

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 7 – Aviation Security

Section 79 Security planning for airports

378. **Section 79** deals with the establishment of Risk Advisory Groups (RAGs) and Security Executive Groups (SEGs) at aerodromes, the functions of these groups, and the dispute resolution procedures to be followed in the event of disagreement. It does so by inserting a new Part in the Aviation Security Act 1982. These notes provide a brief overview of the new Part and then consider the individual sections of the new Part in more detail.
379. Aerodromes that will automatically be subject to the new provisions will be those that are the subject of a direction or directions given by the Secretary of State to the manager of the aerodrome in accordance with sections 12,13 or 14 of the [Aviation Security Act 1982 \(c.36\) \(ASA\)](#). In practice, an aerodrome directed under these sections will be one meeting the qualifying criteria for inclusion in the UK's National Aviation Security Programme (NASP).
380. Under the new provisions, the manager of the aerodrome will be responsible for the establishment of a RAG. The RAG's membership will include, as a minimum, a person nominated by the aerodrome manager and a person nominated by the chief officer of police. The manager of the aerodrome also has power to appoint additional members. This power has been conferred in order to allow the manager to appoint such additional persons as he or she considers necessary to allow for the proper consideration of potential risks to the aerodrome. The RAG will then be required to produce a comprehensive risk report, which will include analysis of the potential risks to the aerodrome, and which will make recommendations regarding the actions necessary to successfully mitigate these risks.
381. The risk report produced by the RAG will be submitted to the SEG for their consideration. The SEG's membership will include, as a minimum, a representative of the aerodrome manager, representatives of the chief officer of police and the police authority for the relevant area and a representative of airlines operating at the airport. The manager of the aerodrome has power to appoint additional persons, representing the interests of different categories of security stakeholders, to the SEG.
382. The SEG will be required to consider the risk report produced by the RAG. They will then determine the security measures to be taken in respect of the airport, and will determine which security stakeholder should deliver each security measure. These decisions will form the content of the Aerodrome Security Plan (ASP), which will formally document the security measures to be taken at an airport, the security stakeholder or stakeholders responsible for their delivery, and the procedures to be used to monitor the implementation of these measures.
383. In the event that the members of the SEG are unable to agree on the terms of an ASP, they may, in certain circumstances, refer the disagreement to the Secretary of State as

a dispute. The provisions empower the Secretary of State to make a determination in relation to any disagreement. Parties involved in a dispute will be required to abide by the terms of the Secretary of State's determination, although in certain circumstances the legislation does provide them with rights of appeal to the High Court.

384. The new sections inserted by section 79 will now be considered in more detail.

Section 24AA Aerodromes to which Part 2A applies

385. This section sets out which aerodromes will be subject to the new provisions.

Directed aerodromes

386. The new provisions will apply to an aerodrome at any time when a direction under section 12, 13, or 14 of the ASA to the manager of the aerodrome is in force. In practice, a directed aerodrome will be one that is subject to the NASP.

387. Sections 12, 13, 13A and 14 of the ASA provide the Secretary of State with powers to direct those security measures which must, as a minimum, be carried out at an aerodrome. Broadly, directions made under these sections are made for the purposes of mitigating threats to aviation from acts of violence. Parties generally directed under these sections include aerodrome managers, airline operators, cargo and catering companies. The police may not be directed. All directions issued under the ASA are brought together, with guidance, to form the NASP. The NASP is concerned with aviation generally and has a primary aim to 'safeguard passengers, crew, ground personnel and the general public against acts of unlawful interference perpetrated in flight or within the confines of an aerodrome'.

388. The number of UK aerodromes directed in accordance with these sections will vary in accordance with day to day operations, but presently this amounts to around 60 UK aerodromes.

Other aerodromes

389. Subsection (1)(b) allows the Secretary of State, by order, to bring additional aerodromes within the new provisions. This power is subject to negative resolution procedure. In practical terms, this power might be used in the event of intelligence suggesting that other, non-directed aerodromes might benefit from the security planning provisions contained in the Act. Non directed aerodromes which could, for example, be made subject to the provisions might include those dealing solely with general aviation. In this context, 'general aviation' refers to a civil aircraft operation other than a military, scheduled or charter public transport service. Examples of general aviation would include private aircraft and microlights.

