These notes refer to the Greater London Authority Act 1999 (c.29) which received Royal Assent on 11th November 1999

GREATER LONDON AUTHORITY ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I: the Greater London Authority

Section 1: The Authority and Section 2: Membership

34. *Sections 1* and*2* and *Schedule 1* provide for the establishment of the GLA. The GLA will be made up of a directly elected Mayor and a separately elected Assembly of twenty five members. The Mayor and Assembly together will have a corporate legal identity as the Authority.

35. The Assembly will be elected under the additional member system. Fourteen Assembly members will represent constituencies, each made up of two or three complete London boroughs. The Secretary of State will decide the boundaries and names of these constituencies, on the basis of recommendations made by the Local Government Commission for England (the LGC). Eleven Assembly members (known as "London members") will be elected under the additional member system for the whole of Greater London.

36. The election of the Authority as a whole will take place once every four years (the "ordinary election"). There will be an election for the Mayor and one for the London members plus elections in each constituency for the constituency member. The term of office of those elected at an ordinary election will run from the second day after the last declaration to the second day following the last declaration at the next ordinary election.

37. *Schedule 1* contains provisions on the Assembly constituencies. In May 1998, using powers contained in the Greater London Authority (Referendum) Act 1998, the Secretary of State directed the LGC to produce recommendations for the boundaries of the Assembly constituencies. The LGC submitted its recommendations on 30 November 1998. The Minister for London announced in Parliament on 19 January 1999 (Hansard Col 726) that the Government have decided to accept the Commission's recommendations and that, subject to the passage of the Act, they would be implemented by secondary legislation after Royal Assent.

38. Section 2(4) empowers the Secretary of State to implement these recommendations by order.

39. Schedule 1 also contains provisions to allow for future reviews of the constituency boundaries. Detailed ground rules state that there should always be fourteen constituencies, composed of combinations of two or more contiguous whole London Boroughs, and that the number of electors in each constituency should be as similar to each other as is reasonably practicable.

40. The Schedule also lays down a basic structure for future reviews of the Assembly constituencies. Reviews of the constituencies will be at the discretion of the Secretary of State. The Secretary of State will commission the LGC to carry out a review, and may produce guidance that the LGC will have to take into account; the LGC will carry

out its review, and produce recommendations. The Secretary of State will have powers to implement these recommendations.

41. The Schedule provides for two different scenarios in which a review of the constituencies might occur.

- The Secretary of State might simply order the LGC to carry out a full review of the assembly constituencies; or
- Changes to the boundaries of the London boroughs might necessitate consequent changes to the assembly constituency boundaries (as these are based on the London boroughs). Part II of the Local Government Act 1992 gives the Secretary of State powers to direct the LGC to carry out a review of borough boundaries. When the LGC produces its report on such a review, it will have to indicate the impact of any recommended changes to borough boundaries on the Assembly constituencies.

42. There are three possible outcomes here:

- The LGC may recommend radical changes to London borough boundaries (such as the abolition of existing boroughs or the creation of new boroughs). In this case, the LGC might recommend to the Secretary of State that a full review of the assembly constituencies is needed to take account of this. The Secretary of State would then commission the LGC to carry out a full review of the constituency boundaries.
- The LGC may recommend changes to borough boundaries that are not so radical as to make the existing constituencies redundant, for example, a recommendation to alter a borough boundary that was also a boundary between two constituencies. In this case, the LGC might include in its report a recommendation for consequential changes to the constituency boundaries.
- The LGC may recommend that changes to the borough boundaries do not require any changes to the constituency boundaries.

Sections 3 and 4: Ordinary elections

43. *Section 3* contains provisions on ordinary elections to the Authority. The first ordinary election will be held on 4 May 2000, unless the Secretary of State exercises the order-making power provided by this section to postpone them to a later date. Subsequent elections will be held on the first Thursday in May in the fourth calendar year following that in which the first ordinary election was held. Subsections (4)(d) and (5) give the Secretary of State the power to introduce a system of early voting for the first ordinary election.

44. *Section 4* contains provisions on voting at ordinary elections. The ordinary election for the Authority will consist of a mayoral election, the election of Assembly members in each of the fourteen constituencies and the election of the London members.

45. In the mayoral election, if there are only two candidates, the one with the most votes wins under first-past-the-post procedures. But if there are three or more candidates, a different voting system - the S*upplementary Vote (SV)* system - comes into play. Voters will be able to indicate their first and second choice for Mayor. How these choices are counted, in order to determine who should be returned as Mayor, is set out in Part I of Schedule 2 to the Act.

46. Candidates for the Assembly will be elected under the *Additional Member System* (AMS). Voters will have two votes – one for a constituency member and one – known as a *London vote* - for an individual or political party list. Each of the 14 constituencies will return one constituency candidate elected on the normal first-past-the-post basis. Eleven additional seats in the Assembly will be allocated on the basis of the London vote using the De Hondt formula. This is intended to top up the number of seats for each party in the Assembly in order to reflect broadly their proportion of the London

vote. The precise way in which this is done is set out in Part II of Schedule 2 of the Act. A worked example is given below.

47. The way in which the elections of the Mayor and Assembly members interact is the subject of subsections (7) to (10) of the section. The result of the elections of the Mayor and the constituency members must be determined first, so that the calculation (set out in Part II of Schedule 2) resulting from the count of the London vote can be made under section 4 and Schedule 2; this calculation is not to be held up if any of the constituency polls has been countermanded. No-one may stand in more than one Assembly constituency and if the person returned as Mayor is also successful in a constituency election, a by-election will ensue in that constituency (but the seat will be counted as having been won by the relevant party for the purposes of the London vote - see paragraph 6(4) of Schedule 2). More detailed provision for the interaction of the various polls is contained in Schedule 2 to the Act.

48. *Schedule 2* contains detailed provisions on voting at elections for the Mayor and the London members of the Assembly.

The Mayoral Poll

49. Whenever there are three or more candidates to be Mayor, each voter may indicate on the ballot paper their first and second choices for Mayor. When the votes are counted any candidate with more than half the first preference votes wins outright. However if no candidate wins an overall majority then second preference votes are taken into consideration. The two candidates with the most votes remain in the contest (and there is provision for any tie for second place). The second preference votes on the ballot papers of the eliminated candidates are then examined and any second preference votes for the remaining candidates are allocated to them. The candidate who then has the most votes is returned as Mayor.

Worked example of Mayoral poll

50. There are four candidates, A, B, C, and D. Counting the first preference votes gives the following result.

Candidate	Votes
A	900,000
B	600,000
C	1,100.000
D	400,000
Spoilt papers	10,000
Total ballot papers	3,010,000

51. Candidates A and C remain in the contest and candidates B and D are eliminated. The second preference votes of candidates B and D are then examined, revealing the following choices.

Candidate	Votes
A	550,000
C	300,000
Other	150,000
Total	1,000,000

Note: "Other" includes papers where the second preference vote was spoilt, unclear or not recorded or where the vote was for one of candidates B or D.

The final vote is therefore -

First preference	Second preference	Total
A 900,000	550,000	1,450,000
C 1,100,000	300,000	1,400,000

And candidate A is returned as Mayor.

Voting for the Assembly

52. The Assembly seats deriving from the London vote will be allocated according to the De Hondt formula, a commonly-used way of allocating seats under proportional representation. When allocating seats in the Assembly on the basis of the London vote, the Greater London Returning Officer (defined in section 29) considers the party affiliation of the constituency candidates who have been returned as members of the Assembly and the number of London votes cast for that party. He then divides the party's total London vote by the number of seats that party has won plus one (one is added to avoid dividing by zero where no seat has been won). The result is known as the party's *London figure*. Independent candidates are given a London figure equal to their London vote.

53. The first seat is then allocated to the party or individual with the highest London figure. When a seat is allocated to a party, its London figure is recalculated on the basis of the new total number of seats plus one. The next seat is then allocated on the basis of the highest London figure at that stage, after which the winning party's London figure is similarly recalculated, until all 11 seats have been allocated. Should two parties tie for the last seat, their figures are recalculated as though each party had one more seat and the one whose London figure is the highest gets the seat. If the tie continues the matter is to be settled by lot. A threshold for election as a London member of the Assembly is set in paragraph 7 of Schedule 2. A party or independent candidate failing to win at least 5% of the total of London votes will not be allocated any of the London member seats.

54. A worked example is set out below:

55. In this worked example, the fourteen Assembly constituency seats are shared between parties A, B, and C as follows:

Party A:	6 seats
Party B:	5 seats
Party C:	3 seats

56. The eleven London-wide seats are contested by the three parties and by one independent candidate. The votes cast are as follows:

Party A:	1,857,000 votes
Party B:	1,500,000 votes
Party C:	900,000 votes
Independent:	230,000 votes
Total Votes Cast:	**4,487,000**

57. The eleven London-wide seats are then distributed on the basis of these figures as follows:

Guideline for the calculation of London-wide seats:

1. In line with the De Hondt Formula (see above), 1 seat is added to each party's constituency seat total.
2. The London-wide vote for that party or individual is divided by this number (i.e. by the number of Constituency seats, plus 1).
3. The party or individual with the largest number wins a seat. (Party A in the example wins the first seat).
4. The winner's seat total is increased by one, and the calculation is repeated.
5. This time, Party B has the largest number and wins the seat.
6. This process continues until all 11 seats are allocated.

ILLUSTRATION

Allocation of London-wide seats.

London-wide	Party A	Party B	Party C	Independent	Result
1st Seat	**1,857,000÷7 = 265,286**	1,500,000÷6 = 250,000	900,000÷4 = 225,000	230,000÷1 = 230,000	Party A
2nd Seat	1,857,000÷8 = 232,125	**1,500,000÷6 = 250,000**	900,000÷4 =225,000	230,000÷1 = 230,000	Party B
3rd Seat	**1,857,000÷8 = 232,125**	1,500,000÷7 = 214,286	900,000÷4 =225,000	230,000÷1 = 230,000	Party A
4th Seat	1,857,000÷9 = 206,333	1,500,000÷7 = 214,286	900,000÷4 =225,000	**230,000÷1 = 230,000**	Independent
5th Seat	1,857,000÷9 = 206,333	1,500,000÷7 = 214,286	**900,000÷4 =225,000**	230,000÷2 = 115,000	Party C
6th Seat	1,857,000÷9 = 206,333	**1,500,000÷7 = 214,286**	900,000÷5 = 180,000	230,000÷2 = 115,000	Party B
7th Seat	**1,857,000÷9 = 206,333**	1,500,000÷8 = 187,500	900,000÷5 = 180,000	230,000÷2 = 115,000	Party A
8th Seat	1,857,000÷10 = 185,700	**1,500,000÷8 = 187,500**	900,000÷5 = 180,000	230,000÷2 = 115,000	Party B
9th Seat	**1,857,000÷10 = 185,700**	1,500,000÷9 = 166,667	900,000÷5 = 180,000	230,000÷2 = 115,000	Party A
10th Seat	1,857,000÷11= 168,818	1,500,000÷9 = 166,667	**900,000÷5 = 180,000**	230,000÷2 = 115,000	Party C
11th Seat	**1,857,000÷11 = 168,818**	1,500,000÷9 = 166,667	900,000÷6 = 150,000	230,000÷2 = 115,000	Party A
Total FPTP Seats	6	5	3	0	
Total London-	5	3	2	1	

London-wide	Party A	Party B	Party C	Independent	Result
wide Seats					
Total Seats	11	8	5	1	

Sections 5 to 11: Vacancies in the Assembly

58. *Sections 5 to 11* make provision for vacancies in Assembly membership and are based on the provisions in Part V of the Local Government Act 1972 for vacancies in the membership of local authorities.

59. A vacancy arises where

- a member resigns;
    - a member fails for six consecutive months to attend a meeting of the Assembly, of one of its committees or sub-committees or of an outside body as an Assembly representative (unless for a reason approved by the Assembly);
- a member whose only qualification for election was the fact that he was a local government elector for Greater London ceases to be such an elector (see further section 20);
- a member becomes disqualified for any of the reasons set out in section 21;
- a person returned as an Assembly member at an ordinary election is also returned as the Mayor; or
- a member is returned as the Mayor at an election to fill a vacancy in that office.

60. A vacancy arising otherwise than on account of death, resignation or automatic disqualification has to be declared by an officer of the Authority charged with that function or by the High Court under section 23. A vacancy in an Assembly constituency is filled at an election held in the constituency on the first past the post basis. The election must be held no later than 35 days after the date on which the vacancy is to regarded as occurring in accordance with section 10 (but Sundays and holidays are left out of account).

61. If a vacancy occurs within six months prior to the date of an ordinary election, no election will be held; instead it will be left unfilled until the next ordinary election of the whole Assembly. However, if the occurrence of a vacancy means that the total number of vacancies exceeds one-third of the total membership of the Assembly, then an election to fill that vacancy must take place.

62. Where a vacancy arises among the London members, it will remain unfilled until the next ordinary election unless the vacancy is of a London member elected from a party list and there are persons on the list who can be chosen by the Greater London returning officer to fill the vacancy.

63. To be eligible to fill such a vacancy, a person on a list must be willing to serve. In addition, if a person on the list is no longer a member of the party concerned, the party may notify the returning officer that the person is not to fill the vacancy.

64. If there is more than one person who satisfies the conditions set out above, then the highest placed of these persons on the list will be returned.

65. The term of office of the persons elected or chosen to fill vacancies will end at the same time as the terms of office of the persons elected at the previous ordinary election.

Sections 12 to 16: Vacancy in the office of the Mayor

66. *Sections 12 to 16* deal with vacancies in the office of Mayor and are broadly similar to the provisions for vacancies in Assembly membership. In the case of the Mayor, however, the provision in *section 13* where the mayor ceases to be a member on account of a failure to attend meetings relates to a failure on six consecutive occasions to attend the meetings of the Assembly held under section 52(2).

67. A mayoral vacancy is filled by an election held on the same basis as an ordinary election unless it occurs in the six months preceding the next ordinary election. In that case the office of Mayor is to be left unfilled and the deputy Mayor or the Chair of the Assembly will act as Mayor until the next ordinary election.

Section 17: Franchise, conduct of elections etc.

68. *Section 17* and*Schedule 3* make detailed provision for Authority elections by amending the Representation of the People Act 1983, which makes provision for the conduct of parliamentary and local government elections. Section references in the following description of Schedule 3 are to that Act.

69. Schedule 3 to the Act amends section 203 to make Authority elections local government elections for the purposes of that Act. The result is that the normal provisions applying to local government elections in respect of the entitlement to vote, registration, conduct of election, voting offences, the campaign, questioning a result and corrupt and illegal practices will apply in respect of Authority elections. However, in certain instances, Schedule 3 changes the Representation of the People Act to reflect the Authority's different electoral systems and such changes are noted below where they occur.

70. *Paragraph 2* enables polling districts for Authority elections to be prescribed by London borough councils and the Common Council (section 31) and *paragraph 3* makes provision for the returning officers at constituency elections to be designated by the Secretary of State and for the returning officer for the other Authority elections to be an officer appointed by the Authority (section 35).

71. *Paragraph 4* enables rules for Authority elections to be prescribed (section 36). The paragraph specifies that these rules need not apply the parliamentary election rules, as normal local government election rules do under section 36(2), because the Authority's different electoral systems will call for different rules. (For example, Rule 50 of the Parliamentary election rules requires the returning officer to declare elected the candidate for whom the majority of votes has been given. This simple rule does not cover the counting of second preference votes in the mayoral election nor the calculation described in paragraph 53 of this note, necessary as part of the Assembly election.)

72. *Paragraph 5* extends the Secretary of State's power to move the ordinary day for local elections in any year (section 37) so that Authority elections may be on a day other than the first Thursday in May, while *paragraphs 6 and 7* make consequential and technical amendments to sections 39 and 40.

73. *Paragraph 8* disapplies section 46 (which prescribes the number of votes each elector may give) as the number of votes of each elector at Authority elections is dealt with at sections 4, 10 and 16.

74. *Paragraph 9* provides for the returning officers' costs (section 48) and*paragraph 10* adds provisions appropriate to the Authority elections to the voting offences in section 61.

75. *Paragraph 11* extends to the GLA elections the application of the rules of secrecy of voting (section 66) and *paragraphs 12 to 15* make provision in respect of election agents, in particular, to deal with the appointment of a single agent for candidates on a registered political party's list. *Paragraphs 16 to 22* make provision in respect of election expenses, in particular, to enable the Secretary of State by order to set

limits on the election expenses of candidates at Authority elections. *Paragraph 23* amends section 81 to extend the time within which election expenses returns must be made, by Mayoral candidates and London member candidates, from 35 days to 70 days.*Paragraph 24* adds the Authority to section 82 (dealing with the declaration of election expenses). *Paragraph 25* applies to Assembly members the penalty provisions of section 85, where they fail to make returns or declarations within the specified time period. *Paragraph 26* provides for the disqualification of the Mayor where he or she fails to make returns and declarations within the specified time. *Paragraph 27* provides for the time and place for the inspection of returns and declarations (section 88).

76. *Paragraph 28* disapplies the provisions of section 93 removing the requirement on broadcasters to consult any candidate in an election if one or more candidates are to be interviewed in a programme. This provision would be impracticable to implement in relation to the new electoral arrangements. It was also disapplied for elections to the Scottish Parliament, the Welsh Assembly, and the European Parliament. *Paragraph 29* entitles candidates to the use of certain premises for holding public meetings (section 96*)*. *Paragraph 30* makes Authority elections subject to the bribery provisions of the Act (section 113). *Paragraph 31* disapplies the prohibition on a barrister or solicitor who resides within the Authority's area from being a member of an election court (section 130). *Paragraph 32* amends section 135 to provide for the consequences of the election or return of a London member being declared void. *Paragraphs 33 and 34* provide for election court determinations in respect of the Mayor or Assembly constituency members (section 145). *Paragraph 35* extends the disqualification provisions of section 159 – where a candidate has been reported guilty of corrupt or illegal practice – to the Mayor and Assembly members. *Paragraph 36* provides that in circumstances where a Mayoral candidate cannot be elected because he or she has employed a corrupt agent, the electors second vote is not deemed to have been "thrown away" if it is for a candidate who is not subject to the same incapacity (section 165). *Paragraph 36* provides that in circumstances where a vote for a mayoral candidate is deemed to have been thrown away by virtue of section 165(3), it is only the vote given to that candidate (whether first or second choice) which is thrown away, and not votes for another candidate on the same ballot papers, unless of course they are also deemed to have been thrown away. *Paragraphs 37, 38 and 39* provide for the extension of references to elections under the local government Act (section 189) to include Authority elections, for general provisions as to interpretation (section 202) and for the addition of definitions relating to the Authority (section 203).

Sections 18 and 19: Cost of holding the first ordinary elections

77. *Section 18* provides for the reasonable expenditure of returning officers in relation to the holding of the first election of the Authority to be charged on and paid out of the Consolidated Fund. The Secretary of State may, with Treasury consent, determine the kind of expenditure recoverable and its maximum amount.

78. *Section 19* enables the Secretary of State to incur expenditure himself in support of the first election, on items of expenditure which would not be recoverable by returning officers, for example on the provision of electronic scanning equipment.

Sections 20 to 23: Qualifications and disqualifications

79. *Sections 20 to 23* make provision in respect of qualification and disqualification for being elected and holding the office of Mayor or Assembly member and are based on the provisions of Part V of the Local Government Act 1972 which apply to local authority membership. They apply to the selection of a person to fill a vacancy among London members in the same way as to an election.

80. In addition to the nationality and age conditions set out in section 20, a person must at the time of nomination and election also satisfy at least one of the conditions set out there which establish a connection with Greater London, namely, registration as a

local government elector for Greater London or, during the previous 12 months, holding property, working or residing within Greater London. If a person elected as Mayor or an Assembly member only satisfied the condition of being a local elector for Greater London and, at any time, ceases to be registered as such an elector he ceases to be qualified to hold office and a vacancy will occur.

