



ALCOHOL REGULATORY & LICENSING AUTHORITY

PRACTICE NOTE

**19 March 2015**

## PRACTICE NOTE

This practice note is issued pursuant to section 171 of the Sale and Supply of Alcohol Act 2012. Section 171 confers on the Authority all “powers reasonably necessary to enable it to perform its functions satisfactorily”.

[1] On a number of occasions territorial authorities have agreed with appellants that an element of a Provisional Local Alcohol Policy (PLAP) is unreasonable in the light of the object of the Act.

[2] In terms of ss.82 and 83(2) of the Act the Authority at a public hearing is required to ask the territorial authority to reconsider the element appealed against. There is no provision for a territorial authority to reconsider an element until the element has been referred back to it by the Authority.

[3] After the territorial authority has reconsidered the element and has resolved to amend or replace it, then it is resubmitted to the Authority for further consideration.

[4] Section 86(1) of the Act requires the Authority to deal with a resubmitted element as if it were an appeal; and ss.81-85 of the Act apply. Section 86(2) of the Act permits the Authority to deal with all or part of the resubmitted element in private.

[5] Sections 205(2)(d) of the Act provides that with the leave of the Authority’s Chairperson, any party who made a submission as part of the special consultative procedure on the draft local alcohol policy (LAP) may appear and be heard and can call evidence in any s.81 appeal against any element of a PLAP. Section 205(2)(d) applies to the determination of an appeal consequent upon the resubmission of an element to the Authority see s.86(1) in conjunction with s.205(2)(d).

[6] On a resubmission if:-

- (a) All parties to the original appeal proceedings (including the s.205 parties) are in agreement as to the terms of the resubmitted element; and
- (b) The Authority is satisfied that the territorial authority has informed all those who made submissions to it on the original element in the draft LAP:
  - (i) Of the terms of the proposed agreed element; and
  - (ii) Of their rights under s.205(2)(d) of the Act; and
- (c) No persons have entered an appearance opposing the proposed element either in terms of s.205(2)(d) or (e) of the Act; and

- (d) The Authority is satisfied that the resubmitted element is not unreasonable in the light of the object of the Act;

Then the Authority may deal with the resubmitted element in private on the papers. In all other cases there will be a public hearing. The original appellants will be deemed to be appellants; the territorial authority will remain the respondent.

.....

**A E Cannell**  
**Deputy Secretary**  
**Alcohol Regulatory & Licensing Authority**