Meaning of aerodrome

390. Section 38(1) of the ASA defines the term 'aerodrome' for the purposes of the ASA. Any use of the word 'aerodrome' in the amendments to the ASA made by section 77 is therefore subject to the same definition. The effect of the definition contained at section 38(1) is that 'aerodrome' means the following:

- the land, buildings and works comprised in an area of land or water that is designed, equipped, set apart or commonly used for affording facilities for the landing and departure, and/or vertical landing and departure, of aircraft; and
- any other land, building or works situated within the boundaries of an area designated in an order made by the Secretary of State as constituting the area of an aerodrome.

Section 24AB Risk advisory groups

391. Section 24AB creates a statutory requirement that qualifying aerodromes must establish RAGs and makes provision for their membership. There are currently in excess of 35 aerodromes presently operating groups on a voluntary basis that carry out risk

assessment. These are commonly known as ‘MATRA’ groups and these resemble the proposed RAGs. As a minimum, a RAG’s membership must include a person nominated by the aerodrome manager and a person nominated by the chief officer of police for the relevant area.

392. Subsection (3) provides the manager of the aerodrome with a power to appoint additional persons to the RAG as he or she sees fit. It is expected that the aerodrome manager will use this power to ensure that the Group’s membership contains the necessary expertise to be able to properly advise on the threats to the aerodrome identified. Persons that may be appointed by the aerodrome manager could include, but need not be limited to, representatives of airlines, cargo and catering concerns with a presence at the airport.
393. The chief officer of police may use the power contained in subsection (4) to appoint a second representative to the RAG. The chief officer, could, for example, use this power to appoint a representative of Special Branch where Special Branch has a presence at the airport.
394. It is expected that the Commissioners for Her Majesty’s Revenue and Customs (HMRC) will use the power contained in subsection (5) to appoint a representative to the RAG in circumstances where HMRC are carrying out border and frontier protection functions that will impact upon security planning considerations at the aerodrome in question.
395. Subsection (6) provides the Secretary of State with a power to appoint additional persons to the RAG as he or she sees fit. The expectation is that this power will be used by the Secretary of State to appoint such representatives of UKBA and SOCA to RAGs as may, from time to time, be necessary.
396. Subsection (9) also provides the Secretary of State with a power to appoint observers to the RAG. The observers would be able to witness the proceedings. In addition, as the RAG may decide its own procedure, it could permit the observers to take part in the discussions in order, for example, to provide expert advice.

Section 24AC Functions of risk advisory groups

397. This section creates a statutory requirement that the RAG produce a risk report for the aerodrome and sets out the nature of the information that the risk report must contain. Subsection (4) requires that the report be revised from time to time so that the assessments are kept up to date. This is to ensure that the risk register is kept in such a way as to ensure that it properly reflects the prevailing security position at an aerodrome.
398. Subsection (1) provides that qualifying aerodromes must prepare a risk report within two months of the day by which the RAG is required to be established. In the case of an aerodrome which is “a directed aerodrome” when the new provisions are commenced, section 24AL requires that a RAG be established at the aerodrome within one month of commencement. The effect is therefore that a risk report must be produced for an aerodrome within three months of commencement.

Section 24AD Discharge of functions by risk advisory groups

399. This section sets out the nature of the information that RAGs must consider when making recommendations about risks to the aerodrome and appropriate mitigating action.
400. Subsection (1)(a) requires RAGs to have regard to any directions made under section 12,13, 13A or 14 of the ASA. This will require that the RAG, when exercising its functions, takes into account the various security activities that directed parties at the aerodrome are already required to deliver. The intention is that this requirement will reduce the risk of security action being duplicated at the airport.