81. A person is disqualified from being elected or being the Mayor or an Assembly member if he or she:

- Is a member of the staff of the Authority;
- Holds a disqualifying office or appointment designated by the Secretary of State in an order (which is to be subject to the affirmative resolution procedure in each House of Parliament);
- Is bankrupt or has made an arrangement whereby his creditors agree to accept less than the full amount of any debts;
- Has within the previous five years before the day of the election, or since the election, been convicted of any offence and a sentence of imprisonment of at least three months has been imposed without the option of paying a fine instead (this includes a suspended sentence);
- Is disqualified under Part III of the Representation of the People Act 1983 for corrupt or illegal practices at elections or under section 85A of that Act for late return of expenses;
- Is disqualified under section 17 or 18 of the Audit Commission Act 1998 (or corresponding statutory provisions which those sections replaced) because, as a local authority member, he incurred or authorised unlawful expenditure or by wilful misconduct caused a loss or deficiency exceeding £2000 (the GLA itself is a local authority for these purposes);
- Is a paid officer of a London borough council or the Common Council employed under the direction of a committee or sub-committee of that council, or a joint committee, whose membership includes members of that council and persons appointed by the Mayor.

82. The provision allowing the Secretary of State to designate offices or appointments which disqualify a person for being Mayor or an Assembly member (section 21(1)(b) does not apply to local authorities but is similar to provisions made in respect of the Welsh Assembly and the Scottish Parliament. It might be used, for example, to designate certain public appointments, the holders of which would be disqualified from standing for Mayor or for the Assembly unless they resigned from the posts to which they had been appointed. An example of this would be the Chairman of a Housing Corporation.

83. *Section 23* provides that section 92 of the Local Government Act 1972 (proceedings for disqualification) will apply in relation to the Authority, as it applies in relation to a local authority.

84. This will allow any registered local government elector for Greater London to instigate legal proceedings against any person on the grounds that he acted, or claimed to be entitled to act, as Mayor or as an Assembly member, while in fact being disqualified from acting under section 20 or for failing to meet the qualification criteria set out in section 19 or to make a declaration under section 23, or for having ceased to be Mayor or an Assembly member through resignation or a failure to attend meetings.

85. Proceedings may be brought in the High Court or a magistrates' court but must be brought in the High Court if the person against whom they are brought claims to have been entitled to act. Proceedings may not be brought in respect of an act that took place more than six months before the bringing of the proceedings.

86. Where it is proved that a person acted while not qualified or while disqualified, the High Court has power to declare a vacancy in his office and order forfeiture of monetary sums while a magistrates' court has power only to impose a fine. Where proceedings are instituted in a magistrates' court, that court has power to refer them to the High Court and they must be referred if the High Court so orders at the defendant's request.

Sections 24 to 26: Salaries, expenses and pensions

87. These sections provide for the Mayor and Assembly members to be paid salaries and expenses and to establish a pension scheme. For the first year of the Authority's life the Secretary of State - on the basis of recommendations he has invited the Senior Salaries Review Board (SSRB) to provide - will set the level of the Mayor's and Assembly members' salaries and make provision for the payment of pensions. The Secretary of State has also invited the SSRB to recommend a mechanism for the review and up-rating of these payments. In subsequent years, when it will be for the Authority to determine the level of such payments, it will be expected to have regard to the advice of the SSRB before making such determinations. The Secretary of State's guidance on ethical standards, issued under the provisions of section 66 of this Act, will include guidance on this issue to which the Authority must have regard. To ensure transparency, sections 24(8) and 26(5) require the Authority's standing orders to include provision for the publication of any determination made in relation to salaries or pensions.

Section 28: Declaration of acceptance of office

88. *Section 28* makes provisions about this. Any person elected as Mayor or an Assembly member must make a declaration of acceptance of office in order to be allowed to act in that office. The declaration must be delivered to the proper officer of the Authority within two months of the date of the election, or else a vacancy will be declared.

89. Section 3(4) enables the Secretary of State to make detailed arrangements in connection with the first ordinary elections. The Secretary of State may also use this order to make provision specifying how, in connection with the first elections, declarations of acceptance of office are to be made and delivered. The order may for example appoint an officer to receive these first declarations.

Part Ii: General Functions and Procedure

Sections 30 to 34: The general and subsidiary powers of the Authority

90. *Section 30* of the Act provides for the Authority to have power to do anything which will further any one or more of its principal purposes. The Act defines the GLA's principal purposes as being - to promote economic development and wealth creation in Greater London; to promote social development in Greater London; and to promote the improvement of the environment in Greater London (see *sections 30(2) and 424* for interpretation).

91. In determining whether or not to exercise its power to further one or more of its principal purposes the Authority is required to consider the effect this may have on the remaining purpose or purposes – in so far as that is practicable – and, over a period of time, to secure a reasonable balance between furthering each of its principal purposes. It must consider the effects the proposed exercise of the power would have on the health of people in London, and the achievement of sustainable development in the United Kingdom. If it decides to exercise its powers it must do so in a way which is best calculated to promote improvements to the health of people in Greater London and which will contribute to the achievement of sustainable development.

92. The Authority will have to have regard to any guidance issued by the Secretary of State under *section 30(7)* concerning the application of the Authority's general purpose.

93. *Section 31* sets out certain limitations on the exercise of the Authority's general power. The Authority will not be able to do anything using this power which would duplicate the statutory functions of TfL, the MPA or the LFEPA, and must seek to secure that it does not duplicate the activities of the London Development Agency. It will also be unable to duplicate the statutory functions of local authorities or of other public bodies, in particular the London borough councils and the London Health Authorities. Subsection (3) specifies the services in respect of which the GLA cannot incur expenditure - including housing, education, social services or health services - where these services may be provided by a London borough, the Common Council or any other public body. Subsection (7) gives the Secretary of State a power to add to the list things which the Authority is prevented from doing in this way. Subsection (8) contains a reserve power to impose limits on the expenditure that can be incurred using the general power, and subsection (9) gives the Secretary of State powers to remove or restrict any such prohibitions imposed by this section.

94. The Mayor will however be able to use the power in section 30 to co-operate with other public authorities or bodies, or to co-ordinate or facilitate the activities of such authorities or bodies on a London-wide or a wider than local basis. This might include, with the agreement of such authorities or bodies, providing a related specialist service which would be of benefit to London as a whole.

95. To protect other authorities or bodies, organisations or individuals whose interests might be affected by the exercise of its general power, *section 32 (1)* requires the Authority to consult such bodies or persons as it may consider appropriate in any particular case, prior to the exercise of the power. *Section 32(2)* provides that, in deciding whom to consult, the Authority must consider whether or not to consult the following bodies or organisations: the London Boroughs and the Common Council; voluntary bodies whose activities benefit the whole or part of Greater London ; bodies which represent the interests of different racial, ethnic or national groups; bodies which represent different religious groups; and bodies which represent the interests of persons carrying on business in Greater London. Combined, these provisions mean that the Mayor may exercise the Authority's general power only after he has consulted bodies or persons whose interests will be affected by the exercise of that power.

96. *Section 33* requires the Authority to make appropriate arrangements with a view to securing that, in the exercise of its general power and the preparation and implementation of its strategies, there is due regard to the principle that there should be equality of opportunity for all people. It also requires the Authority to publish, annually, a report setting out the arrangements which have been put in place during the year to which the report applies and making an assessment of how effective those arrangements were in promoting equality of opportunity. *Section 34* provides for the Authority to be able to do anything which is incidental to the exercise of its functions, including its general power under section 30.

Sections 35 to 37: Exercise of functions: general principles

97. *Section 35* provides the general principles for the exercise of the Authority's functions by the Mayor, by the Assembly or by the Mayor and the Assembly acting together. Section 36 provides for the procedures to be followed by the Assembly in preparing the Authority's standing orders.

98. *Section 37 and Schedule 4* provide for the discharge of the Mayor's functions when there is a vacancy in the office of Mayor or the Mayor is temporarily unable to act. In these circumstances *paragraph 3* of Schedule 4 provides for there to be an "Acting Mayor", who will be either the deputy Mayor or the Chair of the Assembly. There are certain functions of the Mayor which the "Acting Mayor" will not be able to exercise. These functions are set out in paragraphs 6 and 11 of Schedule 4: they are, the preparation of a consolidated budget for the Authority and the functional bodies; the preparation,

alteration or replacement of *any* of the Mayor's strategies; and certain appointments including appointments to the functional bodies.

Sections 38 to 40: Functions exercisable by the Mayor

99. *Section 38* provides for the delegation of functions exercisable by the Mayor. The majority of the functions of the Authority will be exercisable by the Mayor, who will be able to delegate those functions to any of the bodies or persons specified in this section including the Deputy Mayor, TfL and the London Development Agency. *Section 39* provides for the establishment of joint committees with other local authorities for the joint discharge of functions where the Mayor has delegated his functions, under the provisions of section 38(1), to one or more local authorities. *Section 39(2)* provides for the establishment of joint committees with one or more local authorities where they have related or connected interests. *Section 40* extends the provisions of Part II of the Deregulation and Contracting Out Act 1994 so as to apply them to the GLA. This means that a Minister of the Crown may make an order providing for the contracting out of any of the functions of the GLA which are exercisable by the Mayor.

Sections 41 to 44: The Mayor's strategies

100. The Act requires the Mayor to produce a number of strategies, including strategies in relation to transport (section 142); economic development and regeneration (section 306); spatial development (section 334); biodiversity (section 352); municipal waste management (section 353); air quality (section 362); ambient noise (section 370); and culture (section 376).

101. *Section 41* sets out the strategies to which the general duties of the Mayor apply, the duty of the Mayor to review and revise the strategies, and the matters to which the Mayor must have regard in preparing, revising or implementing those strategies. In preparing, reviewing or amending the strategies, the Mayor shall have regard to the need to ensure that each of the strategies is consistent with national policy and with such international obligations as the Secretary of State may notify to the Mayor, and with the other strategies. The Mayor shall also have regard to the principal purposes of the Authority and the effect the proposed strategy or revision would have on the health of people in London and the achievement of sustainable development in the United Kingdom. The Mayor shall also have regard to the resources available to implement each strategy, the desirability of promoting the improvement of the health of Londoners and the desirability of promoting and encouraging the use of the River Thames safely – in particular for passenger transport and freight transportation. The Mayor must set such targets as he or she considers appropriate for implementing each of the strategies. In doing so the Mayor shall have regard to national targets, objectives and performance indicators, and shall seek to secure that the targets set are not less demanding than these.

102. *Section 42* places a duty on the Mayor to carry out consultations in preparing or revising the strategies. The Mayor shall consult, in the first instance, the Assembly and the functional bodies, and subsequently each London borough council and the Common Council. The Mayor shall also consult any other organisation or individual he or she considers it appropriate to consult, including bodies of the descriptions in section 32(3). Subsection (6) exempts the Mayor from the duty to consult as to a proposed revision of strategies where he or she considers those revisions do not materially alter the strategy: it will be for the Mayor to decide whether or not revisions to the strategies materially alter those strategies and therefore whether or not consultation about those revisions are necessary.

103. *Section 43* requires the Mayor to take steps to give adequate publicity to the strategies, to send a copy to each London Borough and the Common Council, to make the current versions of them available for public inspection at the GLA's offices and other suitable places, and to provide them at a reasonable cost to any person who asks for them.

104. *Section 44* provides for directions by the Secretary of State as respects the preparation and publication of the first strategies. Should the Secretary of State consider that the Mayor who is first elected is failing to take the necessary steps to prepare the strategies, the Secretary of State will have a reserve power to direct the Mayor to prepare and publish the strategies within a specified period of time.

Sections 45 to 48: Public accountability

105. *Sections 45 to 48* contain provisions on the accountability of the Mayor and Assembly. Section 45 provides that the Mayor will make a report to the Assembly at least three clear working days before each of the ten monthly meetings the Assembly must hold each year under section 52(3). The report must set out significant decisions which the Mayor has taken, with reasons, and responses to any formal proposals put by the Assembly. The Mayor will attend the ten meetings of the Assembly and will answer Assembly members' oral or written questions, orally, or where this is not practicable, in writing. In answering Assembly questions, the Mayor will not be obliged to disclose advice received from GLA staff or from functional bodies or their members or staff. Similarly, GLA staff and functional bodies and their members and staff will not be obliged to disclose advice to the Mayor when summoned by the Assembly under section 61. The Assembly meetings which the Mayor attends, the Mayor's reports, the text of questions and answers and the minutes of the meetings will be open or available to the public, subject to the exceptions for confidential and other exempt material set out in Part VA of the Local Government Act 1972.

106. *Section 46* requires the Mayor to prepare an Annual Report. The Annual Report will assess the Mayor's progress on implementing strategies, including the achievement of any targets set, include information about the performance of the Authority's statutory functions which the GLA is obliged to publish under any legislation. The Mayor will also include in the report information of a type which the Assembly has asked to be included before the beginning of the year covered by the report. The Mayor will send the report to the Assembly before publishing it.

107. *Section 47(6)* requires an annual State of London debate to be held in April, May or June but it must not be held until at least 7 days after the publication of the Annual Report. One effect of this provision is to require the Annual Report to be published at least 7 days before the end of June in the financial year after that to which the Report relates.

108. *Section 47* provides that the Mayor will hold and attend an event referred to in the Act as an annual public "State of London" debate. The debate will take place in April, May or June, at least 7 days after the Annual Report is published. Section 48 provides that the Mayor and Assembly will hold twice-yearly events, which are referred to in the Act as "People's Question Time". The Mayor must decide the form and procedures for both events, following consultation with the Assembly.

Section 49: The Deputy Mayor

109. *Section 49* provides for the appointment of a deputy Mayor. The Mayor will be required to appoint a deputy Mayor from amongst the Assembly members, and will be required to appoint the deputy Mayor as a member of the Metropolitan Police Authority. The Mayor will be able to delegate functions to the Deputy Mayor, and the Deputy Mayor will, on agreeing to do so, become Acting Mayor if there is a vacancy in the office of Mayor or the Mayor is temporarily unable to act.

110. The Deputy Mayor cannot be the Chair or Deputy Chair of the Assembly.

111. The Mayor may dismiss the Deputy Mayor at any time. A Deputy Mayor may resign at any time. In either case, the Mayor must appoint a successor.

Sections 50 and 51: Chair and Deputy Chair of the Assembly

112. *Section 50* provides for the offices of 'Chair of the London Assembly' and 'Deputy Chair of the London Assembly', and for the functions of those office-holders. *Section 51* covers their appointment. The Chair and Deputy Chair will both be elected by the Assembly, from amongst its members. Neither can be appointed as Deputy Mayor and retain the office of Chair or Deputy Chair of the Assembly. If there is a vacancy in the office of Mayor and there is either no Deputy Mayor or the deputy Mayor declines to become acting Mayor, the Chair of the Assembly will become Acting Mayor and exercise the functions of the Mayor subject to the restrictions which relate to the Deputy Mayor - as set out in paragraphs 6 and 11 of Schedule 4.

Sections 52 to 60: Meetings and procedure of the Assembly

113. *Section 52* provides for meetings of the whole Assembly. Within ten days of an ordinary election (as set out in section 3), the Assembly must meet to elect a Chair and Deputy Chair.

114. The Assembly must hold ten meetings each year, at which it will consider the Mayor's report (details of which are provided in the note on section 45), and question the Mayor and employees of the Authority. The Assembly may also consider other matters at these meetings. After each ordinary election, the first of these meetings must be held not later than 25 days after the date of the election. Thereafter, the Assembly must hold meetings of this sort at intervals of not less than 28 days. The Assembly may also hold any other meetings it chooses.

115. The Mayor and the staff he appoints (other than his two political advisors) will be required to attend these monthly meetings and answer questions put to them by the Assembly. Subsection (4) of section 70 specifies those employees of the Authority who are to be required to attend the Assembly's meetings as part of their terms and conditions. They will include senior permanent officers, together with the Mayor's ten personal appointments (see section 67).

116. *Subsection (8)* of section 52 allows the Chair of the Assembly to call extraordinary meetings of the Assembly at any time.

117. If the Chair refuses to call an extraordinary meeting after a request by five members of the Assembly has been presented to him, or if the Chair fails to call an extraordinary meeting within seven days of receiving such a request, then any five Assembly members may call such a meeting. The power to request or call an extraordinary meeting cannot be delegated by the Assembly to a committee or to an individual Assembly member.

118. *Section 53* contains provisions on Assembly procedure. The Assembly will take decisions by a simple majority of those present and voting at a meeting, except where there is express provision to the contrary. The Assembly will be able to determine its own procedure and that of all its committees and sub-committees, including the size and composition of a quorum. This discretion will be subject, among other things, to the provisions set out in section 52 requiring the Assembly to elect a Chair and Deputy Chair, to hold regular meetings, and deal with the holding of extraordinary meetings.

119. *Section 54* provides for the delegation of the discharge of the functions of Assembly. The Assembly may arrange for any of its functions to be exercised either by a committee or sub-committee of the Assembly, by a single Assembly member or by a member of staff of the Authority. In the case of delegation to a single member, the Assembly may only delegate its functions under section 67(2) – staff appointments – and section 70(2) – terms and conditions of staff – to a member of the staff of the Authority appointed by the Assembly. This section also provides for delegation by committees to sub-committees. In arranging for its functions to be exercised by a committee or individual Assembly member, the Assembly does not thereby prevent itself as a whole from exercising those functions. Certain functions must be exercised by the whole Assembly

and are not capable of being delegated to all; for example, its duty to hold a meeting to elect a Chair and Deputy Chair, as provided for in section 52.

120. There are special provisions relating to the Police. Section 20 of the Police Act 1996 requires relevant councils to make arrangements for questions on the discharge of the police authority's functions to be put by members of the council at meetings of the council. *Paragraph 78* of Schedule 27 inserts a new section 20A, which makes corresponding provision. The Assembly will not be permitted to arrange for its functions under section 20A of the 1996 Act to be exercised by an individual Assembly member

121. *Section 55* provides for the appointment and membership of Assembly Committees and sub-committees. It also provides for the Assembly to appoint "advisory committees" and for the membership of such committees. *Section 56* provides for minutes of meetings of the Assembly, Assembly committees and sub-committees to be kept in a form to be determined by the Assembly

122. *Section 57* covers rules on the political composition of Assembly committees. Local government provisions governing the political composition of committees, set out in sections 15 to 17 of and Schedule 1 to the Local Government and Housing Act 1989 and regulations made under those provisions, will apply to committees of the Assembly. The effect of these provisions is to require the Assembly to ensure that the allocation of appointments to Assembly committees reflects the strength of different political groups in the Assembly as a whole.

123. The Assembly shall be required to review the political composition of its committees, as specified by section 15(1) of the 1989 Act, when it first appoints members to any committee.

124. *Section 58* makes the Assembly and its committees and sub-committees subject to the rules, with some modifications, which apply to local authorities generally requiring them to hold meetings in public, give public notice of meetings and make documents publicly available. These requirements are set out in Part VA of the Local Government Act 1972 (sections 100A to 100K and Schedule 12A). The Authority is not required to make available for public inspection "background papers" which would disclose advice to the Mayor. The Assembly shall exclude the public from meetings where confidential information is going to be discussed and shall not make available documents which would disclose certain categories of commercially sensitive information which relate to TfL and the LDA.

Sections 59 and 60: General functions of the Assembly

125. *Section 59* sets out the Assembly's powers to carry out reviews and investigations. The Assembly will be required to keep the Mayor's exercise of statutory functions under review. In particular, the Assembly will have power to investigate, and prepare reports about, any actions and decisions of the Mayor, any actions and decisions by any member of the Authority's staff, matters relating to the principal purposes, matters in relation to which statutory functions are exercisable by the Mayor, or any other matters which the Assembly considers to be of importance to Greater London.

