

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 7 – Aviation Security

Section 79 Security planning for airports

Section 24AI Objections to proposals by security executive groups

430. This section permits security stakeholders not directly represented on the SEG to object to a requirement contained in the ASP that they carry out a security measure, take a monitoring step or make any payment. A security stakeholder who is not directly represented on the SEG may not object to a measure which does not require them to take a security measure, take a monitoring step, or make any payment.
431. Subsection (2) lists the persons who may use this objections procedure. The objections procedure may not be used by a person directly represented on the SEG. Members of the SEG will have the power to refer a matter to the Secretary of State as a dispute in accordance with the provisions contained in section 24AN.
432. Provision is made at 24AI(2)(d) for the Secretary of State to make an objection unless the Secretary of State has already made a nomination under section 24AG(4). In practice, this means ‘unless the Secretary of State has already appointed an official exercising functions relating to immigration’. This is most likely to be a UKBA official, although it need not be.
433. The objection right at 24AI(2)(d) has been included to allow for UKBA to object to a measure in circumstances where an ASP contains a measure for UKBA, but, due to the fact that no nomination to the SEG has been made, UKBA have been unable to object to that measure through its representative on the group. In practice, it is not expected that it should be necessary for the Secretary of State to object to a measure on UKBA’s behalf as it is expected that, where appropriate, a nomination will have been made under section 24AG(4).
434. Subsection (7) requires that in the event of failure to agree whether the proposal that is the subject of the objection should be withdrawn or varied, the matter must be referred to the Secretary of State under section 24AN(1) by the person attending the SEG on behalf of the aerodrome manager. Section 24AN(1) provides that where there is a dispute, a member of the SEG may refer the matter to the Secretary of State.
435. Under the terms of this section, it would be possible for the Secretary of State to make an objection on UKBA’s behalf and subsequently act as the person determining the dispute. In practice, this is unlikely to happen: as indicated above, it should not, in normal circumstances, be necessary for the Secretary of State to object to a measure on UKBA’s behalf. In any event, in practice, the Secretary of State exercising functions relating to immigration is unlikely to be the same Secretary of State that would determine an ASP dispute, as this will generally be the Secretary of State responsible for transport. In the unlikely event that the Secretary of State is required to determine

*These notes refer to the Policing and Crime Act 2009
(c.26) which received Royal Assent on 12 November 2009*

a matter of dispute raised on behalf of UKBA, the Secretary of State's decision on the matter in dispute would be taken in their capacity as the person responsible for determining disputes rather than in any capacity connected with immigration functions and UKBA.

436. Subsection (8) has the effect that a measure which is required to be delivered by a relevant person who is not directly represented on the SEG may not be included in an ASP until 30 days have elapsed (from the point at which the person was notified of the measure). This is to ensure that the person has an opportunity to object before being required to do anything. Elements of the ASP that are required to be delivered solely by persons directly represented on the SEG may come into effect immediately.