401. While the RAG is required to take these directions into account while fulfilling its functions, it is not open to the RAG to consider the effectiveness of these directions or to make recommendations about whether or not directed actions should be taken, or should continue to be taken, in response to threats. The interpretation provisions of section 24AT specify that the meaning of the term 'security measure' does not include 'any measure specified in a direction under Part 2 [of the ASA]'. Express provision has been made to preclude the RAG from making recommendations about measures contained in directions because they are considered by the Secretary of State to represent the security actions which should, as a minimum, be carried out at any qualifying aerodrome. It is not the Government's intention that decisions as to the basic minimum level of security action necessary should be left to the local decision making process.
402. Subsection (1)(b) requires the RAG to have regard to any national threat assessments. In practice, the 'national threat assessment' referred to in subsection (1)(b) and defined by subsection (3) could comprise any information issued by a Government department, office or agency concerning threats to the aviation industry and might include an amendment to threat levels.
403. The Secretary of State will be issuing guidance to support the functioning of RAGs. Guidance is likely to cover the following aspects of the group's operations:
- the role and objectives of multi-agency threat and risk analysis;
 - group membership;
 - the relationship between the RAG and the SEG. (The new sections 24AE – 24AJ concern SEGs. Further information regarding the functions of SEGs is contained at paragraphs 381 to 383 of these notes);
 - threat and risk assessment methodology; and
 - risk assessment tools.
- Guidance may also contain model documents.
404. Section 24AD(1)(c) requires RAGs to have regard to this guidance.

Section 24AE Aerodrome security plans

405. This section creates a statutory requirement for qualifying aerodromes to create an ASP, and sets out the information that must be contained within that plan. This section also sets out the persons responsible for formulation of the ASP.
406. Subsection (1) requires that an ASP be in force at all times from nine months after the SEG is required to be established. In the case of an aerodrome which is "a directed aerodrome" when the new provisions are commenced section 24AL requires that a SEG be established at the aerodrome within three months of commencement. The effect is therefore that an ASP must be in force at all times from 12 months of commencement.
407. Subsection (2) deals with the content of ASPs. "Security measures" does not include measures that are excluded by the definition of 'security measure' given by section 24AT(1).
408. Subsection (3) provides that the ASP may specify steps to be taken by any person responsible for delivery of any measure under the terms of the ASP for the purposes of monitoring delivery of the agreed actions. A monitoring arrangement might include, for example, a requirement that a relevant party report back to the SEG on progress towards delivery of a measure.
409. Subsection (4) sets out the persons who may be tasked with the delivery of a measure under the terms of an ASP. The requirements of an ASP will vary significantly

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

depending on local circumstances at each aerodrome, but persons and organisations required to deliver a measure included in the ASP could include the following:

- The manager of the aerodrome;
- The chief officer of police for the relevant area. Special Branch for the relevant area will also be under the control of the chief officer;
- The Serious Organised Crime Agency (SOCA);
- Airline Operators;
- Cargo companies;
- Catering companies;
- Hmrc;
- The UK Border Agency (UKBA);
- Aerodrome retailers;
- NATS (air traffic control);
- General aviation;
- Car-parking interests.

410. The purpose of including a reference to the Secretary of State at 24AE(4)(h) is to ensure that in practice UKBA may be required to deliver a security measure. UKBA is not a body corporate and has no legal identity. It has not therefore been possible to treat UKBA in the same manner, say, as HMRC, by simply referring to UKBA directly. Except in relation to UKBA, it is not expected that the Secretary of State will be tasked with the delivery of measures under the terms of an ASP.
411. Subsection (5) provides that a plan may specify that a security stakeholder make payments to another security stakeholder in connection with their delivery of an action specified in the plan. Subsection (5) does not include the chief officer of police as a party to whom payments may be made under the terms of an ASP. This is because Schedule 6 makes provision for details of such payments to be included within the terms of a Police Services Agreement (PSA). A PSA is an agreement made between an aerodrome manager, the chief officer of police and a representative of the police authority for the relevant area. Further information relating to Police Services Agreements is contained at paragraphs 466 to 469 of these notes.
412. Subsection (6) provides that the plan may specify the accommodation or facilities that the aerodrome manager is responsible for providing to security stakeholders other than the police. In practice, it is likely that UKBA and other agencies will, if present at an aerodrome, require the use of accommodation or facilities in order to deliver measures assigned to them under the terms of an ASP.
413. Subsection (7) places persons who are responsible for the delivery of a measure in the plan under a statutory duty to undertake the measure. Similarly, it places persons who are required by the plan to take a monitoring step, or to make any payments or provide accommodation, under a statutory duty to do so. A description of the persons that could be placed under a statutory duty by virtue of this subsection is contained at paragraph 409 of these notes.
414. In the event of someone failing to comply with the duty contained in subsection (7) it would generally be open to the Secretary of State to instigate the dispute resolution process and make a determination. Further information relating to the dispute resolution proceedings contained within the Act is contained at paragraphs 447-462 of these notes.