126. *Section 60* allows the Assembly to submit proposals to the Mayor. This power may not be delegated to a committee or an individual Assembly member, so any proposal submitted to the Mayor will have to come from the whole Assembly. The Mayor will be required to make a formal response to any proposals submitted to him by the Assembly in his report to one of the ten Assembly meetings provided for in section 52(3).

Sections 61 to 65: Attendance of witnesses and production of documents

127. *Section 61* contains powers for the Assembly to summon certain categories of people to give evidence at its meetings and to produce documents.

128. *Subsections (2) to (5)* set out the categories of persons who may be required to attend or to produce documents. These are:

- Any person who is a senior member of staff of the Authority or of one of the four functional bodies: TfL, the London Development Agency, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority.
- Any person who is chairman or a member of the board of one of the four functional bodies.
- Any person who in the preceding three years has been a chairman or a member of one of the four functional bodies.
- Any person who has, or any person who is a member, or a member of staff, of a body which has, within the preceding three years had a contractual relationship with the Authority.
- Any person who has, or any person who is a member, or a member of staff, of a body which has, in the preceding three years received a grant from the Authority.
- Any person who is a member of the Assembly.
- Any person who in the preceding three years has been a member of the Assembly.
- Any person who in the preceding three years has been the Mayor.

129. The Assembly will not be able to require GLA staff, functional bodies or their members or staff, to give evidence or produce documents which would disclose advice given to the Mayor.

130. *Section 62* sets out the procedures the Assembly will be required to follow when it requires attendance at its meetings. These include the timescales within which the Head of Paid Service of the Authority (see below) must give notice of where and when people are to attend, and the documents or types of documents they must produce.

131. *Section 63* provides that the Secretary of State may make orders prescribing the categories of information which a person summoned to give evidence to the Assembly may refuse to give, and categories of document which such a person may refuse to produce. Orders under this power are statutory instruments which are subject to the negative resolution procedure of the Houses of Parliament (as provided by section 420).

132. *Section 64* covers the consequences of failure to attend proceedings. It will be an offence for somebody who falls into the categories set out in section 61 to:

- refuse or fail to attend the proceedings to which he or she is summoned, without reasonable excuse;
- refuse to answer questions which are properly put;
- refuse to produce documents which have been requested, without reasonable excuse; or
- intentionally alter, suppress or conceal any documents requested.

133. Any person found guilty of such an offence will be subject to a fine of no more than level 5 on the standard scale (currently specified under the Criminal Justice Acts as £5,000) or to imprisonment for a period not exceeding three months.

134. *Section 65* provides that the Assembly's openness rules under section 58, with some modifications, apply to hearings under section 61. Hearings will be open to the public, and documents available for public inspection subject to exceptions for confidential and exempt information. Transcripts or other records of evidence will be available for public inspection, as will additional papers supplied by witnesses or documents prepared for Assembly members to use at the hearings.

Section 66: Ethical standards

135. *Section 66* concerns ethical standards. Because of the allocation of responsibilities between the Mayor and the Assembly, the usual procedures which govern the conduct of business within local authorities cannot be applied to the Authority. The Act therefore provides a power for the Secretary of State to issue guidance to the Authority about, amongst other things, the disclosure and registration of interests, voting in cases where an Assembly member has an interest in the matter in question, the exercise of functions by or on behalf of the Mayor, the deputy mayor or any member of the Authority's staff in cases where the mayor, deputy Mayor or member of staff has an interest in the matter in question; and the prescription of model codes of conduct. The Secretary of State may also provide guidance on the establishment, by the Authority, of one or more committees concerned with ethical standards and about the functions of such a committee. A consultation document on this guidance was issued on 11 October 1999.

Sections 67 to 73: Staff

136. *Section 67* provides for the appointment of three categories of employees of the Authority, and also provides for them to be appointed to the Authority in different ways.

137. Under the provisions of *section 67(1)(a)*, the Mayor will be able to appoint two political advisers. They will be personal appointments made by the Mayor alone, and the jobs will not need to be advertised or be subject to competition. The Mayor will be required to report to the Assembly the terms and conditions of the appointments, including their duration. No appointment in this category can extend beyond the term of office for which the Mayor is elected.

138. The Mayor will also be able to appoint not more than 10 other members of staff - *section 67(1)(b)*. These posts will be advertised and open to competition, and appointments will be made on merit in line with the provisions of section 7 of the Local Government and Housing Act 1989. The Mayor will be required to report to the Assembly who has been appointed to each of the posts, and the terms and conditions under which the appointment has been made. No appointment in this category can extend beyond the term of office for which the Mayor is elected.

139. Under the provisions of *section 67(2)*, the Assembly, or a committee or individual member of the Assembly, or a member of staff of the Authority, appointed under the provisions of section 67(2), to whom the function has been delegated, will appoint all other employees of the Authority.

140. Appointments under section 67 will be made subject to the restrictions and terms and conditions set out in *sections 68 to 71* of the Act which reflect provisions in local government legislation for the appointment of local authority officers.

141. *Section 72* requires the Authority to appoint a Head of Paid Service who will have the same duties as those imposed by section 4 of the Local Government and Housing Act 1989 on the Head of Paid Service in local authorities, and who will, in addition, have other responsibilities which reflect the separation of powers between the Mayor and Assembly. The appointment of the Head of Paid Service will be made by the Assembly following consultation with the Mayor.

142. *Section 73* requires the Authority to appoint a Monitoring Officer. The Monitoring Officer will have the same duties as those imposed by section 5 of the Local Government and Housing Act 1989 in relation to local authorities, and additional powers to reflect the separation of powers between the Mayor and the Assembly. The Monitoring Officer will act as monitoring Officer to Transport for London and the London Development Agency where they are exercising any function delegated to them by the Mayor under section 38 of the Act. This section also sets out the procedures to be followed when the Monitoring Officer submits a report to the Mayor and Assembly

Sections 74 to 76: General local authority provisions

143. By virtue of *section 74* the GLA will be included in the list of bodies subject to scrutiny by the Commission for Local Administration (commonly known as the "local government ombudsman"). This list is set out in the Local Government Act 1974 (as amended). Section 394 provides for the functional bodies also to be subject to investigation by the local government ombudsman.

144. The ombudsman is responsible for investigating and reporting on complaints by members of the public about maladministration. The ombudsman investigates complaints and where appropriate suggests a course of action for authorities to take.

145. The Act gives the ombudsman powers to carry out investigations in areas where the GLA and its functional bodies are competent. Members of the public will be able to make complaints to the ombudsman about maladministration by the GLA and the functional bodies in the provision of services. Because the GLA will be a strategic authority, it will be responsible for the direct provision of services to the public in only a few areas. It is likely that these will mostly be related to TfL's responsibility for highways and transport planning. (Public complaints about the provision of passenger transport services by TfL will be dealt with by the London Transport Users Committee.) Decisions taken by the Fire and Police Authorities that may have a direct impact on members of the public could include planning.

146. Section 74 also contains provisions to amend the parts of the 1974 Local Government Act which set out how the ombudsman should inform local authorities of investigations he is undertaking into them, and how he should present the conclusions that he draws. These amendments will allow for the different structure of the GLA, and will ensure that the ombudsman takes account of the division of responsibilities between the Mayor and Assembly when he is preparing or submitting reports on complaints of maladministration against the GLA. For example, when the ombudsman submits a report to the GLA he will submit it to both the Mayor and the Assembly.

147. Subsection (5) of section 74 amends the 1974 Act to allow the ombudsman to identify individual members of the GLA in any report on the Authority that he might prepare. Presently, the ombudsman can only identify individual members of local authorities who have contravened the local government code of conduct.

148. *Section 75* makes the GLA subject to standard local authority provisions of the Local Government Act 1972 covering documents, notices etc.

149. *Section 76* of the Act provides that the GLA should follow the same procedure as local authorities (set out in section 236 of the Local Government Act 1972) when it makes byelaws.

Sections 77 to 79: Local Bills

150. Sections 77 to 79 along with *section 167*, *Schedule 5*, *Schedule 13*, *paragraphs 16 and 21 of Schedule 25* provide that the GLA, TfL and the LDA have the power to promote local legislation. They provide that, before doing so, extensive consultation must take place. Where a local Bill affects the exercise of statutory functions of a London local authority, the consent of that authority must be obtained. Where more than one London local authority is affected, the consent of at least 90% of all London local authorities must be obtained.

151. *Section 77* provides that the GLA, acting through the Mayor, may promote a local Bill for any purpose which is for the public benefit of the inhabitants of, or of any part of, Greater London. The Authority may also oppose local Bills. The section also provides that London local authorities may contribute to the cost of promoting such a Bill.

152. *Section 78* enables the GLA to request provisions be included in a local Bill promoted by a London local authority and contribute to the cost of promoting the Bill. *Section 79*

provides that the consent of the GLA must be obtained before a London local authority may promote a local Bill affecting the exercise of statutory functions by the GLA or its functional bodies, other than provisions included at the request of the GLA under section 78.

153. *Schedule 5* provides for the procedure to be followed by the GLA when promoting a local Bill. It sets out procedures for consultation and publicity in respect of the draft Bill and for publicity arrangements prior to its deposit. Paragraph 6 provides that where the Bill affects the statutory functions of a single London local authority, that authority must give its consent to the Bill prior to the Bill being deposited. Where the statutory functions of two or more London local authorities are affected, the Mayor will be required to obtain the consent of at least 90% of all London local authorities before depositing the Bill.

154. *Section 167* provides that TfL shall be able to promote and oppose local Bills, subject to consent being obtained from the GLA. *Schedule 13* provides for a similar procedure to apply in respect of Bills promoted by TfL to that required of the GLA in Schedule 5. *Paragraphs 16* and *20*of *Schedule 25* amend the Regional Development Agencies Act 1998 to provide that the LDA may promote Bills in Parliament, subject to a similar procedure to that required of the GLA and TfL.

Section 80: Contracts

155. *Section 80* concerns contracts. Section 17 of the Local Government Act 1988 prevents local authorities from taking account of specified non-commercial matters when letting contracts for the supply of goods and services, or the execution of works. This section amends that section to include the GLA. The Act also makes similar provisions for the Metropolitan Police Authority in paragraph 57 of Schedule 27 and for the London Fire and Emergency Planning Authority in paragraph 50 of Schedule 29.

Part Iii: Financial Provisions

Chapter I: Council Tax

156. *Section 82* provides that the GLA will be a major precepting authority, that is an authority which does not raise council tax directly from individual council tax payers. Instead the GLA will require each London borough council to raise a certain amount (the "precept") from council tax payers in its area. The Act defines the GLA as a major precepting authority by amending the Local Government Finance Act 1992, and removes the London Fire and Civil Defence Authority and the Receiver for the Metropolitan Police District from the list of major precepting authorities. *Section 81* requires billing authorities to add to their council tax bills the amounts calculated by the GLA under the GLA Act 1999. *Section 83* amends section 40 of the Local Government Finance Act 1992 so that where the GLA issues a precept the calculations and taxbase items referred to are as set out in the GLA Act.

157. *Section 84* amends section 42 of the Local Government Finance Act 1992 to require the GLA to follow the procedure under that section whenever it issues a substitute precept, including a substitute precept following a direction to increase the budget for the Metropolitan Police Authority under section 95. A substitute precept is a precept issued by a local authority to give effect to substitute calculations of budget requirements or basic amounts of council tax carried out by the authority in respect of a particular financial year.

158. *Sections 85 and 86* set out how the GLA will calculate its component and consolidated annual budget requirements. For each constituent body, that is the Authority and each of the four functional bodies, the Authority must calculate the budget requirement. The GLA must then calculate the consolidated budget requirement by adding together the budget requirements of each of the constituent bodies. The budget requirement of a constituent body is calculated in a similar way to that of local authorities by calculating

the difference between the sum of expenditure items and the sum of income items as defined in the Act. A budget requirement cannot be negative; if the sum of expenditure items is less than the sum of income items, it will be nil.

159. The Act sets out rules which the GLA must follow in calculating budget requirements. An amount of income or expenditure which has been included in the calculation of a budget requirement of one constituent body should not be included in the calculation of the budget requirement of another. In estimating the Metropolitan Police Authority's expenditure, the GLA should take into account levies from the National Criminal Intelligence Service and the National Crime Squad. In estimating the expenditure of the other bodies, levies issued to them shall be taken into account. The GLA shall not anticipate any levies which have not been issued, unless an order or regulations have been made allowing it to do so.

160. The Secretary of State will be able to amend the rules governing the calculations by statutory instrument, in the same way as for the equivalent rules for local authorities generally.

161. *Section 87 and Schedule 6* establish the roles of the Mayor and Assembly in deciding budget requirements for the GLA itself and each of the functional bodies ("component budgets") and the consolidated budget requirement. The functional bodies will also be consulted about their own budgets.

162. The GLA's budget must be finalised by the end of February each year.

163. The first stage is for the Mayor, having consulted the Assembly and the functional bodies about their relevant component budgets, to draw up a draft (consolidated) budget. The Mayor will then consult the Assembly about the draft budget before presenting it to the Assembly at a public meeting on or before 1 February. The Assembly may approve this draft, or may amend it, both by simple majority vote, before returning it to the Mayor.

164. The Mayor will then prepare a final draft budget and present it to the Assembly at a public meeting before the end of February. If the final draft does not include amendments the Assembly made to the first draft, the Mayor will give reasons. The Assembly will either approve the final draft budget by a simple majority, or may amend it by a two thirds majority.

165. If the Mayor fails to present a draft budget on or before 1 February, or a final draft budget within a reasonable time, the Assembly will decide the GLA's budget by a simple majority.

166. The Secretary of State will be able to change the 1 February date by regulations. The purpose of this power is to accommodate any delay to the Local Government Finance Settlement.

167. The Mayor must publish the consolidated and component budgets and must keep each document available for public inspection at the GLA's offices for six years from the date it is first published. The Mayor must also supply a copy of all or part of each document to any person, on request, for a reasonable fee.

168. *Sections 88 to 93* amend or replace the equivalent sections of the Local Government Finance Act 1992 (sections 44 to 48) which relate to the calculation of precepts.

169. *Sections 88 and 89* set out the rules for calculating the basic amounts of council tax for the GLA. The rules for the GLA are broadly similar to those for other precepting authorities. However, in the case of the GLA it is necessary to apportion the various grants which help to meet the GLA's consolidated budget requirement between police services and the other services provided by the GLA. This division of the various grants between police and non-police services is required because the GLA is responsible for

police services in only part of the GLA area, the inner and outer boroughs, but not the City of London, which has its own police force.

170. Council tax payers in the City of London contribute to the cost of police services in the City of London through that part of their council tax which goes directly to the City of London. They are not required to contribute to police services in the remainder of London which will be funded through the GLA, nor should the element of their council tax in respect of GLA services take into account grants from central government to the GLA in respect of the police services funded through the GLA in the rest of London.

171. Sections 88 and 89 provide for this by specifying that the GLA first calculates an amount of council tax for the non-police services which it supplies across the whole of the GLA area. The GLA then calculates an additional amount of council tax in relation to the police services which it funds in the inner and outer boroughs. The calculation for non-police services takes into account that portion of the central government grants which relate to non-police services; the calculation for the additional element of council tax for police services takes into account those grants relating only to police services and that portion of the other grants which relate to police services. Council tax payers in the City of London only pay the GLA the amount for non-police services; council tax payers in the inner and outer London boroughs pay the total of the police and non-police amounts. Sections 88 and 89 also provide powers for the Secretary of State to set rules for the calculation of the police and non-police elements of the GLA basic amounts of council tax.

172. *Section 90* identifies "the special item" mentioned in section 89(2). This is the expense of the MPA, the only expense borne by the GLA which does not relate to the whole of Greater London. The expense does not relate to the City of London police area, because that area has its own police force. The Common Council is the police authority for that area and so it, rather than the GLA, is responsible for the cost of the police force.

173. *Section 91* amends the Local Government Finance Act 1992 to remove references to police services, and to probation services and magistrates' courts services in London. These references are no longer required following changes in the provision of these services which will accompany the introduction of the GLA.

174. *Sections 92 and 93* cover the calculation of council tax for properties in different council tax valuation bands and the calculation of the amount payable by each billing authority. They do this by amending sections 47 and 48 of the Local Government Finance Act 1992, inserting references to the Greater London Authority, and to the relevant sections of the Greater London Authority Act 1999.

175. *Section 94*, *section 98 and Schedule 7* provide that the GLA will have a similar power to make substitute calculations to that of other local authorities. The effect is that, normally, it will have powers only to reduce its precept, except where the previous calculations are quashed by court proceedings, or where the Secretary of State directs that the Metropolitan Police Authority budget should be increased, in accordance with section 95.

176. The roles of the Mayor and Assembly in carrying out substitute calculations are set out in Schedule 7 and are similar to the procedures for determining the budget originally.

177. *Sections 95 and 96* give the Secretary of State a reserve power to set a minimum level for the Metropolitan Police Authority's budget. This power can be used only if the Secretary of State considers that the budget set by the GLA is too small to provide an efficient and effective police force. The Secretary of State may specify a minimum level for the budget, which must not be greater than the amount required to restore or maintain an efficient and effective police force.

178. Where the Secretary of State has made such a direction, the GLA may increase the MPA's budget by increasing the precept, cutting the other component budgets, or through a combination of the two. The GLA will not be able to increase the precept by

any more than the difference between the MPA budget specified in the direction and the MPA budget previously set by the GLA and considered by the Secretary of State to be too low.

179. If the GLA chooses to change the precept, the previous precept would remain valid until the new precept is issued. If the GLA fails to make substitute calculations when required to under section 95 and to issue a revised precept within 35 days, it will not receive any sums that billing authorities (the boroughs and the City) would have otherwise paid to it in respect of the precepts until it has carried out the substitute calculations.

180. *Section 97* provides that the Mayor will be able to recalculate component budgets when he considers this is appropriate because of an emergency or disaster involving the destruction of or danger to life or property. This will allow him to reallocate income (other than grant allocated to a specific body) between constituent bodies. The GLA will not, however, be able to change the consolidated budget requirement.

Chapter Ii: Grants and Redistributed Non-Domestic Rates

Sections 100 and 101: Grants

181. *Sections 100 and 101* create two new central government grants. Section 100 provides for the Secretary of State to pay to the Authority a general-purpose grant. It is at present envisaged that this grant would cover the majority of the costs of the Mayor and Assembly, with London council tax payers covering the remainder. The grant will be paid annually. The Secretary of State will consult the Mayor before settling the amount. It may be paid in instalments.

182. *Section 101* provides for the Secretary of State to pay to the Authority a grant which draws together existing streams of funding for transport in London: the GLA Transport Grant. This is to be an annual grant, payable in instalments. The amount of the grant will be determined after consultation by the Secretary of State with the Mayor.

183. *Subsection (2)* of section 101 provides that this grant is paid for the purposes of TfL, which include both the services it runs itself and the support it will provide to London borough councils. *Section 103(1)* compels the Mayor to pay GLA Transport Grant received from the Secretary of State directly to TfL. The grant is thus not available to the Mayor for spending on other purposes or for allocation to another functional body.

Sections 102 and 103: Distribution of grants etc.

184. *Sections 102 and 103* deal with the distribution of grants. The GLA will receive general grants on behalf of itself and the four functional bodies. These will include Revenue Support Grant, additional grant, relevant special grant, the general GLA grant, redistributed non-domestic rates, and income from the GLA precept. The GLA will have a duty to pay the functional bodies in instalments their share of the sums it receives in accordance with their budgets. The GLA must ensure that the amount and timing of instalments would allow a functional body to fulfil its functions, and will have a duty to pay the instalments punctually.

185. The GLA will also receive grants intended for a specific functional body (e.g. police grant) and will have to pay those grants to the relevant body forthwith.

Chapter Iii: Emergency Financial Assistance, Funds and Miscellaneous Matters

Section 104: Emergency Financial Assistance

186. *Section 104* amends section 155 of the Local Government and Housing Act 1989, under which central government grants may be paid to local authorities in whose area there occurs an emergency or disaster involving destruction of, or danger to, life or property. The GLA is added to the list of authorities eligible to apply for these grants. The GLA

will be able to apply for assistance, either on its own behalf or on behalf of the LFEPA, the MPA or TfL, following an emergency or disaster in the GLA area.

