

5. MEETING PROVISIONS

PART VII OF THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT

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The Purpose of Part VII of the Act

Part VII of the LGOIMA places certain obligations on local authorities with regard to the conduct of meetings.¹

The definition of "Local Authority" and "Meeting"

Section 2(1) of the Act states that "local authority" means:

"(b) ...those local authorities and public bodies named or specified in the First Schedule or the Second Schedule to this Act"

and includes:

"(c) Any committee or subcommittee or standing committee or special committee or joint standing committee or joint special committee which the local authority is empowered to appoint under its standing orders or rules of procedure or under any enactment or Order in Council constituting the local authority or regulating its proceedings; and

(d) A committee of the whole local authority."

The types of bodies listed in the First and Second Schedule to this Act include District, City and Regional Councils, Boards of Trustees constituted under Part IX of the Education Act 1989, Licensing Trusts, Fish and Game Councils and Conservation Boards to name a few.

Section 45 of the Act states that, in relation to local authorities, a "meeting" means:

"(a) Any annual, biennial, triennial, ordinary, special or emergency meeting of a local authority; and

(b) Any meeting of -

(i) Any committee or standing committee or special committee or subcommittee of a local authority; and

(ii) Any meeting of any joint standing committee or joint special committee appointed by 2 or more local authorities, and any subcommittee of any such committee -

if -

(iii) Any function, duty, or power is conferred or imposed on that committee or subcommittee by any enactment; or

(iv) That committee or subcommittee is empowered to exercise or perform, on behalf of any local authority or any committee of

¹ Sections 45 - 54, LGOIMA

any local authority, any function, duty, or power conferred or imposed on any local authority, or on any committee of any local authority, by or under any enactment or bylaw."

Section 45(2) clarifies that any meeting of a local authority, committee or subcommittee at which no resolutions or decisions are made is not a "meeting" for the purposes of Part VII of the Act.

Notification requirements

Section 46(1) requires local authorities to notify the public in advance of meetings.

The section states that local authorities shall, not more than 14 days and not less than 5 days before the end of every month, notify the public of all the meetings scheduled for the next month, together with the times, dates and places of those meetings.

Where any meeting is to be held on, or after, the 21st day of any month, the local authority may, instead, notify the public of the meeting not more than 10 days and not less than 5 working days before the day of the meeting.²

Where any special meeting is called, and notice cannot be given in the manner required, the local authority shall ensure that the public is notified of the meeting, and the general nature of the business to be transacted, as soon as practicable before the meeting is held.³ Where any emergency meeting is called and notice cannot be given in the manner required, the local authority should give such public notice of the meeting, and the business to be transacted, as is reasonable in all the circumstances.⁴

No meeting of any local authority is invalid merely because that meeting was not publicly notified in accordance with the Act.⁵ However, if a local authority becomes aware that a meeting has not been publicly notified in accordance with the Act, that local authority shall, as soon as practicable, give public notice that the meeting was not notified. The local authority shall state the general nature of the meeting that took place and the reasons why no notification of the meeting was given.⁶

Where any resolution is passed at an emergency meeting of a local authority, the local authority shall cause the resolution to be publicly notified as soon as practicable, unless the resolution was passed at a meeting or part of a meeting from which the public was excluded.⁷

Agendas and Minutes

Agendas

Section 46A states that any member of the public may inspect, during a period of at least two working days before a meeting, all agendas and associated reports to be circulated relating to the meeting. The agendas may be inspected during normal office hours at the local authority's offices or public libraries, without payment of a fee. If a member of the

² Section 46(2), LGOIMA

³ Section 46(3), LGOIMA

⁴ Section 46(4), LGOIMA

⁵ Section 46(5), LGOIMA

⁶ Section 46(6), LGOIMA

⁷ Section 51A, LGOIMA

public requests a copy of the agenda or associated reports, and pays the prescribed fee (if any), a copy shall be provided as soon as practicable.⁸

Where an item is not listed on an agenda for a meeting, that item may be dealt with at the meeting if:

- ❖ the local authority decides, by resolution, to do so; and,
- ❖ the presiding member explains to the meeting, at a time when it is open to the public, why the item was not listed on the agenda and why the discussion cannot be delayed to a subsequent meeting.⁹

The principal administrative officer may exclude information from reports made available under section 46A if he or she reasonably expects that the public will be excluded from the meeting when that information is discussed.¹⁰ The Principal Administrative Officer shall indicate on the agenda those items that he or she reasonably expects the meeting to discuss with the public excluded.¹¹

Minutes

Section 51 states that any member of the public may inspect the minutes of any meeting (except meetings from which the public were excluded) at the local authority's office. The minutes may be inspected during normal office hours and without payment of a fee.

Any person that requests a copy of the minutes and pays the prescribed fee (if any) shall be given a copy.¹² If a person requests a copy of the minutes of a meeting from which the public was excluded, that request shall be treated as a request for official information under the OIA or the LGOIMA as appropriate.¹³

Public admission to meetings

Section 47 confirms that, subject to the limited exceptions set out in Part VII of the Act, every meeting of a local authority shall be open to the public.

Section 48 states that a local authority may, by resolution, exclude the public from the proceedings of any meeting on certain grounds. For example, a local authority may exclude the public from the whole, or any part, of the proceedings, if:

- (a) public attendance would be likely to result in the disclosure of information for which good reason for withholding would exist under sections 6 or 7 (except section 7(2)(f)(i)) of the LGOIMA or sections 6, 7 or 9 (except 9(2)(g)(i)) of the OIA;¹⁴ or,
- (b) public attendance would be likely to result in the disclosure of information which, if disclosed, would be contrary to the provisions of a specified enactment or would constitute contempt of Court or the House of Representatives;¹⁵ or,

⁸ Section 46A(5), LGOIMA

⁹ Section 46A(7), LGOIMA

¹⁰ Section 46A(8), LGOIMA

¹¹ Section 46A(9), LGOIMA

¹² Section 51(2), LGOIMA

¹³ Section 51(3), LGOIMA

¹⁴ Section 48(1)(a), LGOIMA

¹⁵ Section 48(1)(b), LGOIMA

- (c) the purpose of the proceedings is to consider a recommendation made to the local authority by an Ombudsman under the OIA or the LGOIMA.¹⁶

Every resolution excluding the public from a meeting must be in the form set out in the Act.¹⁷ The resolution must also state the general subject matter to be considered while the public is excluded, the reason for the passing of the resolution and the grounds on which the resolution is based.¹⁸ Every resolution to exclude the public shall be put at a time when the meeting is open to the public.¹⁹ Copies of the resolution shall be available to any member of the public present at the meeting and shall form part of the minutes of the meeting.²⁰

The person presiding at any meeting of any local authority may require a member of the public to leave the meeting if the person presiding believes that the behaviour of the member of the public is likely to prejudice the orderly conduct of that meeting.²¹

Provisions which apply when meetings are open to the public

Section 49 sets out certain requirements for meetings that are open to the public. For example, bona fide members of the news media shall be deemed to be members of the public and shall be entitled to attend the meeting.²² Where copies of the agenda are reproduced for members of a local authority, additional copies shall be reproduced and made available to any member of the public who attends the meeting and requests a copy, having paid the prescribed fee (if any) for that copy.²³

Part VII prevails over other enactments

Section 54 confirms that Part VII of the Act prevails over any other enactment relating to the attendance by the public at any meeting of any local authority or in relation to the inspection of the minutes of any such meeting.

¹⁶ Section 48(1)(c), LGOIMA

¹⁷ Section 48(3), LGOIMA

¹⁸ Section 48(1)(a)-(c), LGOIMA

¹⁹ Section 48(4), LGOIMA

²⁰ Section 48(4)(a)-(b), LGOIMA

²¹ Section 50, LGOIMA

²² Section 49(a), LGOIMA

²³ Section 49(b)-(c), LGOIMA