Section 24AF Aerodrome security plans: duration etc.

415. The practical effect of this section is that all ASPs, other than those considered to be the first ASP in operation at the aerodrome, must last for a minimum period of 12 months, running in accordance with the financial year. The number of financial years that the ASP covers is a matter for the discretion of the group. However, section 24AH(1)(b) places the SEG under a requirement to keep the contents of an ASP under review and to decide whether and how it should be varied.
416. Special provision is made for the first plan in operation at an airport. In the case of airports to which the new provisions apply on commencement, the requirement is that the ASP will come into force 12 months after the commencement of the provisions.
417. The discretionary power at subsection (5) will allow the Secretary of State to direct that an ASP is to come into force at an alternative date to those generally provided for by the section where a dispute between parties necessitates this.

Section 24AG Security executive groups

418. This section provides that qualifying aerodromes must establish a SEG and sets out the SEG's functions.
419. Subsections (2), (3), (4), (5) and (6) deal with the membership of the SEG. As a minimum, the Group must comprise a representative of the manager of the aerodrome, a representative of the chief officer of police and a representative of the police authority for the relevant area, and a representative of operators of aircraft taking off from, or landing at, that aerodrome.
420. Subsection (2)(d) and (e) permit HMRC and SOCA to appoint representatives to the SEG where the functions of these bodies impact upon security planning at the airport in question. In the case of HMRC, this activity will relate to their border and frontier protection functions, while in the case of SOCA, this activity will relate to the fulfilment of SOCA's statutory functions, namely:
- preventing and detecting serious organised crime and contributing to the reduction of such crime in other ways, and to the mitigation of its consequences; and
 - gathering, storing, analysing and disseminating information relevant to the prevention, detection, investigation or prosecution of offences, or the reduction of crime in any other ways, or the mitigation of its consequences.
421. Subsection (4) permits the Secretary of State to appoint an official to the SEG who exercises functions relating to immigration. In practice, this power will be used to permit the appointment of an UKBA official to a SEG. In practice, it is expected that a representative of UKBA will be nominated only where UKBA has a presence at the aerodrome in question.
422. Subsection (5) provides the manager of an aerodrome and the Secretary of State with a power to nominate a representative to the SEG who appears to him to be best suited to act on behalf of a single security stakeholder falling within the categories listed in section 24AE(4)(c) to (e) (operators of aircraft, persons having access to carry on a business and occupiers of land forming part of an aerodrome). In practice, it is expected that the aerodrome manager will use this power, where he or she considers it appropriate, to appoint a representative of an organisation that may be required to deliver a measure under the ASP but who would not otherwise have a representative on the SEG. Subsection (6) provides the manager of an aerodrome and the Secretary of State with a similar power of appointment. Unlike the power contained in subsection (5), this power can be used to appoint a person to represent the interests of a group of security stakeholders falling within any of the categories listed in section 24AE(4)(c) to (e). Interests that might require a representative appointed under this subsection could include, but are not limited to, cargo agents and retailers.

423. In practice, if an ASP at a larger aerodrome required an action to be taken by airline operators, it is conceivable that several hundred persons could qualify as relevant persons. This is why the provisions do not require all relevant persons to be present on the SEG.
424. The powers to appoint representative members to the SEG contained in subsections (5) and (6) are also available to the Secretary of State. In practice, the Secretary of State would be unlikely to use this power unless it appeared to him that there was a need for a representative member who would not otherwise be nominated to the SEG by the aerodrome manager.
425. Subsection (8) provides the Secretary of State with a power to appoint observers to the SEG. This power would, if deemed necessary, permit the attendance of Crown officials at SEG meetings. Persons nominated under this subsection would not have voting rights as they would not be full members of the SEG, only observers.