Section 105: Component budgets: anticipation of certain levies

187. *Section 105* amends the Local Government Finance Act 1988 so that regulations can be made to allow the GLA to anticipate a levy for itself a functional body except the Metropolitan Police Authority for which separate provision is made. This puts the GLA in line with other major precepting authorities.

Section 106: The Authority's general fund

188. *Section 106* requires the GLA to establish a General Fund. This is the main revenue fund of a local authority, from which day to day spending on services is met.

Section 107: Judicial review

189. *Section 107* provides that the only means of questioning the GLA's calculations of component and consolidated budget requirements and precepts will be through judicial review.

Section 108: Functions to be discharged only by certain authorities

190. *Section 108* provides that the calculation of budget requirements and the setting and issuing of precepts is to be carried out on behalf of the Authority by the Mayor, Assembly, or Mayor and Assembly acting jointly in accordance with the Act. These functions cannot be delegated to a committee or representative. The only exception is that the Mayor may consult a committee or other representatives of the Assembly on the draft consolidated budget if a majority of Assembly members have voted for this to happen.

Section 109: Information

191. *Section 109* places an obligation on the GLA and the functional bodies to provide, when requested, the financial information that other local authorities already provide to the Department of the Environment, Transport and the Regions (DETR).

192. Section 168 of the Local Government Act 1972 allows the Secretary of State, among others things, to collect, at the end of a financial year, information about the Authority's income and expenditure during that financial year. Section 139A of the Local Government Finance Act 1988 gives the Secretary of State the power to collect non-personal information from local authorities for the purpose of exercising his grant making powers under the Act.

Section 110: Provision of information by functional bodies to Mayor or Assembly

193. *Section 110* requires the functional bodies to provide the Mayor and Assembly with information relating to their financial affairs, or those of any company in which they have an interest. The Mayor and Assembly will be able to request any such information which the body has or could reasonably obtain.

Chapter Iv: Revenue Accounts and Capital Finance

Section 111: Application of Part IV of Local Government and Housing Act 1989

194. *Section 111* brings the GLA and the four functional bodies within a slightly modified form of the local government capital finance system. This was established by Part IV of the Local Government and Housing Act 1989, and has effect with respect to the finances of most local authorities in England and Wales and a number of other public

authorities, including police authorities and combined fire authorities. (Authorities and bodies covered by the system are referred to in Part IV as "local authorities").

195. Part IV regulates the use for capital purposes of borrowed money, credit and capital receipts. Capital purposes include, in particular, the acquisition of land, buildings or equipment, and the construction or improvement of buildings. Capital spending may also be funded from an authority's revenue resources and from any grants they are issued for capital purposes. The two latter sources of finance are not regulated by Part IV itself. However, the use of revenue for capital purposes is subject to the same constraints that apply to an authority's revenue spending generally; controls on the use of grants depend upon any conditions attached to the grants.

196. Part IV also requires amounts to be set aside out of capital receipts and revenue to meet credit liabilities and regulates the use of such amounts.

Sections 112 to 118: Credit approvals

197. Section 43 of the Local Government and Housing Act 1989 (LGHA) confers on local authorities a power to borrow money for any purpose relevant to their functions. Other provisions of Part IV regulate the use of credit arrangements which, as defined, include leases, hire purchase contracts and any transaction under which credit is given by a deferral of payment.

198. A credit approval is needed as authority to charge expenditure to any account other than a revenue account. Thus, all expenditure of borrowed money requires the use of a credit approval. A credit approval is also required to be used if an authority meets capital expenditure out of amounts set aside as provision for credit liabilities.

199. Using a credit approval is also one of the ways in which an authority may provide the credit cover which is required when entering into credit arrangements (alternatively, the authority may provide credit cover by setting aside additional amounts out of revenue or capital receipts).

200. Credit approvals are issued by the Government. A basic credit approval has to be issued for a local authority before the beginning of every financial year. Supplementary credit approvals may be given during a financial year.

201. *Sections 112 to 118* contain provisions on credit approvals. It is intended that the Government will have power to issue to the Authority and the functional bodies two new kinds of credit approval called aggregate credit approvals and additional credit approvals. The aggregate credit approval will, like the basic credit approval for other local authorities, be issued by the Secretary of State before the beginning of the financial year. An additional credit approval may be issued by the Secretary of State or any other Minister at any time during a financial year.

202. All such credit approvals are to be issued to the Mayor (different arrangements will apply in the first year before the Mayor is elected), but copies have to be sent to the functional bodies.

203. *Sections 113 and 114* deal with aggregate credit approvals and additional credit approvals. The amount of an aggregate credit approval may be nil. But subject to that, an aggregate or additional credit approval may consist of any number of amounts. Each amount specified must be of one of four categories. By specifying category A or B amounts for a specified functional body or for the Authority, the Government will be allowing the specified body to incur credit for capital purposes. In the case of a category A amount, this will be for any such purposes. In the case of a category B amount, it will be for a specified capital purpose.

204. Category C and D amounts are not for the use of a specified body, but are for allocation by the Mayor in such proportions as he may see fit. An allocation will allow the body to which it is made to incur credit for such capital purposes as the Mayor decides.

205. In the case of a category C amount, the Mayor may state that it is for any purpose or for a particular purpose.

206. In the case of a category D amount, the Mayor may only state that it is for any purpose specified by the Government or for a particular purpose of that description. For example, if the Secretary of State specified that the amount was for "regeneration", the Mayor would be able to allocate it for regeneration or for a particular regeneration project.

207. *Section 115* provides that the Mayor must notify all four functional bodies of every allocation made from a category C or D amount contained in a credit approval, whether it is made to one of them or to the Authority. In the case of category C and D amounts contained in the aggregate credit approval, the allocations to the functional bodies are to be notified as part of a capital spending plan for which provision is made in section 122.

208. *Section 116* confers power on the Secretary of State to make regulations requiring an amortisation period to be specified in aggregate and additional credit approvals. This is a period during which the body using the approval (i.e. the body either specified in it or having an allocation from the Mayor) has to set aside amounts out of revenue which could be used to meet its debts.

209. But such regulations would not apply if a category B amount were specified in an aggregate or additional credit approval as authority for a specified body to use borrowed money for expenditure which is treated as being for capital purposes because a direction has been given under section 40(6) of the LGHA 1989. Section 90 provides that in such a case, the Minister giving the credit approval has a discretion whether or not to specify an amortisation period.

210. *Section 117* sets out the criteria for issuing credit approvals. In determining the amounts of aggregate and additional credit approvals, the Secretary of State or other Minister is to have the same discretion to take account of such factors as appear to him to be appropriate as he has under Part IV of the LGHA 1989 in relation to basic and supplementary credit approvals. He may, in particular, have regard to grants, contributions and (subject to certain qualifications) capital receipts. But he may not take account of the ability of the Authority or a functional body to finance capital expenditure from revenue.

211. The effect of *section 118* is that, having been specified for a category A or B amount or having received an allocation from a category C or D amount, the authority concerned (the Authority or a functional body) shall be treated as having received a credit approval under Part IV of the LGHA 1989.

212. Consequently, the authority conferred by aggregate and additional credit approvals (to charge capital expenditure to a non-revenue account or to enter into credit arrangements) and the effect of using them are the same as for basic and supplementary credit approvals. Thus, for example, a functional body for which a category A amount is specified may use it to charge capital expenditure to borrowing, to enter into a lease, or to make a transfer of credit approval to any other local authority under section 56(2) of the LGHA 1989. And when the approval is used, it increases the functional body's "credit ceiling" (this is a measure of the extent to which an authority still has to make provision for its debts and other credit liabilities).

Section 119 to 121: Capital receipts and mutual grants

213. *Sections 119 to 121* make provision for capital receipts and mutual grants. The sums received by a local authority which are capital receipts are described in section 58 of the LGHA 1989. They include the proceeds of disposal of assets and investments and the repayment of capital grants and loans made for capital purposes. A part of a capital receipt received by a local authority may have to be set aside as provision to meet credit liabilities (but, at present, this is generally confined to receipts from disposals of

houses). The balance of capital receipts after such deductions have been made is called the usable part of the authority's capital receipts, and that part is available for meeting capital expenditure.

214. Section 119 confers on the Secretary of State power to make regulations to confer on the Mayor power to direct the payment to the Authority by a functional body of part of the functional body's usable capital receipts. Amounts paid to the Mayor under such a direction could only be used to meet capital expenditure of another functional body or of the Authority.

215. The regulations may prescribe the maximum percentage of usable capital receipts that may be specified in such a direction, or the portion in respect of which a direction may be issued (for example, the amount by which the usable part of capital receipts has increased during a financial year). The regulations may also enable the Mayor to require the body which has the benefit of a redistribution to apply the amount paid to it towards meeting expenditure for capital purposes of a particular description.

216. Section 120 authorises the GLA to pay grants to a functional body towards meeting expenditure for capital purposes, and authorises the functional bodies, with the Mayor's consent, to pay grants towards meeting expenditure for capital purposes of another functional body or of the GLA. Such a grant may be used by the body to which it is paid for any expenditure of that sort incurred for the purposes of or in connection with its functions.

217. Section 121 authorises the GLA to pay grants to a functional body towards meeting any expenditure which is not for capital purposes, and authorises the functional bodies, with the Mayor's consent, to pay grants towards meeting any expenditure of another functional body or of the GLA which is not for capital purposes. Such a grant may be used by the body to which it is paid for any expenditure of that sort incurred for the purposes of or in connection with its functions.

218. These sections are intended to facilitate the efficient use of the resources of the GLA and the functional bodies as a whole by providing administrative means for overcoming the restriction that a local authority may not use its capital resources to meet expenditure which is not for capital purposes.

219. For example, a body which at any time has available capital grants or capital receipts and a pressing need to incur expenditure towards which it cannot apply such amounts (because it is not expenditure for capital purposes) could arrange with the Authority or another functional body to receive a grant it could use towards that expenditure in return for making a capital grant to the body concerned.

Sections 122 and 123: The Mayor's capital spending plan

220. *Section 122* makes provision about the preparation by the Mayor for each financial year of a capital spending plan for the functional bodies. The capital spending plan is to be in the four sections described in section 122. Section A is a statement of the resources each functional body will have for capital expenditure by virtue of capital grants (other than grants payable by the GLA) and usable capital receipts.

221. Section B is a statement of the resources each functional body will have for capital expenditure by virtue of any grant that the Mayor has decided that the Authority is to pay under section 120, category A and B amounts specified in the aggregate credit approval for the relevant financial year, and any amounts that the Mayor has decided to allocate out of category C and D amounts specified in the aggregate credit approval for that year.

222. Section C is a statement for each functional body of total expenditure for capital purposes that the Mayor expects the body to incur, and of the total credit cover that the Mayor expects the body to need for credit arrangements. Section D is a breakdown of this total capital spending showing how much the Mayor expects the body to meet out

of capital grants; how much he expects it to meet out of the usable part of its capital receipts; how much he expects it to meet by using amounts specified in, or allocated from, the aggregate credit approval; and how much he expects it to meet out of revenue.

223. *Section 123* lays down a timetable for the preparation of, and consultation on, a draft capital spending plan, and for the completion of the plan and disclosure of its contents. The Mayor must keep the capital spending plan available for public inspection for six years from the date it is published and must supply a copy of all or part of it, on request, for a reasonable fee.

Sections 124 to 126: Supplementary provisions

224. *Section 124* provides that in preparing the capital spending plan, the Mayor may take account of such factors as appear to him to be appropriate, and makes it clear that preparation includes deciding for each functional body the minimum amount of grant that the GLA is to pay under section 120, and the amounts to be allocated out of category C and D amounts specified in the aggregate credit approval. These amounts are to appear in section B of the plan (see section 122(4)).

225. Section 124(3) provides that the Mayor may in particular take account of how far a functional body has, in any previous financial year, met total capital spending specified in section C of the capital spending plan for that year according to the expected breakdown of that spending given in section D. The intention is that the Mayor may, but is not bound to, have regard to the extent to which a functional body has departed in previous years from the pattern of capital spending (amounts and means of funding) about which all of the functional bodies will have been consulted, and which will have been set down in sections C and D of the relevant plan for the benefit of the GLA and the functional bodies as a whole.

226. *Section 125* confers on the Mayor power to require the functional bodies to provide information that he needs to decide how to exercise his powers and perform his functions under Chapter IV of Part III. If a functional body fails to supply information sought by the Mayor, the Mayor may make assumptions and estimates. The Mayor may rely on any information available to him, whether or not it is obtained from a functional body under this section.

Chapter V: Financial Administration, Accounts and Audit

227. The GLA and the functional bodies will be within the local government framework for financial administration, accounts and audit purposes. Local government accounts and audit arrangements will also apply to the London Pensions Fund Authority. Section 127 to 135 introduce the necessary amendments to the existing legislative provisions reflecting the particular circumstances of each body.

Section 127 to 133: Financial administration

228. *Sections 127 to 133* require the GLA and each of the functional bodies to make arrangements for the proper administration of its financial affairs and secure that one of its officers has responsibility for the administration of these affairs (its "chief finance officer"). In most cases, the chief finance officer will be a member of staff with a professional qualification and a member of an approved accountancy body but, in the case of Transport for London and the London Development Agency, provision is made enabling the chief finance officer to be a member of the body rather than a member of staff. A Mayor who chooses to chair TfL must not also be its chief finance officer. The GLA's chief finance officer will be appointed by the Assembly rather than the Mayor. No person may be the chief finance officer of the GLA and a functional body, or of two functional bodies.

229. A chief finance officer of the GLA or a functional body ("relevant authority") will carry out the functions of the post in accordance with the provisions of section 114 of the

Local Government Finance Act 1988. He is required to make a report to the relevant authority in respect of decisions involving unlawful expenditure or unlawful actions or unlawful items of account. In preparing the report, the chief finance officer of the GLA, the Metropolitan Police Authority or the London Fire and Emergency Planning Authority should consult the head of paid service and the monitoring officer. The chief finance officer of the London Development Agency should consult its chief executive and the chief finance officer of Transport for London should consult a designated member of the body or of its staff. A chief finance officer will copy reports to each member of the relevant authority (which, in the case of the GLA itself means the Mayor and each member of the Assembly) and, where the report concerns a functional body, to the Mayor and the Chair of the Assembly as well.

230. Section 131 sets out the duties of a relevant authority as regards a chief finance officer's report. A functional body and, in the case of the GLA, the Assembly must consider it at a meeting within a period of 21 days beginning from the day on which copies of the report are sent. The public access provisions of Part VA of the Local Government Act 1972 will apply to such a meeting (and provision is made to apply that Part to Transport for London and the London Development Agency). Where a report is made by the chief finance officer of the GLA, the Assembly will consider it at a meeting which the Mayor must attend. After the meeting, and taking account of the views of the Assembly, the Mayor will decide whether he agrees with the views contained in the report and what, if any, action he proposes to take.

Sections 133 to 135: Accounts and audit

231. *Sections 133 to 135* provide that the GLA, the functional bodies and the London Pensions Fund Authority will be subject to audit under the Audit Commission Act 1998 ("the 1998 Act") by auditors appointed by the Audit Commission. The GLA and each of the bodies will be required to keep its own accounts and prepare its own statements of accounts and these will be subject to the full provisions of the 1998 Act, including public inspection, action by the auditor and prevention of unlawful expenditure.

232. The GLA will also prepare a summary statement of accounts in respect of itself, the functional bodies and the LPFA and provision on the form of that statement and other matters will be made in regulations under section 27 of the 1998 Act. To avoid duplication in respect of matters already subject to sections 15 to 24 of the 1998 Act, those sections will not apply to this summary statement.

233. For the purposes of the summary statement, a functional body is required, at the request of the Mayor, to provide the GLA with such information relating to any accounts or statement of accounts as may be specified or described in the request.

234. *Schedule 8* contains the individual amendments to the 1998 Act to deal with the application of that Act to the GLA and the functional bodies.

235. Under section 8 of the 1998 Act an auditor is able to make a report on matters coming to his notice where it is in the public interest to do so. Where he does so in respect of a functional body he is required to send a copy to the Mayor as well as to the body. Section 8 reports are considered at a meeting of the body concerned. The public access provisions of Part VA of the Local Government Act 1972 will apply to such a meeting (and provision is made to apply that Part to Transport for London and the London Development Agency).

236. Specific provision is made for a report in respect of the GLA. The Assembly will consider the report at a meeting, which the Mayor must attend. After the meeting the Mayor will decide whether the report requires the GLA to take any action and what if any action to take. In taking his decision the Mayor must take account of any recommendations made by the Assembly. The duties imposed on the Mayor and the Assembly must be performed within four months, although an auditor may allow more time for consideration.

237. The GLA and the functional bodies will be able to request the Commission to conduct a study to promote economy, efficiency and effectiveness in the use of resources. There is also to be a provision for the Mayor to request that such a study be carried out in respect of a functional body. Before exercising this power the Mayor will consult the Assembly, the functional body and such associations of employees as appear to him appropriate. The costs of any study commissioned by the Mayor will be met by the GLA.

Chapter Vi: Miscellaneous and Supplementary Provisions

Section 136: Amendment of cross references to the Local Government Act 1999

238. The Local Government Act 1999 (which was passed before this Act) contains, or inserts into the Local Government Finance Act 1992, references to provisions of this Act which were subsequently renumbered during its passage through Parliament. The amendments made by *section 136* and *Schedule 9* correct those references.

Section 137: Council tax: no crown exemption for Authority or functional bodies

239. *Section 137* makes the occupants of dwellings maintained by the GLA and its functional bodies, but used for the administration of justice, police matters or other Crown purposes, subject to council tax. It does this by amending section 19 of the Local Government Finance Act 1992.

Section 138: No discretionary rate relief for functional bodies

240. *Section 138* amends section 47 of the Local Government Finance Act 1988 to ensure that billing authorities could not grant discretionary rate relief on properties occupied by the functional bodies.

Section 139: Local Loans

241. *Section 139* amends legislation to enable the Public Works Loans Commissioners to lend money to the functional bodies.

Part Iv: Transport

242. The special position of London as the capital and the largest city in Great Britain has given rise to the development of separate statutory codes for London in respect of transport. This Part of the Act makes further provision as to transport in London and adapts much of that legislation to the new governmental structure, in some cases repealing and re-enacting it with modifications. The Mayor's transport policy is to be embodied in a strategy. A new body called "Transport for London" is set up under the direct control of the Mayor and will, in due course, subsume the role of LRT, combining it with responsibilities relating to roads, traffic regulation, water transport and the licensing of taxis and private hire vehicles.

Chapter I: Transport Functions of the Authority

Section 141: The general transport duty

243. *Section 141* gives the Mayor a general duty to develop and implement policies to promote and encourage safe, integrated, efficient and economic transport facilities and services to, from and within London.

Sections 142 to 144: The transport strategy

244. *Section 142* requires the Mayor to prepare a transport strategy for London setting out his proposals for fulfilling the duty under section 141, including his proposals for providing transport for people with mobility problems and a timetable for implementing those proposals. The duty and the strategy will not be confined to those forms of transport for

which the Mayor or T*f*L will be directly responsible. The duty encompasses all forms of transport, including walking, and does not apply only to users of transport who are resident in London. It covers the movement of goods as well as people.

245. *Section 143* gives the Secretary of State a limited power to direct the Mayor to change the transport strategy. The Secretary of State will only be able to use this power where the strategy would be inconsistent with national policy and have an adverse effect outside Greater London. In accordance with *section 144*, London borough councils, the Common Council and any other statutory body exercising transport functions will be required to have regard to the strategy. The Mayor can issue guidance about the implementation of the strategy to other bodies that must also have regard to it.

