

Local Government Act 2002 – Section 147A

There are three options for making an alcohol control bylaw under section 147A of the Local Government Act 2002. The Proposed Alcohol Control Bylaw is being made under section 147A(3) because it is intended to replace the expiring bylaw to the same effect. Section 147A states in full that:

“(1) Before making a bylaw under section 147, a territorial authority—

(a) must be satisfied that it can be justified as a reasonable limitation on people’s rights and freedoms; and

(b) except in the case of a bylaw that will apply temporarily for a large scale event, must also be satisfied that—

(i) there is evidence that the area to which the bylaw is intended to apply has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and

(ii) the bylaw is appropriate and proportionate in the light of that crime or disorder.

(2) Before deciding that a bylaw under section 147 should continue without amendment, a territorial authority must be satisfied that the level of crime or disorder experienced before the bylaw was made (being crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area concerned) is likely to return to the area to which the bylaw is intended to apply if the bylaw does not continue.

(3) Before making under section 147 a bylaw that is intended to replace an expiring bylaw and is to the same effect (or to substantially the same effect) as the expiring bylaw, a territorial authority must be satisfied that—

(a) the bylaw can be justified as a reasonable limitation on people’s rights and freedoms; and

(b) a high level of crime or disorder (being crime or disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the bylaw is intended to apply if the bylaw is not made; and

(c) the bylaw is appropriate and proportionate in the light of that likely crime or disorder.