Section 24AH Functions of security executive groups

426. This section places the SEG under a statutory duty to decide an ASP, and keep it under review and vary it if necessary.
427. Subsection (2) and (3) require that the SEG unanimously agree to the terms of an ASP and to any variation of an ASP. In the event that unanimous agreement cannot be achieved, this would generally be because there was a dispute as defined in section 24AM(3)(a) or (b). It would therefore be possible for a member of the SEG to refer the matter to the Secretary of State in accordance with the procedure specified in 24AN.
428. This provision contained at subsection (4) qualifies the requirement contained in subsections (2) and (3) for unanimous agreement. This provision might, for example, be used to allow an ASP to come into force where a SEG member is unreasonably failing to indicate whether he or she agrees or disagrees to the terms of an ASP so as to seek to delay the ASP from taking effect.
429. Subsection (5) permits the Secretary of State to require the airport manager to provide the Secretary of State with a copy of an ASP. The Secretary of State does not expect to routinely request copies of ASPs. In practice, the Secretary of State is most likely to use this power in the event of a specific concern relating to the efficacy of measures in place for the mitigation of threat.

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 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.

Section 24AJ Discharge of functions by security executive groups

437. This section sets out the nature of the information that the members of the SEG must, as a minimum, have regard to in the exercise of their functions.
438. Section 24AJ(1)(c) requires that the SEG have regard to any national threat assessment. In practice, a national threat assessment could comprise any information issued by a Government department, office or agency concerning threat information. This might include an amendment to threat levels.
439. The Secretary of State will be issuing guidance to support the functioning of SEGs. Guidance is likely to cover the following aspects of the group's operations:
- The role of the SEG;
 - Group membership;
 - The relationship between the RAG and the SEG;
 - Developing and agreeing an ASP;
 - Monitoring delivery of security measures; and
 - Reviewing and varying the Plan.
- Guidance may also contain model documents.
440. Section 24AJ(1)(d) requires SEGs to have regard to this guidance.

Section 24AK Aerodrome groups: supplemental

441. This section makes further provision regarding the operation and procedures of RAGs and SEGs.
442. In practice, it is likely that some smaller aerodromes may consider it appropriate for the same persons to staff both their RAG and SEG. Express permission for this is provided in section 24AK(1).
443. Subsection (2) provides for the revocation of nominations under section 24AB(2)(a) or 24AG(3). The effect of this subsection is that where such a nomination is revoked under this section, an alternative nomination must be made.
444. Subsection (3) provides for the revocation of certain other nominations.
445. The effect of subsection (3) is that where such a nomination is revoked, no alternative nomination need be made.

Section 24AL Period for establishment of aerodrome groups

446. Section 24AL provides that qualifying aerodromes must have RAGs in place from one month after commencement of these provisions. In practice, many qualifying aerodromes already have groups dealing with risk assessment in place and individuals serving on them might be nominated as members of RAGs under section 24AB. This section also requires that qualifying aerodromes establish SEGs within three months of the commencement of section 79. A definition of a qualifying aerodrome is contained in paragraphs 386 to 389 of these notes.

Section 24AM Meaning of dispute about security planning

447. This section defines dispute about security planning for the purposes of the Part. A dispute may be any of the following:
- A dispute about the contents of an ASP for the aerodrome; or
 - A dispute about the implementation of an ASP.
448. Under the terms of this section, a disagreement between a person who is not required to do anything under an ASP and the members of the SEG would not qualify as a dispute. This restriction has been included to ensure that only those relevant persons directly affected by a security measure may access the dispute resolution proceedings since the Government wants to avoid unfounded or malicious references being made to the Secretary of State. This section also does not permit the referral of disputes about payments that the airport manager is required to make in respect of any dedicated policing services provided at that aerodrome. This is because the ASP will not contain such details, as these will be contained in a PSA. The terms of an ASP will, however, indicate whether or not a dedicated policing presence is required at that aerodrome and this is an issue that it would be possible to take to dispute under the terms of this section.
449. The duty contained at 24AE(1), which is referred to in section 24AM(3)(a), is the requirement to ensure that an ASP is in place.
450. The duty contained at 24AE(7), referred to in section 24AM(4), is the duty imposed on a person to take a security measure to take a monitoring step or to make any payment or provide accommodation, in accordance with the terms of an ASP.

Section 24AN Power to refer dispute to Secretary of State

451. This section sets out who may refer a dispute to the Secretary of State.
452. Under the terms of this section, only members of the SEG may refer a dispute to the Secretary of State. Persons not directly represented on the SEG may, however, make a

request to a person nominated to the SEG to represent their interests to refer a dispute to the Secretary of State. In general terms, it would be a matter for the discretion of the member of the SEG in question as to whether they referred the matter or not. However, if a person has used the objections procedure in relation to a measure and there has been no subsequent agreement amongst SEG members in relation to the matter, the representative of the aerodrome manager on the SEG must refer the matter to the Secretary of State under section 24AI(7).