246. The transport strategy will be subject to sections 41 to 44 of the Act, which make general provision for the preparation and publication of strategies. These include provisions on timing, the need to have regard to available resources and the persons to be consulted by the Mayor.

Sections 145 to 153: Local implementation plans

247. *Section 145* requires the London borough councils and the Common Council to prepare local implementation plans ("LIPs") setting out their own proposals on how they intend to put the transport strategy into effect in their respective areas. The councils are required to consult various bodies and must include a timetable for when they intend to implement the proposals in their plan.

248. *Section 146* provides for the Mayor to approve each local plan, ensuring that they adequately implement the transport strategy. He must not approve a plan unless he is satisfied that it is consistent with the strategy, and that the proposals in it are adequate to implement the strategy and that the timetable for implementation is adequate for those purposes.

249. *Section 147* gives the Mayor various means by which he can ensure that a plan is prepared to his satisfaction if a council fails to do so and can recover the cost of preparing a plan himself in default.

250. *Sections 148 to 150* provide for the revision of LIPs when the transport strategy is revised and enable councils to propose revisions of their own to their LIPs, after their LIPs have been approved by the Mayor. They also enable the Mayor to recover any reasonable expenses from Boroughs when he has had to prepare or implement a revised LIP on their behalf.

251. *Section 151* provides that once a plan has been approved the council must implement it according to the timetable in the plan. A plan prepared by the Mayor for a council will be treated as if the council itself had written it.

252. *Section 152* provides that if the Mayor considers that a council has not carried out any proposal in its LIP satisfactorily and according to the timetable in the plan, he will be able to exercise the appropriate powers of the council, at their expense, in order to fulfil the strategy.

253. *Section 153* provides that the Mayor may give legally binding directions to councils on the manner in which they perform any of their duties set out in sections 145 to 151, i.e. provisions on the preparation, submission, re-submission, revision and implementation of local implementation plans.

Chapter Ii: Transport for London

Sections 154 to 168: Transport for London

254. *Section 154* establishes Transport for London (TfL) as a statutory corporation and requires it to exercise its functions in accordance with guidance or directions given by

the Mayor and in order to facilitate the general duty of the authority, and to implement the transport strategy.

255. Section 154(4) introduces *Schedule 10*.

256. *Paragraph 1* of Schedule 10 provides that TfL is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown and its staff and property are not to be regarded as civil servants or property of the Crown. Thus it will not have the benefit of the rule that a statute does not bind the Crown except by express provision or necessary implication. The powers of TfL will be restricted to powers conferred by the Act and powers incidental to those powers.

257. *Paragraphs 2 and 3* provide that TfL is to have between eight and fifteen members, all of whom will be appointed by the Mayor. The Mayor may choose to be a member of TfL and, if so, shall be the Chairman. In making appointments, the Mayor will have to consider the desirability of ensuring that TfL members, between them, have experience of transport, finance and commerce, national and local government and the organisation of trade unions or matters relating to workers generally. The membership of TfL will also need to represent the interests of women and disabled people. Apart from the Mayor, no holders of specified political offices (including Members of either House of Parliament and Councillors) may be members of TfL.

258. *Paragraphs 4 to 10* provide that TfL will be able to decide for itself how its committees, sub-committees and individual officers will operate, and what functions each will have. TfL will be treated as a local authority for the purposes of the provisions of the Local Government Act 1972 relating to the appointment of joint committees with other local authorities and the discharge of functions through such committees but not so as to disqualify TfL's representatives on such committees from voting if they are not members of TfL itself. Written records will have to be made of all meetings of committees and sub-committees.

259. *Paragraphs 11 and 12* provide for the authentication of TfL's official seal on documents. Documents proceeding from TfL and purporting to be sealed by TfL or signed or executed by a duly authorised person are presumed to have been duly issued unless the contrary is shown.

260. *Paragraph 13* makes provision for matters in which a member of TfL has an interest.

261. *Section 155* confers on the Mayor a very wide power of control over TfL. The Mayor is given power to issue guidance and general or specific directions as to the exercise of any of the functions (duties as well as powers and operational as well as policy matters) of TfL. Directions and guidance must be in writing.

262. *Section 156* provides that TfL will have general powers to form companies and make agreements. These powers are similar but not identical to those of LRT under section 3 of the London Regional Transport Act 1984 (LRT Act 1984), as amended by the London Regional Transport Act 1996. TfL will be able to form, promote or assist companies, either by itself or with others, in order to carry on activities it has powers to carry on with or without activities which it does not have power to carry on.

263. TfL will be able to enter into agreements with others for the carrying on of activities which it has power to carry on or, in specified circumstances, which it does not have power to carry on. Such agreements can for example include arrangements for joint operation, ticketing and revenue pooling between TfL and the other party.

264. Where such agreements have been entered into by LRT prior to its abolition, the effect of provision made by or under Chapter XVI or Part XII will be that TfL will take on LRT's obligations under any such agreements. TfL will be able to transfer its relevant property, rights and liabilities to the company or person with whom they have the agreement if that would be necessary for the purposes of the agreement.

265. *Schedule 11*, which is introduced by*section 156(8)*, sets out miscellaneous powers of TfL.

266. *Paragraphs 1 to 3* enable TfL to carry passengers, luggage and other goods by any form of land or water transport to, from or within Greater London. TfL will also be able to enter into agreements with others to provide air transport between places in Greater London or places in Greater London and places outside. TfL will be able to store goods that are to be or have been carried.

267. *Paragraphs 4 to 6* provide that TfL will be able to provide incidental amenities and facilities for use by other parties with whom TfL has entered into agreements to carry out transport services. For example, TfL might agree to provide a private bus company with a rest room for off-duty drivers. TfL may also provide (or agree with others to provide) amenities and facilities that TfL thinks would benefit people using other transport facilities and services, whether or not those facilities and services are themselves provided by TfL - for example, TfL might provide a snack bar at a station. TfL will also be able to provide car parks, and parking for public service vehicles (such as buses).

268. *Paragraph 7* enables TfL to charge for the services and facilities it provides.

269. *Paragraph 8* empowers TfL to manufacture, maintain and repair machinery and components whether they belong to TfL or to other parties.

270. *Paragraph 9* enables TfL to provide professional or technical assistance and advice to others, and to charge for that service.

271. *Paragraph 10* enables TfL to enter into reciprocal arrangements with other transport operators for ancillary services, such as the sale of tickets or the provision of travel information to the public.

272. *Paragraphs 11 to 13* enable TfL to hire out its vehicles and to sell or lease any of its assets which the Mayor does not require for the implementation of the transport strategy. TfL can also: supply spare parts for any passenger road vehicles it sells; use any resources which it does not require for other purposes (such as letting out surplus office space); and spend a reasonable amount of money on the exploitation of commercial opportunities arising from activities it carries out in the discharge of its functions.

273. *Paragraph 14* enables TfL to provide and maintain facilities for the transfer of freight between a waterway or a railway and another mode of transport.

274. *Paragraphs 15 to 21* enable TfL to acquire, develop, sell and/or lease land.

275*Paragraph 19* enables T*f*L to be authorised, by order confirmed by the Secretary of State and submitted to him with the consent of the Mayor, to acquire land compulsorily.

276. *Paragraph 22* enables TfL to carry out research and development work in areas related to its transport functions, or enter into agreements with others to do that work.

277. *Paragraph 23* enables TfL to promote the welfare and efficiency of employees, and the efficiency of its equipment.

278. *Paragraphs 24 and 25* enable TfL to buy other businesses if the assets of those businesses are wholly or mainly required for purposes of discharging any of its functions, and to subscribe for or acquire securities of a body corporate for the purposes of discharging any of its functions.

279. *Paragraphs 26 and 27* give TfL the power to make byelaws for its railways and its piers.

280. *Paragraph 28* enables TfL to provide and maintain a transport museum, and to make a charge for admission.

281. *Paragraph 29* provides that when letting vehicles for hire or developing land, TfL and its subsidiaries must act as if they were commercial businesses.

282. *Paragraph 30* ensures that TfL has power to make investments by lending money, to acquire securities and to inherit loans or guarantees made by LRT and any securities acquired by LRT.

283. *Paragraph 31* provides that TfL is not to be regarded as a "common carrier" and will therefore not be subject to the duties and liabilities which, at common law, that status implies (such as those in respect of the acceptance of goods for carriage, rates to be charged, and liability for loss or damage). TfL is also relieved of the obligations contained in local enactments to provide connections to private railway sidings, to permit privately-owned wagons to use its railways and to provide or maintain any other railway services or facilities.

284. *Paragraph 32* enables TfL to do all other things necessary or expedient for the discharge of its functions.

285. *Paragraph 33* enables TfL to fulfil contracts entered into by its predecessor bodies before their abolition.

286. *Section 157* enables the Secretary of State by order made with the consent of the Treasury to specify activities which TfL is not to carry on except through a subsidiary or a jointly owned company. By virtue of section 419 TfL itself, but not its subsidiaries, will be exempt from income, corporation and capital gains tax. By requiring TfL to carry on certain activities only through subsidiaries, an order under this section will have the effect of defining those activities of TfL which will attract liability to tax and those which will not. Further orders could be made in the future to ensure that if the activities concerned are carried on they are carried on through a subsidiary of TfL and are taxable accordingly.

287. *Section 158* gives the Mayor a power, subject to confirmation by the Secretary of State (by order, subject to the negative procedure), to transfer TfL functions under any statutory provision to other persons. It is expected that this power will be used in relation to functions under local Acts, and orders under the Transport and Works Act 1992, for the facilitation of private finance initiatives.

288. *Section 159* allows TfL to give financial assistance (by grant or loan or other means) to any person or body for expenditure conducive to the provision of safe, integrated, efficient and economic transport facilities. For example grants could be made to London borough councils and the Common Council or to voluntary organisations (such as Dial-a-Ride) to provide transport services to meet the needs of disabled London residents. The Secretary of State's power under the Local Government Finance Act 1988 to make transport grants to the London borough councils and the Common Council is repealed.

289. *Section 160* gives TfL the power to guarantee the obligations of its subsidiaries or of any person with which it has an agreement under section 156(3) or (4). It also allows TfL to procure such a guarantee from a third party, for example from a bank or insurance company, and to indemnify the person who gives the guarantee. TfL is required by section 161 to include in its published annual report details of any financial assistance, guarantees or indemnities it has given. By section 171 LRT is also given power to procure guarantees.

290. *Section 161* requires TfL to prepare an annual report on its performance and submit it to the Authority as soon as possible after the end of the financial year. The annual report must include an explanation of how TfL has contributed to the implementation of the transport strategy, as well as how the activities of any subsidiary companies have contributed. The Mayor may specify what information on these topics or other aspects of TfL's performance should be included in the annual report. The section also sets out the arrangements for the publication of the report.

291. *Section 162* places a duty on TfL to make available such information about public transport services in London, including services provided by other persons, as it thinks fit. Subsection (3) prevents TfL from charging for the provision of information about its own services, but allows it to charge for providing information about other operators' services.

292. *Section 163* provides that TfL cannot dispose of operational land such as railway or tramway lines or stations, either through freehold sale or lease of over 50 years, without the consent of the Secretary of State. That consent is to be given by means of an order made by statutory instrument subject to the negative resolution procedure. Consent is not required if the land in question has ceased to be operational land for a period of at least five years. The Secretary of State's consent may be given in respect of any particular transaction or description of transactions.

293. *Section 164* places the Mayor and TfL under a duty to ensure that the subsidiaries of TfL do not do anything that TfL has not been given power to do by the Act, even though the subsidiary may be acting within the powers conferred by its memorandum and articles.

294. *Section 165* enables TfL to make schemes transferring property, rights and liabilities between itself and its subsidiaries or between subsidiaries. Schemes provide a simplified procedure for property transfer, avoiding the cost and time of the normal process of conveyancing. Schemes are subject to the approval of the Mayor who may modify a scheme on approval. The section introduces Schedule 12.

295. *Schedule 12* makes further provision as to schemes under section 165.

296. *Paragraph 2* provides for the contents of schemes and that certain rights are not to be exercisable or operate in consequence of a scheme transfer. It lays down the principle that the transferor and transferee under a scheme are to be treated in law as the same person for purposes connected with any transfers, except so far as the scheme or any instrument or agreement made in connection with it provides otherwise. *Paragraph 3* provides for the apportionment or division of property, rights and liabilities and *paragraph 4* enables a scheme to define the transferred assets, rights and liabilities by specifying or describing them or by reference to part of the transferor's undertaking or by a combination of any such means.

297. *Paragraph 5* allows for the creation of rights and liabilities in relation to transferred property or property retained by the transferor. *Paragraph 6* allows schemes to make such supplementary, incidental, consequential or transitional provision as T*f*L considers appropriate.

298. *Paragraph 7* enables schemes to transfer or reallocate functions exercisable by TfL under a local Act or an order under the Transport and Works Act 1992. The transfer of functions will be subject to confirmation by order of the Secretary of State. This is consistent with the power in section 142 of the Act for the Mayor to transfer statutory functions of T*f*L to other bodies. *Paragraph 8* states the legal effect of a transfer scheme. *Paragraph 9* provides for legal continuity following a transfer by scheme.

299. Schemes can provide for the transfer of an employer's rights under a contract of employment. *Paragraph 10* provides for continuity of rights and liabilities as between employees and the new employer. For example, employees' terms and conditions, their continuity of service and pension rights and their right to redundancy payments under the Employment Rights Act 1996 will not be affected.

300. *Paragraph 11* deals with the provision of information to TfL by PPP companies and PPP related third parties (see the notes on Chapter III below) where this is necessary to draw up a scheme and provides for legal sanctions for non-compliance. *Paragraph 12* provides for the retrospective modification of a transfer scheme, by written agreement of TfL and other parties involved. Employment provisions may not be amended in this way, unless the employees agree. Agreements under paragraph 12 require the Mayor's approval, which may be conditional on further modifications being made to the scheme.

301. *Section 166* provides the procedure for Transport for London to make byelaws where no other procedure has been specified.

302. *Section 167* gives TfL powers to promote and oppose local Bills in Parliament. The section introduces *Schedule 13* which sets out the detailed arrangements for the promotion and opposition of local Bills, which are similar to those for the GLA itself, set out in Schedule 5.

303. *Section 168* enables TfL to apply to the Secretary of State for Orders under the Transport and Works Act 1992 without having to follow the same procedure as that which TfL must follow for promoting local Bills. Such Orders give statutory authorisation to railways, other guided transport systems, canals, and interference with navigation rights.

304. *Section 169* defines the term "transport subsidiary's agreement". Such agreements are those which are entered into by a TfL subsidiary in similar circumstances to those in which TfL itself can enter into such agreements by virtue of section 156(2) and (3).

Chapter Iii: London Regional Transport

Sections 170 to 172

305. *Section 170* amends section 9 of the LRT Act 1984 so as to introduce a definition of "disposal". That section gives LRT powers to dispose of businesses, thus providing a means of transferring to private sector PPP companies the assets that they will need in order to carry out their activities. The definition clarifies the extent of the disposal power so that it embraces disposals of assets under PPP agreements for a limited period after which the assets will revert to the public sector. Provision for the transition from LRT to TfL is made in Chapter XVI.

306. *Section 171* amends section 17 of the LRT Act 1984 so as to give LRT the same power to procure guarantees as Transport for London under section 160(4) and (5).

307. *Section 172* amends section 27 of the LRT Act 1984 which makes supplementary provision as to transfer schemes under sections 4, 5 and 9 of that Act. The powers under section 9 would enable schemes to be made for the transfer of assets to subsidiaries of London Underground Limited, prior to the transfer of those subsidiaries to the private sector, to establish the London Underground Public Private Partnership.

Chapter Iv: Public Passenger Transport

Sections 173 to 178

308. *Section 173* gives TfL its power to provide, or secure the provision of, public passenger transport services.

309. *Section 174* requires the Mayor to ensure that the general level and structure of fares to be charged on public transport, and the general level of charges made for other facilities, provided or secured by TfL, are set. The Mayor must also ensure that the general structure of routes to be served by TfL public transport services, and the frequency of those services, are set.

310. *Section 175* provides that TfL and the Franchising Director will be under a duty to co-operate with each other over the co-ordination of services provided or secured by TfL and franchised rail services overseen by the Franchising Director. TfL and the Franchising Director may enter into agreements with one another for that purpose. (The "Franchising Director" is the Director of Passenger Rail Franchising who is appointed by the Secretary of State to be responsible for arranging and managing the provision of passenger rail services in Great Britain.)

311. *Section 177* provides for the retention of the existing powers of London local authorities to procure additional public passenger transport services and facilities from train operating companies, and enables those authorities to enter into agreements with TfL or the Franchising Director for additional public passenger transport services and facilities.

312. *Section 178* requires TfL each year to inform certain local authorities in and around Greater London and the London Transport Users' Committee, of its plans for services, fares and charges. It also places TfL under a duty to publish the general level and structure of its fares.

Chapter V: Regulation of Bus Services in Greater London

313. Greater London is the only area in Great Britain in which bus services were not deregulated under Part I of the Transport Act 1985. A separate system for regulating road passenger transport in London is contained in Part II (sections 34 to 46) of that Act. This provides for the licensing of local bus services. No licence is required where a bus service is provided by LRT, one of its subsidiaries or someone who has an agreement with LRT by virtue of section 3(2) of the LRT Act 1984. Most local bus services in London are provided by private bus companies under contract to LRT through powers contained in the LRT Act 1984. A small number of bus services are licensed by the Traffic Commissioner through powers contained in the Transport Act 1985. The Act adapts the regulation of bus services in Greater London.

Sections 179 and 180: Introductory

314. The bus services that are covered by this Chapter are local services that have stopping places within the Greater London area (including the London section of a service that runs partly outside London). There are exceptions, such as those services that have stopping places more than 15 miles apart and rail replacement services. The Act sets out provisions with which such services will have to comply. Failure to do so is an offence which may result in a fine up to a maximum of level 3 on the standard scale (level 3 is currently set under the Criminal Justice Acts at £1,000).

315. A PSV operator's licence, provisions for which are set out in the Public Passenger Vehicles Act 1981, is normally required by anyone carrying fare-paying passengers in vehicles over a certain size. Community bus permits (section 22 of the Transport Act 1985) are granted by traffic commissioners for certain types of non profit-making services serving particular communities.

Sections 181 to 184: The London bus network

316. These sections require TfL to determine which bus services are required to make up the "London bus network" and so far as practicable to ensure that that network is provided. Only TfL or a subsidiary or someone who has an agreement with TfL or a subsidiary may provide a service that is a part of the network. Any party who provides a bus service under an agreement with TfL must hold a PSV operator's licence or a community bus permit.

317. Agreements between TfL and another person to provide a bus service that is part of the London bus network will be called "London local service agreements". The London local service agreement must take account of any restrictions placed by a Traffic Commissioner on any part of a service that runs outside London.

318. These sections also provide for consultation of interested parties where TfL proposes to provide (or enter into an agreement for the provision of) a new network service, to vary an existing service or to discontinue a service. TfL is required to consult the police, the local authorities affected, the London Transport Users' Committee and anyone else it thinks fit before proceeding.

Sections 185 to 190: Bus services outside the network

319. Anyone who wishes to provide a bus service which is not part of the London bus network must obtain a London service permit. The Mayor is placed under a duty to state his policy for the issue of permits by publishing a guidance document (see below). That will contain the criteria against which applications for a permit will be considered. It must be kept under review and revised as necessary.

320. *Section 186* provides for applications for and the grant of London service permits. Separate fees may be charged for processing the application and for granting the permit or a composite fee may be charged for both. TfL must consult the police, the local authorities affected, the London Transport Users' Committee and anyone else it thinks fit, but in deciding whether or not to grant a permit it must have regard to the guidance document and to any other material considerations (such as exceptional local conditions) which are relevant to the application.

