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## Police airport powers need to be strictly defined and subject to proper oversight

The Law Council has told a [Parliamentary Committee](#) today that police powers to request ID and remove people from airports are currently too broad and not subject to appropriate review in the event that the wrong decision is made.

The Crimes Legislation Amendment (Police Powers at Airports) Bill 2018 would expand the powers of police to be able to direct any person to produce evidence of their identity and leave airport premises and/or not take a specified flight or any flight for up to 24 hours.

While supporting the aims of the legislation, Law Council of Australia President-elect, Arthur Moses SC, said Parliament should amend the Bill to prevent any unintended consequences.

“The Law Council recognises and accepts that security at airports is a matter of significant concern to the government and the community,” Mr Moses said.

“There must be strong laws in place to provide police with powers to deal with issues relating to safety and criminal activity at airports and on planes. But these powers should only be exercised in circumstances to ensure safety or disrupting or preventing criminal activity. This will ensure that police officers will not have a discretion at large that may interfere with an innocent citizen’s right of movement,” Mr Moses said.

Mr Moses said that ‘aviation security’ is broadly defined in Item 2 of the Bill to include the ‘good order and safe operation of: a major airport and its premises; and flights to and from a major airport.’ However, the term ‘good order’ is not defined in the Bill or Explanatory Memorandum.

“To leave ‘good order’ undefined creates the potential for the new powers to be exercised at the discretion of police in an arbitrary and ad hoc manner,” Mr Moses said.

“A key principle of the rule of law, is that the law must be both readily known and available, and certain and clear.

“The intended scope of the exercise of the powers should be unambiguous and key terms should be defined so that they do not inadvertently capture a wide range of benign conduct. They should not overtly depend on police discretion to determine their scope,” Mr Moses said.

Mr Moses also noted that there is currently insufficient oversight of the police decisions.

“The power to order a person not to take a flight, for example, could have significant economic or social implications for the person subject to the order,” Mr Moses said.

“Justice demands there is a mechanism through which police exercising these new powers can be held accountable if they issue an order when there was no threat to safety or need to do so in order to disrupt criminal activity.

“For this reason, the power should be subject to a very specific power of urgent or expedited review, with an authority to the reviewing officer, preferably a judicial officer, to order compensation,” Mr Moses said.

Read the [Law Council’s Opening Statement here](#). Or read the [Parliamentary Submission here](#).

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