Section 24AO Powers of Secretary of State in relation to disputes

453. This section provides the Secretary of State with a power to intervene in a dispute in order to seek to resolve it. The use of this power is at the Secretary of State's discretion. The intention is that, if such intervention is successful, a determination of the dispute under section 24AP may not be necessary.
454. In practice, the power contained at subsection (2) could be used to compel parties in a dispute to take actions that the Secretary of State considers will assist them in resolving the dispute. Directions made under this section will primarily be used to ensure that participants in a dispute take all necessary actions such as completing the required security analysis, and attending meetings with supporting materials so that officials can facilitate agreement over the levels of security resources required at an airport. However, the nature of the provision means that the examples set out above are not exhaustive.
455. Subsection (3) provides the Secretary of State with a power to compel parties involved in a dispute to contribute to costs relating to the provision of services by a third party. In practical terms, it is expected that there may be circumstances in which the Secretary of State considers it appropriate to attribute costs to the disputing parties relating to services provided by a third person for the purposes of resolving a dispute. In practice, persons who may be employed by the Secretary of State to facilitate in the resolution of a dispute could include legal professionals, Her Majesty's Inspectorate of Constabulary or independent security consultants. Subsection (4) also permits the Secretary of State to recover costs relating to officials' involvement in the determination of disputes. In practice, the Secretary of State might use this power to recover costs where he or she considers that it would be inappropriate for the full extent of costs relating to attempts to resolve the dispute to fall to the public purse.

Section 24AP Dispute resolution: procedure

456. This section sets out the general procedures that the Secretary of State must, as a minimum, follow when providing a determination in relation to a dispute.
457. Subsection (3) requires that the Secretary of State must have regard to any directions under sections 12, 13, 13A or 14 of the ASA (explanation as to the likely content of such directions is provided at paragraph 387 of these notes); the risk report for the aerodrome produced by the RAG; any national threat assessment (see paragraph 402 of these notes for further details) and any guidance given by the Secretary of State which is relevant to the group's functions (see paragraph 439 of these notes for a description of likely contents of guidance).

Section 24AQ Dispute resolution: powers

458. This section sets out the powers of the Secretary of State when determining the settlement of a dispute. The Secretary of State has powers in relation to determining both the contents of an ASP as well as its implementation.
459. Subsection (4) provides the Secretary of State with a power to apportion costs between persons responsible for security measures at the aerodrome. In practice, there may be circumstances where disagreement could arise between members of the SEG in relation to whether or not security stakeholders should make a financial contribution in respect

of a security measure (disagreement might, for example, arise about who should pay for installation of a security system such as CCTV). Where appropriate, this power would permit the Secretary of State to determine that a security stakeholder should make a financial contribution to the project. Any such determination could be the subject of an appeal as provided for in section 24AR.

Section 24AR Dispute resolution: appeals and enforcement etc

460. This section provides any party affected by a declaration, determination or order of the Secretary of State with a right to appeal that decision to the High Court.
461. Section 24AR(1) permits a party in a dispute that has been the subject of a determination to appeal to the High Court against the determination. This appeal is not limited to judicial review of the Secretary of State's decision.
462. Subsection (2) provides that where the Secretary of State imposes a requirement in certain circumstances, or makes a declaration, determination or order then he or she can seek with the permission of the High Court to have any of these enforced as if they had been a High Court judgment in their own right. In practical terms, the High Court's permission for a determination to be treated as a judgment of the High Court would mean powers allowing for the enforcement of a determination would become available to the Secretary of State. For example, if a party refused to comply with the requirements of a determination (for example, by refusing to make a payment stipulated in the determination) the Secretary of State would be able to instigate proceedings for contempt of court.

Section 24AS Power to Modify etc.

463. The power to modify contained in section 24AS complements that set out in section 24AA. It is intended to be used in circumstances where intelligence suggests that it would be proportionate and reasonable in all the circumstances to make an aerodrome exempt from some, or all, of the security planning provisions contained in the new Part 2A of the ASA. Any decision to use the power contained in this section would be based on all relevant considerations, including latest intelligence information and an assessment of local circumstances at the aerodrome in question.