321. *Section 187* provides for the terms on which a permit is held. Conditions may be attached to a permit to ensure that suitable routes and stopping places are used and that the safety and convenience of the public (including those persons with mobility problems) is secured. Conditions about fares may not be imposed by a permit. TfL may at any time alter, remove or attach conditions to a permit. The duration of a permit will normally not be longer than 5 years. The effect of applying section 57 of the Public Passenger Vehicles Act 1981, through *section 193*, means that a permit is terminated early if a permit holder dies or becomes bankrupt, though TfL is given power to defer such termination if appropriate.

322. If a condition of a permit is contravened the holder may, by virtue of section 187(6), be liable to prosecution and if convicted fined up to the maximum of level 3 on the standard scale (currently set under the Criminal Justice Acts at £1,000). If the breach is considered serious enough by TfL the permit may be revoked or suspended (*section 188*.)

323. *Section 189* provides that where a permit is refused, conditions are attached, altered or removed from a permit, or a permit is suspended or revoked TfL must issue a notice stating its reasons. An aggrieved applicant or permit holder will have a right of appeal to the Mayor who must refer the matter to an independent appeals panel before giving directions to TfL as to how it should act in response to the appeal.

Section 191 and 192: Guidance document

324. *Sections 191 and 192* provide for the preparation and publication of the guidance document. It must first be prepared in draft and the local authorities affected, the police, the Traffic Commissioners affected, the London Transport Users' Committee and anyone else the Mayor thinks fit must be consulted. It must be published not later than 180 days from the date of publication of the Mayor's transport strategy and be made available to the public. Similar provision is made for the preparation and publication of revisions to the document.

Chapter Vi - Railways

Sections 196 and 197: The Authority and the Franchising Director

325. Under *section 196* the Authority will be able to issue instructions and guidance to the Franchising Director about the management of passenger rail franchises serving London. (Franchised rail services are passenger rail services operated under a franchise agreement between the Franchising Director and a train operating company.) The instructions and guidance can cover services to, from and within Greater London, but the Franchising Director must not follow the guidance where to do so would prevent or seriously hinder him from complying with guidance issued to him by the Secretary of State or have an adverse impact on passenger services outside London or require

the Franchising Director to make additional payments to franchise operators from his own budget.

326. *Section 197* places the Franchising Director under a duty to consult the Mayor over proposed changes to service levels and fares on London rail services.

327. *Section 198* amends LRT's existing exemption under sections 7 and 20 (licence and facility exemptions) of the Railways Act 1993, to bring TfL, its subsidiaries and PPP companies within its scope. The Railways (London Regional Transport) (Exemptions) Order 1994, under that Act, grants an exemption to every LRT company from the requirement to be authorised by licence to be an operator of a network (or connected light maintenance depot or train) on which it is the exclusive operator. It exempts LRT companies from the access provisions of the Railways Act 1993 in respect of such networks, stations and light maintenance depots. And it also exempts all LRT railway passenger services from designation as eligible for franchising and all LRT services, networks, stations and light maintenance depots from the standard closure provisions.

328. *Section 199* enables the Secretary of State to grant a new exemption under sections 7 and 20 of the Railways Act 1993. He may make an exemption order, on the request of LRT or TfL, and in respect of a network on which some or all of the regular scheduled passenger services are operated by LRT or TfL. This allows for the possibility of future integration with the national network under arrangements which might not be covered by the current exemption, which presumes that London Transport and its subsidiaries are the exclusive operators of services using the Underground network.

329. *Section 200* ensures that LRT and TfL will have the power to enter into agreements involving the Rail Regulator to meet any need relating to transport in and around London.

330. *Section 201* restricts TfL's ability to enter into direct agreements with franchised train operators so that the Mayor's instructions and guidance to the Franchising Director will have to include any instructions in respect of additional railway services, and the Franchising Director will then procure the services on behalf of the Mayor.

331. *Section 202* provides that, like local authorities across the country, the GLA and TfL will not be able to run franchised railway services on the national network.

Sections 203 to 204: Closures

332. *Section 203* places the Franchising Director under a duty to notify the Mayor of any proposal by him to discontinue a passenger rail service affecting Greater London.

333. *Section 204* enables the existing procedure for discontinuance (closures) of Underground services, and for those to be operated on Croydon Tramlink or the Docklands Light Railway, to be carried forward. However, it will be the Mayor who takes decisions on closures, rather than the Secretary of State. For TfL services outside London, those aggrieved by a Mayoral decision will have a right of appeal to the Secretary of State.

Sections 205 to 207: Miscellaneous

334. *Section 205* amends existing franchise agreements (under which passenger rail services are provided in Great Britain) so that the GLA and TfL are included in the definition of a local authority in such agreements. This puts the GLA and TfL on the same footing as local authorities elsewhere for making arrangements such as concessionary travel schemes.

335. *Section 206* places the Secretary of State under a duty to consult the Mayor if the Secretary of State proposes to vary the amount of penalty fares payable on services on the national railway network.

336. *Section 207* provides that TfL must not, without the consent of the Secretary of State, enter into agreements with outside contractors for specified "reserved services", i.e. station- and train-operating functions, as specified in *subsection (7)*. The Secretary of State may by Order (subject to the negative procedure) make exceptions to the restrictions *(subsection (5))*.

Section 208 : Docklands Light Railway

337. *Section 208* passes to the Mayor the Secretary of State's power to transfer statutory functions of Docklands Light Railway Ltd (the public sector company responsible for DLR) to another person for the purposes of the construction and maintenance of the DLR Lewisham Extension.

Section 209 : Croydon Tramlink

338. *Section 209* passes to the Mayor the Secretary of State's power to transfer statutory functions of LRT to another person for the purposes of the construction and operation of Croydon Tramlink. The amendment also transfers to the Mayor the Secretary of State's function in respect of determining disputes about the alteration of street levels, and makes provision for complaints about Tramlink to be considered by the London Transport Users' Committee.

Chapter Vii: Public-Private Partnership Agreements

339. Chapter VII makes specific provision for the Public-Private Partnership for London Underground.

Sections 210 to 212: Introductory

340. *Sections 210 to 212* define a "PPP agreement" and the procedure to be followed for the designation of such an agreement. A PPP agreement must be a contract which involves the provision, construction, renewal or improvement, and maintenance of the London Underground. A PPP company is defined as the party undertaking to carry out or secure the carrying out of this work.

Sections 213 to 217: Key system assets

341. *Sections 213 to 217* enable "key system assets" to be designated by agreement between London Underground and a PPP company, thereby giving the assets special protection under the Act. *Section 215* extends the same protection to assets owned by third parties (such as a train leasing company) and used in connection with the Public-Private Partnership. It enables London Underground to enter into agreements directly with such third parties.

342. The effect of these provisions is that, without the consent of LRT (later TfL), designated assets cannot be transferred to another party, nor can any interest in or security over the assets be given to a third party. Designated liabilities cannot be released, discharged or transferred to another party without consent. Any transaction which contravenes these requirements will be void. No execution or other legal process can be commenced or continued, and no distress can be levied, against any property or rights which are key system assets.

343. The purpose of such a regime, which is based on that for "franchise assets" under section 27 of the Railways Act 1993, is to give statutory protection to the assets needed to run the Underground railway so that they will not be lost and will be immediately available to the public sector at the end of a PPP contract, ensuring that train services can continue without interruption.

344. *Section 217* enables TfL to transfer key system assets between TfL, its subsidiaries, PPP companies and PPP related third parties. This provision is necessary to ensure that

designated key system assets can be returned to the public sector at the end of a PPP contract. It also enables the Mayor, at the end of a PPP contract, to transfer such assets direct to new PPP companies if he decides to enter into new PPP agreements. A transfer scheme must be made in accordance with the terms of the PPP agreement and it must be approved by the Mayor to take effect. This section also introduces *Schedule 12* which sets out the detailed provisions applying to a PPP transfer scheme.

Sections 218 and 219: Land

345. *Section 218* disapplies landlord and tenant law from Public-Private Partnership leases so that London Underground and a PPP company will interpret their rights and duties solely in accordance with the PPP contract and lease. The purpose of the section is to enable the public sector to recover all the real property it needs to continue services when a PPP contract ends, without the delays inherent in established landlord and tenant practice.

346. *Section 219* disapplies the normal requirement to register title with the Land Registry for leases of over 21 years. This is intended to save the considerable time and money which would otherwise be required to produce copies of suitable plans, deeds, etc. The effort of complying with the registration requirements would be of little or no benefit because of the very restricted opportunities for PPP companies to transfer or otherwise deal with the land.

Sections 220 to 224: Insolvency

347. *Sections 220 to 224* and *Schedules 14 and 15* provide for a special PPP administration order regime. Such an order may be made by the High Court in relation to a PPP company which is on the point of insolvency or winding-up. It may direct a person appointed by the court to take over the running of the PPP company with a view to achieving the purposes of the PPP administration order in a manner which also protects the respective interests of the members and creditors of the PPP company. The purpose of the PPP administration order regime is to ensure that the duty of the administrator principally to protect the interests of members and creditors of a company is balanced against ensuring that activities under the PPP agreement are carried on, thus securing continuity of services for passengers.

Sections 225 to 237: The PPP Arbiter

348. *Sections 225 to 237* provide for the appointment of an arbiter by the Secretary of State, and set out the arbiter's general duties and powers. A PPP agreement may provide for any matter to be referred to the arbiter for direction or guidance under *sections 229 and 230*. It is envisaged that the arbiter's primary role will be to review the price to be paid to a PPP company for its obligations under a PPP agreement, if requested by the parties to do so at a periodic review of the agreement. Such periodic reviews will also enable TfL to carry out a thorough review of its priorities under the agreement.

349. *Section 225* provides for the appointment of the arbiter by the Secretary of State. *Section 226* makes provision concerning the terms of appointment and dismissal of the arbiter, whilst *section 227* deals with the appointment of staff and their ability to discharge functions on behalf of the arbiter. *Section 228* ensures that if, at any time, the posts of Rail Regulator and PPP arbiter are held by the same person, the staff employed by either body will have the legal powers to carry out the functions of both.

350. *Section 229* sets out the arbiter's powers to give directions on matters referred to him by a party to a PPP agreement. *Section 230* gives the arbiter a power to give non-binding guidance to the parties, the aim being to encourage the parties to reach agreement between themselves, in the light of the arbiter's guidance, without relying on a binding determination.

351. *Section 231* sets out the arbiter's duties when making determinations or giving guidance.

352. *Section 232* sets out further powers of the arbiter, including a power to inspect relevant assets. *Section 233* empowers the arbiter to request parties to a PPP agreement and their associates to provide information which the arbiter considers relevant to the discharge of his functions.*Section 234* gives the arbiter the power to apply to the High Court for an order requiring provision of information, if a request is not complied with, and provides a criminal sanction in the event that someone deliberately alters or destroys documents requested by the arbiter. *Section 235* provides statutory protection to third parties against disclosure of information collected by the arbiter, except where it is necessary to carry out the specific statutory functions referred to in the section. It is enforceable by means of a civil injunction.

353. *Section 236* removes the liability of the arbiter and his staff for any acts or omissions, unless they can be shown to have been committed in bad faith.

354. *Section 237* provides for the funding of the arbiter by the Secretary of State and the recovery of costs from the parties concerned.

Sections 238 and 239: Miscellaneous and supplementary

355. *Section 238* extends statutory undertaker status to a PPP company when exercising statutory functions relating to a railway and carrying out the subject matter of a PPP agreement. This will effectively give a PPP company similar statutory undertaker status to that enjoyed by London Underground Limited. *Section 239* contains definitions of the terms used in this Chapter.

Chapter Viii: Travel Concessions

Sections 240 to 244: Travel Concessions

356. These sections enable the London local authorities to agree, annually, travel concessions for their eligible residents for the following financial year. They would fund the scheme by reimbursing TfL, and any other transport operators with which they make agreements, for the cost of providing the concessions. Eligible residents are defined in section 240(5) as pensioners, blind persons and persons who are unable to walk. In the event that a uniform scheme covering services provided by or under agreement with TfL is not agreed, then TfL would be required to implement a "reserve free travel scheme" (covering only those services for which they are responsible) which is specified in detail in S*chedule 16*. TfL would be able to charge the local authorities for the cost of providing the reserve free travel scheme.

357. *Section 244* enables the London local authorities to exercise their power under *section 240* to enter into concessionary travel arrangements with TfL and train operators through a joint committee to which special provisions apply. Decisions of the joint committee would have to be unanimous, unless the authorities unanimously decided that all decisions, or decisions on particular matters, could be taken by a specified majority of the members. The majority so specified could not be less than two thirds of the member authorities.

Chapter Ix: Penalty Fares

358. *Section 245* introduces *Schedule 17* setting out the provisions relating to the penalty fares regime on TfL bus and train services. Generally, a person is liable to pay a penalty fare where he or she has not obtained a valid ticket before travelling. Schedule 17 is similar, but not identical, to the London Transport (Penalty Fares) Act 1992. The Mayor will be able to change the level of penalty fare, but only after consultation with the Secretary of State, representatives of local authorities and users and other appropriate persons (*paragraph 5*). The Secretary of State must, at the request of the Mayor, make

regulations whereby a person required to pay a penalty fare can appeal to an independent adjudicator (*paragraph 10*).

Chapter X: London Transport Users' Committee

359. *Sections 246 to 252* and *Schedules 18 and 19* abolish the London Regional Passengers Committee ("LRPC") and replace it with the London Transport Users' Committee ("LTUC"). LTUC will combine the role of complaints body for T*f*L with that of the Rail Users' Consultative Committee for Greater London and the surrounding area.

360. *Section 247* constitutes the LTUC as a body corporate and provides for the appointment of its members. The Assembly, after consultation with the Rail Regulator, will appoint LTUC's chairman and other members, and must have regard to the desirability of ensuring that the membership adequately represents the interests of the users of all transport facilities and services that will be considered by LTUC. Assembly members, members of TfL and employees of the Authority or TfL may not be appointed members of LTUC. The section also introduces Schedule 18.

361. *Schedule 18* makes provision for various constitutional and financial matters in relation to LTUC. Paragraph 16 enables complaints of maladministration by LTUC to be investigated by the Commission for Local Administration.

362. *Section 248* requires LTUC to consider and, where the Committee thinks it desirable, make recommendations about matters affecting the passenger transport functions of the Authority or TfL which have been the subject of representations, have been referred to it by TfL or the Authority or which LTUC otherwise thinks it should consider. Representations received by LTUC about land or water passenger transport in London which do not fall within its terms of reference must be referred to whomsoever LTUC considers the most appropriate person to consider the complaint.

363. *Section 249* enables LTUC, with the consent of the Assembly, to enter into voluntary arrangements on agreed terms (including terms for the reimbursement of expenses) with providers of transport facilities and services other than TfL, to consider complaints about their services or facilities.

364. *Section 250* requires LTUC to send copies of its minutes, conclusions and recommendations to the Assembly, the Mayor and TfL. LTUC must make an annual report to the Assembly and the Rail Regulator. The Assembly, the Mayor and TfL must notify LTUC of any decisions reached by them on any of its recommendations.

365. *Section 251* enables the Assembly to give guidance and directions to LTUC, for example on the priorities for the Committee's work. The guidance or directions must be in writing and LTUC must comply with them.

366. *Section 252* amends the Railways Act 1993 to make LTUC a Rail Users' Consultative Committee in place of LRPC. It also introduces *Schedule 19* which makes consequential amendments.

Chapter Xi: Hackney Carriages and Private Hire Vehicles

367. London has its own system for the licensing of hackney carriages ("taxis"). The legislation (mostly enacted in the last century) which applies in the Metropolitan Police District (MPD) and City of London is entirely separate from the legislation which governs taxis outside the MPD. The Private Hire Vehicles (London) Act 1998 prospectively introduces a system for the licensing in the MPD and the City of London of private hire vehicles ("minicabs") and their drivers and operators. This is similar to that applying elsewhere in England and Wales under Part II of the Local Government (Miscellaneous Provisions) Act 1976. The Act transfers to TfL functions currently with the Secretary of State and the Commissioners of Police of the Metropolis ("the Police Commissioners").

368. The Public Carriage Office, a civilian branch of the Metropolitan Police which currently licenses taxis (and will in due course license minicabs), will transfer, in its entirety, to TfL.

Section 253 and Schedule 20

369. *Schedule 20*, which is introduced by *section 253*, transfers to TfL, in relation to taxis and taxi drivers, the licensing functions of the Secretary of State and the Police Commissioners.

370. *Paragraph 1* transfers the Police Commissioners' regulatory powers and substitutes TfL for the "registrar of metropolitan public carriages". *Paragraph 2* transfers powers relating to the appointment and regulation of taxi stands. *Paragraph 3* transfers powers concerning the inspection of taxis and makes consequential amendments. *Paragraph 4* transfers powers relating to taxis which are temporarily withdrawn from hire. *Paragraph 5* amends the Metropolitan Public Carriage Act 1869 – the main taxi-licensing legislation – by transferring the Secretary of State's regulatory powers to TfL. *Paragraph 5(2)* provides for TfL to make orders by way of a "London Cab Order", thereby replacing the Secretary of State's powers to make such orders by way of a statutory instrument. *Paragraph 5(3)* transfers the taxi vehicle licensing function and other provisions. In addition to the fee payable on the grant of a licence it also introduces a fee payable on the application for the licence and for the taking or re-taking of any test or examination with respect to any matter of fitness. (In practice, licences (including drivers' licences issued under section 8 of the 1869 Act – see below) are currently granted by an Assistant Commissioner of Police via the Public Carriage Office.) *Paragraph 5(5)* transfers the taxi drivers' licensing functions and other existing provisions. As well as introducing a similar application fee to that introduced by paragraph 5(3), it also makes provision for TfL to conduct criminal record checks on potential drivers, thereby bringing the legislation into line with the Private Hire Vehicles (London) Act 1998. *Paragraph 5(6)* enables TfL to make regulations by London cab order and gives the Mayor a power of direction as to the basis on which rates or fares are to be calculated. *Paragraph 6* transfers powers to fix fares for taxis fitted with taximeters and to limit the charge for admitting taxis to railway stations. *Paragraph 7* transfers powers to regulate taxi fares for non-obligatory journeys, to increase the 'compellable distance' of six miles and to prohibit certain signs on private hire cars. *Paragraph 8* transfers powers to provide for taxis to carry passengers at separate fares without becoming public service vehicles, and to prescribe certain periods for London taxi and taxi-driver licensing appeals. *Paragraphs 10 to 17* make transitional provisions to ensure, amongst other things, that licences issued by or on behalf of the Police Commissioners or the Secretary of State continue in force as if issued by TfL, and that existing regulations, orders and notices continue to have effect.

Section 254 and Schedule 21

371. *Section 254* and *Schedule 21* have the effect of transferring the Secretary of State's minicab-licensing functions to TfL.

Section 255

372. *Section 255* concerns the effect on taxis and minicabs of the change in the MPD, which is to become aligned with Greater London. *Subsections (2) and (3)* provide that, when London 'fringe' district councils' areas currently within the MPD move outside it, the district councils will have the power to licence taxis in those areas and each district will form a single taxi-licensing area. *Subsection (4)* has the effect of imposing the taxi and minicab licensing functions, under Part II of the Local Government (Miscellaneous Provisions) Act 1976, on the 'fringe' district councils.

Chapter Xii: Water Transport

373. *Section 256* enables Transport for London to provide or secure the provision of such amenities and facilities as it considers would benefit persons using any waterway. Before commencing works in relation to waterway amenities or facilities, Transport for London must comply with any statutory requirement for a licence or consent. Where there is no requirement, consent must be obtained from any person who is under a duty to maintain the waterway to which the works relate.

374. *Section 257* transfers the duty to provide a free ferry service (the Woolwich Ferry) across the Thames from the Secretary of State to Transport for London. Powers in Part XII of the Act will be used to transfer the property, rights and liabilities associated with the ferry from the Secretary of State. It will also allow the replacement of the Secretary of State's power to make orders on the use of the ferry with byelaws made by Transport for London and allow for the orders and byelaws made by predecessor bodies to be treated as byelaws made by Transport for London.

