5.94 about the discussion of such a matter; and
- (c) information referred to in section 5.94 which deals with anything in respect of which a meeting has been closed under section 5.23.

(3) The information referred to in subregulation (2)(a) and (b) is confidential until the sale or purchase takes place, or a decision is made that the sale or purchase will not take place.

[Regulation 29A inserted in Gazette 31 Mar 2005 p. 1040-1.]

29B. Copies of certain information not to be provided (Act s. 5.96)

A local government must not make available to a person copies of information referred to in section 5.94(m) or (s) unless —

- (a) the request for the information is made in the manner and form approved by the CEO of the local government; and
- (b) the CEO of the local government is satisfied, by statutory declaration or otherwise, that the information will not be used for commercial purposes.

[Regulation 29B inserted in Gazette 28 Feb 2014 p. 519.]

Local Government Act 1995:

5.23. Meetings generally open to public

(1) Subject to subsection (2), the following are to be open to members of the public —

- (a) all council meetings; and
- (b) all meetings of any committee to which a local government power or duty has been delegated.

(2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —

- (a) a matter affecting an employee or employees; and
- (b) the personal affairs of any person; and
- (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
- (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
- (e) a matter that if disclosed, would reveal —

- (i) a trade secret; or
- (ii) information that has a commercial value to a person; or
- (iii) information about the business, professional, commercial or financial affairs of a person,

where the trade secret or information is held by, or is about, a person other than the local government; and

- (f) a matter that if disclosed, could be reasonably expected to —
 - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and
- (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
- (h) such other matters as may be prescribed.

(3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

TENDER REGISTER:

Local Government (Functions and General) Regulations 1996

17. Tenders register

- (1) The CEO is responsible for keeping the tenders register and making it available for public inspection.
- (2) The tenders register is to include, for each invitation to tender —
 - (a) a brief description of the goods or services required; and
 - [(b) deleted]*
 - (c) particulars of —
 - (i) any notice by which expressions of interests from prospective tenderers was sought; and
 - (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under regulation 23(4);
 - and
 - (d) a copy of the notice of the invitation to tender; and
 - (e) the name of each tenderer whose tender has been opened; and
 - (f) the name of any successful tenderer.
- (3) The tenders register is to include for each invitation to tender the amount of the consideration or a summary of the amount of the consideration sought in the tender accepted by the local government.

[Regulation 17 amended in Gazette 29 Jun 2001 p. 3131; 18 Sep 2015 p. 3807.]

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

EXTRACT FROM SCHEDULE 1 - EXEMPT MATTER: FREEDOM OF INFORMATION ACT 1992:

3. Personal information

- (1) Matter is exempt matter if its disclosure would reveal personal information about an individual (whether living or dead).
- (2) Matter is not exempt matter under subclause (1) merely because its disclosure would reveal personal information about the applicant.
- (3) Matter is not exempt matter under subclause (1) merely because its disclosure would reveal, in relation to a person who is or has been an officer of an agency, prescribed details relating to —
 - (a) the person; or
 - (b) the person's position or functions as an officer; or
 - (c) things done by the person in the course of performing functions as an officer.
- (4) Matter is not exempt matter under subclause (1) merely because its disclosure would reveal, in relation to a person who performs, or has performed, services for an agency under a contract for services, prescribed details relating to —
 - (a) the person; or
 - (b) the contract; or
 - (c) things done by the person in performing services under the contract.
- (5) Matter is not exempt matter under subclause (1) if the applicant provides evidence establishing that the individual concerned consents to the disclosure of the matter to the applicant.
- (6) Matter is not exempt matter under subclause (1) if its disclosure would, on balance, be in the public interest.

[Clause 3 amended by No. 19 of 2010 s. 59.]

4. Trade secrets, commercial and business information

- (1) Matter is exempt matter if its disclosure would reveal trade secrets of a person.
- (2) Matter is exempt matter if its disclosure —
 - (a) would reveal information (other than trade secrets) that has a commercial value to a person; and
 - (b) could reasonably be expected to destroy or diminish that commercial value.
- (3) Matter is exempt matter if its disclosure —
 - (a) would reveal information (other than trade secrets or information referred to in subclause (2)) about the business, professional, commercial or financial affairs of a person; and
 - (b) could reasonably be expected to have an adverse effect on those affairs or to prejudice the future supply of information of that kind to the Government or to an agency.
- (4) Matter is not exempt matter under subclause (1), (2) or (3) merely because its disclosure would reveal information about the business, professional, commercial or financial affairs of an *agency*.

Attachment 3 - Special Electors Minutes - Statutory Framework Access to Local Government Information

- (5) Matter is not exempt matter under subclause (1), (2) or (3) merely because its disclosure would reveal information about the business, professional, commercial or financial affairs of the *applicant*.
- (6) Matter is not exempt matter under subclause (1), (2) or (3) if the applicant provides evidence establishing that the *person concerned consents to the disclosure* of the matter to the applicant.
- (7) Matter is not exempt matter under subclause (3) if its disclosure would, on balance, be in the public interest.

[Clause 4 amended by No. 19 of 2010 s. 59.]

7. Legal professional privilege, matter subject to

- (1) Matter is exempt matter if it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) Matter that appears in an internal manual of an agency is not exempt matter under subclause (1).

[Clause 7 amended by No. 19 of 2010 s. 59.]

8. Confidential communications

- (1) Matter is exempt matter if its disclosure (otherwise than under this Act or another written law) would be a breach of confidence for which a legal remedy could be obtained.
- (2) Matter is exempt matter if its disclosure —
 - (a) would reveal information of a confidential nature obtained in confidence; and
 - (b) could reasonably be expected to prejudice the future supply of information of that kind to the Government or to an agency.
- (3) Matter referred to in clause 6(1)(a) is not exempt matter under subclause (1) unless its disclosure would enable a legal remedy to be obtained for a breach of confidence owed to a person other than —
 - (a) a person in the capacity of a Minister, a member of the staff of a Minister, or an officer of an agency; or
 - (b) an agency or the State.
- (4) Matter is not exempt matter under subclause (2) if its disclosure would, on balance, be in the public interest.

[Clause 8 amended by No. 19 of 2010 s. 59.]