375. *Section 258* provides that where any landing places are transferred to LRT between 31 March 1999 and the coming into force of the section, rights and liabilities arising from the use of the landing places by vessels will also transfer to LRT.

Chapter Xiii: Highways

376. There is no comprehensive statutory legal definition of a highway (but see the limited definition in section 328 of the Highways Act 1980), because the concept of a highway long pre-dates highways legislation. Under common law, a highway may be broadly defined as a way over which all members of the public have the right to pass and repass. The highway authority is the body responsible for maintaining the highway where it is a highway maintainable at public expense.

377. The London Government Act 1963 largely brought the highway law affecting London into line with that applying elsewhere. This is now consolidated in the Highways Act 1980 (the 1980 Act). One difference was that in Greater London there was a 3-tier hierarchy of highway authorities. The Secretary of State was highway authority for trunk roads, the Greater London Council (GLC) for "metropolitan roads" and the London borough councils for all other roads. "Metropolitan roads" were abolished along with the GLC by the Local Government Act 1985, and some of them became trunk roads and the rest borough roads. One purpose of the Act is to reduce the number of roads designated as trunk roads in London and to create a network of key roads for which the GLA will be highway authority.

Sections 259 to 263: GLA Roads

378. *Section 259* provides that TfL will be the highway authority for GLA roads. *Section 260* inserts a new section 14A into the 1980 Act to provide for the initial GLA roads to be designated by order by the Secretary of State. The new section 14A also provides that a trunk road in Greater London ceases to be a trunk road when it becomes a GLA road under this provision. (A trunk road is a highway for which the Secretary of State, rather than a local authority, is the highway and traffic authority. A trunk road may be an all purpose trunk road, eg the A406 North Circular Road, or a special road (motorway), eg the M4).

379. *Section 261* inserts a new section 14B into the 1980 Act and provides that any road in Greater London except a trunk road can become a GLA road by order of the GLA and that any road can cease to be a GLA road by order of the GLA. Such orders must be made with the consent of the highway authority from whom the road is transferred or to whom the road is transferring, as the case may be. If this consent is not given, then the order is not effective unless confirmed by the Secretary of State.

380. *Section 262* inserts a new section 14C into the 1980 Act and requires TfL to produce an up-to-date record of GLA roads. This record is to be distributed to the GLA and London Borough Councils and made available for public inspection. A certificate by TfL that a highway or proposed highway is a GLA road is evidence of the facts stated in it.

381. *Section 263* inserts a new section 14D into the 1980 Act so that orders making or changing designations of the initial GLA roads are to be made by the Secretary of State by statutory instrument, subject to negative resolution procedure. The power of the Mayor to make orders under sections 14B and 266B is not exercisable by statutory instrument.

Sections 264 and 265: Transfers of property and liabilities upon a road becoming or ceasing to be a GLA Road

382. *Section 264* inserts a new section 266A into the 1980 Act to provide for the transfer of property and liabilities when a road becomes or ceases to be a GLA road by order under section 14B of the 1980 Act. This is based on provisions in section 265 of, and Schedule 21 to, the 1980 Act which are used when a road becomes or ceases to be a trunk road.

383. *Section 265* inserts a new section 266B into the 1980 Act to provide for the transfer of employees when a road becomes or ceases to be a GLA road by order under section 14B of the Highways Act 1980. This will ensure that if staff are transferred when a road transfers, they have continuity of service. As with the inserted section 14B of the 1980 Act, the power to make orders under section 266B is not exercisable by statutory instrument.

Section 266: London borough councils

384. *Section 266* inserts a new section 301A into the 1980 Act so that a borough council carrying out highway work which affects a GLA road or a road in another London borough must notify TfL, and where the road is in another borough, the council of that borough as well. TfL is given a power to direct the borough not to undertake the work so long as TfL or another borough objects. Where TfL or another borough objects, the GLA can give consent to the work after consideration of the objection.

Sections 267 to 270: Miscellaneous and supplementary

385. *Section 267* provides for consultation between the Royal Parks Agency and the local highway authority, if either of them proposes to carry out functions likely to affect a road for which the other is responsible. Where consultation would not be reasonably practicable, they may go ahead and then inform the other party afterwards.

386. *Section 268* provides for TfL and boroughs to construct road humps which do not conform to current Government regulations without the need for specific authorisation by the Secretary of State. Where a borough proposes to construct non- standard road humps, it must notify the Secretary of State and take his comments into account before proceeding.

387. *Section 269* provides for TfL and boroughs to construct traffic-calming schemes which do not conform to current Government regulations without the need for specific authorisation by the Secretary of State. Where a borough proposes to construct non-standard traffic calming schemes, it must notify the Secretary of State and take his comments into account before proceeding.

388. *Section 270* introduces *Schedule 22* which provides for stopping up and diversion orders to be made by London boroughs rather than the Secretary of State. The main provisions amend Part X of the Town and Country Planning Act 1990 and provide that a borough (including one acting on behalf of another) can make stopping up or diversion orders with regard to:

- highways affected by development for which planning permission has been granted or by a government department (section 247);
- highways crossing or entering the route of a proposed highway (section 248); or
- the extinguishment of the right to use vehicles on a highway (section 249).

389. The decision on whether to dispense with a public inquiry in cases of opposed orders will be made by the Mayor. The Mayor must consent to the making of an opposed order where an inquiry has been held.

Chapter Xiv: Road Traffic

390. The general law on road traffic regulation, consolidated in the Road Traffic Regulation Act 1984 ("RTRA 1984"), is varied considerably in its application to London. The Local Government Act 1985 (which abolished the Greater London Council and the metropolitan county councils) transferred most of the traffic authority functions of the GLC (many of which extended to all roads in Greater London except trunk roads) to the London borough councils.

391. Part II of the Road Traffic Act 1991 made further provision about traffic in London, by creating a network of priority ("red") routes and a new statutory office of Traffic Director for London to carry out the red route programme. The Act also provided for a separate system of enforcing parking restrictions in London without the sanction of the criminal law.

392. Traffic regulation law, unlike highways law, is entirely a creature of statute. It enables traffic authorities - in this case TfL – to regulate the way in which the public use highways and other roads to which the public has access. It is principally concerned with the regulation of vehicles, whether moving or stationary, but also extends to all other types of traffic.

Sections 271 to 274: Transport for London as a traffic authority

393. *Section 271* makes TfL the traffic authority for GLA roads. For roads in Greater London that are not GLA roads or trunk roads, the traffic authority is the relevant London borough or the Common Council.

394. *Section 272* creates a new class of road called “GLA side roads”, for which TfL will also be the traffic authority, but not the highway authority. It inserts a new section 124A into the RTRA 1984 (RTRA 1984) to provide for the Secretary of State to designate roads which are to be GLA side roads (in the same way that section 227 provides for him to designate the first GLA road network). Sections 14B and 14C of the Highways Act 1980 (inserted by sections 258 and 259 of this Act) which enable the Mayor to change and keep records of the GLA road network, can be applied to GLA side roads by order of the Secretary of State.

395. *Section 273* provides for TfL to place traffic signs on nearby roads (for which the relevant London borough council is the traffic authority) in connection with a GLA road. The signs may be placed on any structure on that road, whether or not the structure belongs to TfL. TfL may carry this out in connection with traffic regulation and experimental traffic orders and in other circumstances (e.g. temporary traffic orders under section 14 of the RTRA 1984), provided they consult the London Borough Council which is the traffic authority for the road. (Experimental traffic orders are used where the effects of the order cannot be confidently predicted. They also provide for the fine-tuning of the measures without the need to amend the order and for its effect to be monitored before decisions are taken on whether or not to make it permanent.) *Section 274* extends to TfL the powers of a London borough council to affix traffic signs to walls.

396. These sections also provide that responsibility for maintaining, altering or removing traffic signs rests with the traffic authority responsible for the order which enabled the placing of those signs. They further provide that where the sign is on or near a GLA road, or is erected as described above, TfL will be the traffic authority for that sign.

397. Where TfL exercises its powers in relation to traffic signs otherwise than in connection with a traffic regulation order or an experimental traffic order, it can remove or reposition those signs whether or not they were placed by TfL. Where TfL removes or repositions a sign placed by another authority, that sign will vest in TfL. The traffic authority for the road where the sign has been placed or repositioned by TfL cannot alter or remove the sign except with the consent of TfL or by direction of the Secretary of State.

Sections 275 to 278: Traffic control systems in Greater London

398. *Sections 275 to 278* transfer the Secretary of State's statutory functions for traffic control systems in Greater London to TfL for all roads other than trunk roads. (Traffic control systems can be defined as electronic systems which provide regulation, instruction, information or guidance to road users and to authorities from installations on or adjacent to the highway. They include traffic signals and signalled pedestrian crossings together with their associated control and monitoring computer systems, vehicle and pedestrian detectors, variable message signs, closed circuit television cameras, speed cameras and emergency telephones). The sections provide for existing traffic signals, and their maintenance and operation, to be devolved to London borough councils. Such councils can also set up and operate new traffic signals, with TfL's consent.

399. The sections also provide for the transfer to TfL, from the Secretary of State (and vice versa) of traffic control systems in Greater London. Where the Secretary of State decides that he wants to pass to TfL the traffic control systems for a trunk road or roads in Greater London, he can transfer (i) all the systems relating to that road, and (ii) the maintenance and operation of those systems. The Act also provides for the transfer from TfL to the Secretary of State of the entire traffic control system for all the roads in Greater London and for this to be reversed with the agreement of the Secretary of State and TfL. On all roads in Greater London other than trunk roads, wherever a traffic sign is a light signal, TfL is to be deemed to be the traffic authority for those roads in the application of sections 65, 73, 74, 74A and 75 of the RTRA 1984 to such traffic signs.

Sections 279 and 280: Road safety and traffic reduction

400. *Section 279* amends section 39 of the Road Traffic Act 1988 (powers of Secretary of State and local authorities to give road safety information and training) so as -

(a) to confer on TfL a discretionary power to prepare and carry out a programme of road safety measures; and to contribute to the cost of measures taken by other bodies; and

(b) to impose a duty on TfL to carry out studies into accidents on GLA roads involving vehicles and, in the light of those studies, to take measures to prevent such accidents.

401. *Section 280* amends the Road Traffic Reduction Act 1997 (not yet in force), which places a duty on boroughs to assess road traffic levels, to set targets for reducing traffic levels or the growth of these levels, and to report to the Secretary of State. Reports prepared by a London borough, under the provisions of the 1997 Act must take account of the Mayor's transport strategy and the borough's local implementation plan. The Mayor may give directions or issue guidance to London councils on matters on which the Secretary of State may issue guidance (provided that the guidance or directions do not conflict with the Secretary of State's guidance). The councils must comply with the Mayor's directions and have regard to his guidance. When a London borough sends a

report to the Secretary of State under the 1997 Act, it must send a copy of the report to the Mayor.

Sections 281 to 287: Parking

402. *Sections 281 to 287* amend the RTRA 1984 and the Road Traffic Act 1991 in relation to parking.

403. *Section 281* enables TfL and London borough councils (with the consent of TfL) to designate paying parking places on GLA roads. The ability of borough councils to designate parking places on their own roads is unaffected.

404. *Section 282* amends section 55 of the RTRA 1984 so as to require TfL to operate a parking account of its income and expenditure in respect of parking places on the highway and to enable the Mayor to specify in his transport strategy purposes for which surpluses can be spent and enables London authorities to make contributions to each other and to form a joint committee for that purpose.

405. *Section 283* amends section 73 of the Road Traffic Act 1991 so as to require TfL to join with the London borough councils in the appointment of a joint committee to appoint parking adjudicators. *Section 284* substitutes for section 74 of the 1991 Act new sections 74 and 74A with regard to the fixing of additional parking charges, that is to say penalty charges, charges for removal, storage and disposal of vehicles, and charges for removing wheel clamps. TfL or the London borough councils must set the levels of additional parking charges on those roads for which they are the traffic authority. The charges may vary between different areas. The Secretary of State will have the final say on the levels of additional parking charges proposed by TfL or the London borough councils.

406. TfL and the London borough councils must publish their parking charges in a form determined by the Mayor. In setting these levels the London borough councils must act through the joint committee constituted under section 73. No TfL member of that committee may take part in any proceedings relating to functions under section 74 or 74A of the 1991 Act.

407. *Section 285* provides that applications to the Secretary of State for an order designating a special parking area ("SPA") can only be made by TfL to the extent that the area is to consist of GLA roads or trunk roads, and by a borough council to the extent that the area is to consist of other roads. (In SPAs offences involving the contravention of waiting restrictions indicated by yellow lines, and some other parking offences, become "decriminalised" and replaced by a system of penalty charges similar to that used for designated parking places. To date, SPAs have been designated in all London boroughs, with limited exclusions.)

408. *Section 286* adds a new section 76A to the Road Traffic Act 1991 to provide that the Mayor can change the boundaries of SPAs within Greater London, with the consent of the traffic authority for any road affected and where the effect is to bring all or any part of a Royal Park within a special parking area with the consent of the Secretary of State. The Mayor cannot bring within a SPA any area designated in an order of the Secretary of State on grounds of national security. The Mayor will accordingly be able to decriminalise parking on almost all GLA roads without having to ask the Secretary of State to make an order under section 76 of the 1991 Act. *Section 287* amends section 82 of the 1991 Act (interpretation).

Sections 288 to 290: School crossing patrols and parking attendants

409. Outside the Metropolitan Police District (MPD), school crossing patrols are the statutory responsibility of local authorities. In the MPD that responsibility rests with the Commissioner of Police of the Metropolis. *Section 288* transfers this from the Commissioner to the London borough councils.

410. *Section 289* transfers from the Secretary of State to the GLA the power to prescribe what uniforms parking attendants will wear when exercising prescribed functions, and widens the definition of local authorities for this purpose to include the GLA.

411. *Section 290* adds a new subsection to section 95 of the RTRA 1984 so as to enable a police authority and TfL to make arrangements for traffic wardens to act as parking attendants on GLA roads.

Sections 291 to 294: Miscellaneous and supplementary provisions

412. Section 291 inserts a new section 121B into the RTRA 1984 so that a borough council exercising road traffic powers which affect a GLA road or a road in another London borough must notify TfL and where the road is in another borough the council of that borough as well. TfL is given a power to direct a borough not to proceed with the proposal so long as TfL or another borough objects. Where TfL or another borough objects, the GLA can give consent to the proposal after consideration of the objection.

413. *Section 293* provides for consultation between the Secretary of State and the local traffic authority and Transport for London, if one proposes to carry out functions likely to affect a road for which the other is responsible. Where consultation would not be reasonably practicable, they may go ahead and then inform the other party afterwards.

414. *Section 294* repeals various enactments relating to traffic in London.

Chapter Xv - New Charges and Levies

Section 295: Road user charging

415. *Section 295* enables Transport for London, any London borough council or the Common Council to introduce a road user charging scheme. *Schedule 23*, introduced by section 295(2), sets out in detail how schemes will be implemented and operated.

416. *Paragraphs 2*, *3*, *5*, *8 to 10* and *35 to 38* of Schedule 23 contain provisions for implementing road user charging schemes. TfL will be able to introduce a scheme across all or some parts of Greater London. Any London borough council will be able to bring forward a scheme in its area, subject to the agreement of the Mayor. Decisions about charge levels, the area where charges will apply and the duration of a scheme will rest with charging authorities. In all cases, schemes must support the Mayor's transport strategy. The same road may not be subject to charges imposed by more than one charging authority. Crown roads can be included within any road user charging scheme.

417. *Paragraph 11* deals with exemptions from road user charges. It enables the Secretary of State by regulations to specify exemptions from charges or other concessionary arrangements. Charging authorities will be able to make additional exemptions or concessions to those prescribed by the Secretary of State.

418. *Paragraphs 4*, *6*, *7*, *33* and *34* cover the powers that the Mayor will have over any charging scheme introduced in Greater London by TfL or one or more boroughs. Any charging scheme will be implemented by Order. This will be approved by the Mayor. He or she will be able to modify or revoke the Order. One or more boroughs will be able to work together to develop a joint scheme, again subject to the Mayor's agreement. The Mayor will be able to require one or more boroughs to implement a road user charging scheme. The Mayor will also be able to issue guidance to boroughs on the form which their schemes should take, and may specify certain aspects of schemes which will require prior approval.

419. *Paragraphs 12*, *13*, *25 to 28*, *30* and *31* cover the enforcement of road user charges. Regulations will be able to provide that non-payment of a charge will be a civil issue rather than a criminal offence, and outstanding charges will be recoverable as a civil debt. But deliberate attempts to avoid payment, such as tampering with any in-vehicle

or roadside equipment, are more serious matters and are therefore subject to criminal rather than civil law. Regulations will provide for the enforcement of road user charging schemes. This includes arrangements for appeals and adjudication, liability for charges, the examination of motor vehicles and questions of evidence. Charges will not apply to vehicles that are not on the road.

420. *Paragraphs 14 and 29* allow charging authorities to install any equipment necessary for the operation of a charging scheme. The Mayor will have the power to type approve any equipment used within the Greater London area. The Secretary of State will be able to prevent the use of any charging equipment where such equipment is incompatible with any national standard, and where this incompatibility is detrimental to those who live outside London.

421. *Paragraphs 15 and 32* allow charging authorities to incur expenditure to set up and operate a road user charging scheme, and to enter into arrangements with the private sector to install and operate schemes. Charging authorities are required to keep separate income and expenditure accounts for their charging schemes. They will also have to keep separate income and expenditure accounts for any revenues which they receive which are derived from charging schemes for which they are not the charging authority. Accounts will have to be published annually. Any deficits in the early years of a scheme will be made up from the charging authority's general fund, and repaid from future surpluses. Surpluses remaining in an account at the end of a financial year will be able to be carried forward to the next year.

422. *Paragraphs 16 to 18* set out the arrangements for the retention and use of the net proceeds from road user charging schemes. The net revenues from schemes introduced within ten years of the inception of the GLA will be ring-fenced during the scheme's initial period for spending on measures that support the Mayor's transport strategy. The initial period will be 10 years from the implementation of the scheme, or any longer period which the Secretary of State may agree for individual schemes. The Secretary of State will be able to make regulations dealing with the application of charging revenues for schemes once the initial period has expired, and for schemes brought forward after the tenth anniversary of the inception of the GLA. The Secretary of State is required to consult the Mayor and to assess the likely revenues from charges and the potential for spending this revenue on value for money transport measures before making regulations.

423. For any road user charging scheme which is changed during the first 10 years of the GLA, the Secretary of State will be able to make regulations to determine whether a scheme is a new scheme or an amended scheme. The revenues from a new scheme will be ring-fenced in their entirety for transport expenditure for at least a further 10 years. The revenues from an amended scheme will only be ring fenced in their entirety until the end of the initial period agreed when the scheme was originally introduced. The Mayor will be able to require a charging authority to pay a proportion of the net proceeds from any road user charging scheme to the Authority, Transport for London, or one or more borough councils.

424. *Paragraphs 19 to 24* set out provisions for the Secretary of State's general approval of the use of the net revenues from road user charging schemes. Approval will be required for a ten year plan of expenditure before a scheme starts operating. Once a scheme is operating, approval will be required at four-yearly intervals for a programme of expenditure covering the next four years. This approval process covers revenues retained by a charging authority, and monies redistributed by the Mayor to bodies which are not the charging authority. The charging revenues are to be spent only on "value for money" transport measures which support integrated transport objectives and the Mayor's transport strategy. The Secretary of State will be able to issue guidance on an appraisal framework for determining value for money.

Section 296: Workplace parking levy

425. *Section 296* enables Transport for London, any London borough council or the Common Council to levy a charge on workplace parking. *Schedule 24*, introduced by section 296(2), sets out in detail how schemes will be implemented and operated.

426. *Paragraphs 3 to 5* of Schedule 24 set out how the workplace parking levy will work. The provisions allow the levy to cover different types of individuals who are at their place of work or on work-related business. The Secretary of State will be able to make regulations to amend the definition of workplace parking. The levy will take the form of a licence fee. The occupier of a building (the person responsible for paying non-domestic rates) will be responsible for obtaining the workplace parking licence. The licence will state the maximum number of business vehicles which may be parked on the premises at any one time.

427. *Paragraphs 2*, *6*, *8*, *11 to 16 and 36 to 39* contain provisions for implementing workplace parking levy schemes. TfL will be able to introduce a scheme across all or some parts of Greater London. Individual boroughs will be able to bring forward a scheme in their areas, subject to the agreement of the Mayor. Decisions about the magnitude of the levy, the area where the levy will apply and the duration of a licensing scheme will rest with licensing authorities. In all cases, schemes must support the Mayor's transport strategy. Crown properties and the Palace of Westminster will be included within the scope of any levy. It will not be possible for any premises to be subject to more than once licensing scheme at the same time.

428. *Paragraph 17* deals with exemptions from workplace parking charges. It enables the Secretary of State by regulations to specify exemptions from charges (both by premises and vehicle type) or other concessionary arrangements. Licensing authorities will be able to make additional exemptions or concessions to those prescribed by the Secretary of State.

429. *Paragraphs 7*, *9*, *10*, *34 and 35* cover the powers that the Mayor will have over any workplace parking charging scheme introduced in Greater London by TfL or one or more boroughs. Any licensing scheme will be implemented by Order. This will be approved by the Mayor, who will be able to modify or revoke the Order. One or more boroughs will be able to work together to develop a joint scheme, again subject to the Mayor's agreement. The Mayor will be able to require one or more boroughs to implement a workplace parking levy scheme. The Mayor will also be able to issue guidance to boroughs on the form which their schemes should take, and may specify certain aspects of schemes which will require prior approval.

430. *Paragraphs 18 to 20*, *31 and 32* cover the enforcement of workplace parking levies. Regulations will be able to provide that breaching the terms of a workplace parking licence or failing to obtain a licence will be a civil issue rather than a criminal offence. Enforcement agents of TfL and the boroughs will have unannounced and immediate rights of entry to premises to ensure that the conditions of a licence are being complied with, and to issue penalty charge notices. It will be a criminal offence to obstruct authorised enforcement agents from carrying out their duties. Regulations will provide for the fair and effective enforcement of workplace parking charging schemes. This includes arrangements for appeals and adjudication and matters of evidence, and liability for charges.

431. *Paragraphs 21 and 33* allow licensing authorities to incur expenditure to set up and operate a workplace parking charging scheme, or to enter into arrangements with the private sector to set up and operate schemes. The licensing authorities will be required to keep separate income and expenditure accounts for their licensing schemes. They will also have to keep separate income and expenditure accounts for any revenues which they receive which are derived from licensing schemes for which they are not the licensing authority. Accounts will have to be published annually. Any deficits in the early years of a scheme will be made up from the licensing authority's general fund,

and repaid from future surpluses. Surpluses remaining in an account at the end of a financial year will be able to be carried forward to the next year.

432. *Paragraphs 22 to 24* set out the arrangements for the retention and use of the net proceeds from workplace parking levy schemes. The net revenues from schemes introduced within ten years of the inception of the GLA will be ring-fenced during the scheme's initial period for spending on measures that support the Mayor's transport strategy. The initial period will be 10 years from the implementation of the scheme, or any longer period which the Secretary of State may agree for individual schemes. The Secretary of State will be able to make regulations dealing with the application of revenues for schemes once the initial period has expired, and for schemes brought forward after the tenth anniversary of the inception of the GLA. The Secretary of State is required to consult the Mayor and to assess the likely revenues from levies and the potential for spending this revenue on value for money transport measures before making regulations.

433. For any workplace parking levy scheme which is changed during the first 10 years of the GLA, the Secretary of State will be able to make regulations to determine whether a scheme is a new scheme or an amended scheme. The revenues from a new scheme will be ring-fenced in their entirety for transport expenditure for at least a further 10 years. The revenues from an amended scheme will only be ring fenced in their entirety until the end of the initial period agreed when the scheme was originally introduced. The Mayor will be able to require a licensing scheme to pay a proportion of the net proceeds from any workplace parking levy scheme to the Authority, Transport for London, or one or more borough councils.

434. *Paragraphs 25 to 30* set out provisions for the Secretary of State's general approval of the use of the net revenues from workplace parking charging schemes. Approval will be required for a ten year plan of expenditure before a scheme starts operating. Once a scheme is operating, approval will be required at four-yearly intervals for a programme of expenditure covering the next four years. This approval process covers revenues retained by a licensing authority, and monies redistributed by the Mayor to bodies which are not the licensing authority. Revenues from workplace parking levies are to be spent only on "value for money" transport measures which support integrated transport objectives and the Mayor's transport strategy. The Secretary of State will be able to issue guidance on an appraisal framework for determining value for money.

Chapter Xvi: Transition from London Regional Transport to Transport for London

435. The Act provides for the dissolution of LRT, the repeal of the LRT Act 1984 under which it was set up, the transfer of its undertaking to TfL and the conferral on TfL of the necessary powers to enable it to continue to provide the services at present provided by LRT. This need not, however, all happen at once and this Chapter provides for the transition from LRT to TfL and for the period during which TfL and LRT will be operating side by side, with LRT retaining part of its undertaking and the remainder vested in TfL.

436. *Section 297* requires the Secretary of State from time to time to prepare programmes for the transfer to TfL of property, rights and liabilities of LRT. The powers conferred by Part XII (supplementary provisions) will be exercisable for this purpose, so that the actual transfer of property, rights and liabilities will be accomplished under those powers. To the extent that a programme has not been implemented, it may be varied or replaced by another programme.

437. *Section 298* provides for the exercise of functions during the period between the coming into force of section 298 and LRT's ceasing to provide or secure the provision of public passenger transport services. It defines "transitional purpose", as facilitating the securing and carrying into effect of PPP agreements, facilitating the transfer of functions, property, rights or liabilities of LRT and the other predecessor bodies to TfL, facilitating the exercise by T*f*L of transferred functions and securing the continuation

of public passenger transport services without disruption. LRT are required, and are to be taken before the coming into force of the section to have had power, to do anything appropriate for these purposes. The Mayor, LRT and TfL are required to consult and co-operate with each other for these purposes. To that end they are required to provide each other with information and may enter into arrangements with each other for the provision of services and the discharge of one another's functions.

438. Orders under Part XII may provide for legislation (including the Act and the LRT Act 1984) to be adapted during the transitional period so that the two bodies can operate side by side.

439. In accordance with *section 299*, if provision made under the Act enables the Mayor to give LRT directions or determine its fare structure, he must act in a way which he considers will not prejudice the financial or other interests of LRT, whilst having regard to those of TfL. A similar duty is imposed on TfL, in the event of its being given power to enter into concessionary fare arrangements covering LRT's services as well as its own.

440. *Section 300* provides for continuity in respect of repealed functions of LRT, so that anything done by LRT is to be treated as done and able to be continued by TfL and TfL is substituted for LRT in instruments, contracts or legal proceedings.

441. *Section 301* transfers to TfL some functions which LRT inherited from its predecessor, the London Transport Executive. Subsection (2) amends section 144 of the Transport Act 1968 so that LRT's duty to preserve certain historical records and artefacts is transferred to T*f*L.

442. *Section 302* provides for the Secretary of State to make an order dissolving LRT when he is satisfied that provision has been made for the transfer of all its property, rights and liabilities.

Part V: the London Development Agency

443. The Regional Development Agencies Act 1998 ("the RDA Act") divides England into a number of regions and establishes a development agency for each region (an "RDA"). Each regional development agency is a non departmental public body accountable to the Secretary of State. This Part of the Act amends the RDA Act to make the London Development Agency (LDA) accountable to the Greater London Authority. It does not radically alter the powers, purposes and duties of the LDA, but adapts them to take account of its different status within the framework established for the GLA and its functional bodies.

Section 304: Appointment of members of the Agency by the Mayor

444. *Section 304* and *paragraph 20 of Schedule 25* contain provisions on the appointment of members of the agency by the Mayor.

445. Under section 2 of the RDA Act, the Secretary of State appoints the board of RDAs, after carrying out consultations. He also appoints the first Chief Executive of each RDA, approves the appointments of subsequent Chief Executives, may remove members from office under certain conditions and decides the remuneration of members and staff. In London the Mayor, rather than the Secretary of State, will have the powers and duties of appointment, and removal from office, of members of the LDA board. The Mayor must carry out the consultations, laid down in section 2 of the RDA Act (but excluding the obligation to consult rural interests) before making board appointments. He must also consult the Assembly. At least half the board, including the chairman, must appear to the Mayor to have experience in running a business and at least four members must be, or have been at the time of their appointment, elected members of the London Assembly, a London borough council or the Common Council. The Mayor will not be able to make

it a condition of the appointment of elected members of local authorities to the board that they should resign if they cease to be elected members of local authorities.

446. The Mayor will appoint the first Chief Executive of the LDA and will approve the appointments of subsequent Chief Executives. The Mayor will be able to determine the remuneration of members and staff.

Section 305: Delegation of functions by Ministers to the Mayor

447. *Section 305* contains provisions on the delegation of functions by Ministers to the Mayor.

448. Section 6 of the RDA Act provides for the delegation of certain functions ('eligible' functions) by Ministers to RDAs and lays down the conditions under which such delegations can be made, varied and revoked. The Act inserts into the RDA Act a new section 6A, which applies to the LDA an amended version of section 6 of that Act. The new section 6A provides that a Minister will be able to delegate any eligible function to the Mayor or, with the Mayor's consent, to the LDA. The scope of the power to delegate functions to the mayor or the LDA is essentially the same as that for delegating functions to the RDAs outside London, in particular, the Minister has power to make a delegation subject to such conditions as the Minister sees fit.

449. The provisions of section 38 of the Act will also apply to the LDA. They will allow the Mayor to delegate further functions to the LDA. If powers are delegated to the LDA in this way, then the Mayor must attach conditions to the delegation to the LDA, in order to ensure that the conditions attached by the Minister to the original delegation to the Mayor will be satisfied.

450. Schedule 3 of the RDA Act will apply to delegations to the Mayor and LDA by virtue of the new section 6A inserted in the RDA Act. That Schedule provides for transfer schemes covering property, rights and liabilities, including staff contracts, which a Minister might consider it appropriate to transfer as a consequence of a function being delegated.

Sections 306 and 307: The London Development Agency strategy

451. *Sections 306 and 307* provide for the preparation of the London Development Agency Strategy, by inserting new sections 7A and 7B into the RDA Act, which apply an amended version of section 7 of that Act to the LDA. Section 7 of the RDA Act obliges a development agency to formulate and keep under review a strategy in relation to the purposes given to it in section 4 of the RDA Act. The Secretary of State can give an RDA guidance on directions on certain aspects of the strategy, and the RDA must take account of this strategy in carrying out its functions.

452. The new section 7A provides for both the Mayor and the LDA to be involved in preparing and revising the strategy. The LDA's role is to draft the strategy and keep it under review, following any directions and guidance given it by the Mayor. The Mayor, on receiving a draft strategy from the LDA, must publish the strategy, with or without modifications, as soon as is practicable. The LDA must keep the strategy under review and may propose revisions to the Mayor, who must publish it as revised.

453. Before publishing the strategy, the Mayor must carry out the consultations required by section 42 and also consult representatives of employers and employees in London.

454. The LDA and the other three functional bodies must take account of the current strategy in carrying out their functions.

455. The new section 7B to the RDA Act empowers the Secretary of State to give guidance and directions to the Mayor on certain aspects of the strategy. The Secretary of State can give guidance to the Mayor concerning matters to be covered by, and issues to be taken into account, in preparing or revising the strategy. The issues can be any on which

guidance can be given to RDAs outside London. The Mayor must have regard to any such guidance.

456. If the Secretary of State considers that the strategy (or any part of it) is inconsistent with national policies, or that its implementation is having, or is likely to have, a detrimental effect on any area outside London, then he can direct the Mayor to revise the strategy in order to remove that inconsistency or detrimental effect. For this purpose, national policies are any government policies which are available in written form and have been presented to either House of Parliament or published by a Minister. The Mayor must revise the strategy in accordance with any such direction. The Mayor will not be obliged to carry out the consultation required by section 34 or the new section 7A of the RDA Act on such a revised strategy.

457. The notes on sections *41 to 44* describe the Mayor's general duties regarding his strategies and the Secretary of State's power of direction, and apply to the LDA strategy as they do to other strategies.

Section 308: Audit

458. *Section 308* makes provision for the audit of the LDA. Section 15 of the RDA Act requires that RDAs' accounts should be audited by the Comptroller and Auditor General, as is normal for non departmental public bodies. Section 308 amends section 15 to provide that the LDA, like the Authority and its other functional bodies, will have its accounts audited by the Audit Commission. It also requires that a copy of the audited accounts should be sent to the Mayor and to the Chair of the London Assembly.

Section 309: Further amendments to the RDA Act

459. *Section 309* introduces*Schedule 25* to the Act.

460. P*aragraphs 4 to 9* of Schedule 25 provide that the financial provisions in sections 9 to 14 of the RDA Act are not to apply to the LDA. The finances of the LDA will instead be governed by the provisions of Part III of this Act. Paragraph 5 ensures that any grants made, under section 10 of the RDA Act, to the Authority by the Secretary of State, are for the purposes of the London Development Agency. This provision, together with the provisions of section 103, ensures that any such grants are paid by the Authority to the Agency.

461. *Paragraphs 3 and 10 to 12* of Schedule 25 contain provisions on the accountability of the LDA. There will be no Regional Chamber for the LDA, as provided for in sections 8 and 18 of the RDA Act in relation to other RDAs.

462. The Mayor may specify the form and contents of the LDA's annual report, required by section 17 of the RDA Act. The report is to be sent to the Mayor and Assembly (rather than be sent to the Secretary of State and laid before Parliament). The Mayor must arrange for it to be published.

463. The Mayor may give such directions and guidance to the LDA on the exercise of its functions as he sees fit.

464. Other provisions in Schedule 25 concerning the accountability of the LDA are contained in the provisions of the Act on the provision of information, advice and assistance by functional bodies, power to require attendance at Assembly meetings and investigation of functional bodies by the Commission for Local Administration.

465. *Paragraphs 2 and 13 to 15* of Schedule 25 contain further amendments to the RDA Act. Section 5 of the RDA Act requires the Secretary of State's consent before a RDA forms or acquires an interest in a company. The LDA must seek the Mayor's consent for such actions.

466. Orders made by the LDA as respects the compulsory purchase of land and changes in the name of the LDA may only be submitted to the Secretary of State for approval with the consent of the Mayor.

467. The provision in section 25 of the RDA Act for altering the regions of the regional development agencies will not apply to the London region, so that the region of the LDA will remain identical to that of Greater London.

Part Vi: Police and Probation Services

468. England and Wales is divided into 43 policing areas, two in London (the metropolitan police district (MPD) and the City of London police area) and 41 elsewhere. Policing in each of these areas is the responsibility of three parties. These are the chief officer of police for that area, the Home Secretary and the police authority for that area. Uniquely, with regard to the MPD the Home Secretary acts as police authority as well as in his national role.

469. The main legislation governing the roles, duties and powers of these three parties in the non-London police areas is the Police Act 1996 ("the 1996 Act"). Although some of the provisions of that Act apply to the policing of London, many do not. There is a significant number of other statutes governing the policing of the MPD, dating back to the Metropolitan Police Act 1829 ("the 1829 Act"), which established the metropolitan police force.

470. The purpose of Part VI of the Act and the related Schedules 26 and 27 is, so far as possible, to bring the arrangements for the policing of the MPD into line with arrangements elsewhere in England and Wales. The Act achieves these changes in two main ways. First, by inserting new sections into the 1996 Act concerned specifically with the new police authority for London, the Metropolitan Police Authority (MPA), and the metropolitan police force. Second, through amendments to the 1996 Act which have the effect of applying provisions of that Act to the policing of the MPD. There are also a number of consequential amendments to other legislation.

471. The policing of the City of London is not affected by the policing provisions contained in this Act.

472. Part VI also makes provision for the reorganisation, by order, of the probation service in Greater London (see comments on section 326 below).

Sections 310 and 312 and Schedule 26: Establishment, membership and duty to maintain police force

473. *Section 310* deals with the establishment and duties of the MPA. It provides that a police force is to be maintained for the metropolitan police district (MPD) and for the establishment of the Metropolitan Police Authority (MPA) for the MPD.

474. *Section 312* substitutes the MPA for the Home Secretary as the police authority for the MPD. It is intended that the MPA will be established on 3 July 2000.

475. Provisions on the membership and procedures of the MPA are contained in *Schedule 26*. As with other police authorities, the MPA will have a majority of elected members, with the balance made up of magistrates and independent members. However, there will be a number of differences between the MPA and the other authorities:

- to reflect the size of the metropolitan police force, the MPA's membership is to be 23 compared with the normal figure of 17 elsewhere;
- to reflect the existence of a pan-London chamber, the 12 elected members of the MPA will be drawn from the Assembly (appointed by the Mayor), not, as happens elsewhere, from the local councils which are within the police area (i.e. the 32 London boroughs in the case of the MPD);

- to reflect the creation of the Greater London Magistrates' Courts Authority (GLMCA), the four magistrate members will be appointed by the GLMCA selection panel which is to be set up under powers inserted into the Justices of the Peace Act 1997 by the Access to Justice Act 1999;
- to reflect the Home Secretary's continuing responsibilities for the national functions of the metropolitan police force (see comments below), one of the seven independent members of the MPA is to be appointed by him;
- for the first round of appointments of independent members to the MPA, the selection panel which puts forward the list of potential members is to be constituted differently from a standard panel. In particular, the three-member selection panel will not include (as it will in future rounds) a nominee of the MPA's Assembly and magistrate members. This will enable the selection panel to be formed before the first elections of the Mayor and Assembly members take place, thereby allowing the full membership of the MPA to be chosen as soon as possible after those elections. The selection panel will consist of three persons. Two of them will be appointed by the Secretary of State, one after consultation with organisations which represent the interests of local government in London, and the third person will be appointed by the other two.

476. *Schedule 27* also makes various amendments to parts of the 1996 Act which set out the selection procedure for independent members of police authorities.

Section 311: Assimilation of general functions to those of other police authorities

477. *Section 311* assimilates the MPA's general functions to those of other police authorities. The MPA will be under a duty to maintain an efficient and effective police force for the MPD. In discharging its functions, the MPA must have regard to a number of factors:

- objectives determined by the Secretary of State;
- objectives determined by the MPA;
- performance targets established by the MPA;
- local policing plans issued by the MPA (including Best Value compliance);
- codes of practice issued by the Secretary of State.

478. The MPA will also have to comply with any directions given to it by the Secretary of State relating to performance targets, or following an adverse report from Her Majesty's Inspectors of Constabulary.

479. *Schedule 27* amends the 1996 Act so as to require the MPA to determine objectives for the policing of the MPD, issue a policing plan, and produce an annual report at the end of each financial year.

Section 313: Openness

480. *Section 313* makes some amendments to the Local Government Act 1972 to apply various provisions of that Act to the MPA regarding such matters as public access to meetings and documents.

Sections 314 to 322: Commissioner, Deputy Commissioner, Assistant Commissioners, Commanders and other members of the metropolitan police force

481. *Section 314*, *section 316*, *section 319* and *Schedule 27* set out the functions of the three most senior ranks of the metropolitan police force. Section 314 provides for the metropolitan police force to be under the direction and control of the Commissioner of Police of the Metropolis ("the Commissioner"), and that in discharging this function

the Commissioner is to have regard to the MPA's policing plan. An amendment in Schedule 27 provides that the Commissioner, like Chief Constables and the Commissioner of Police for the City of London, can be required by the Secretary of State to submit a report on matters connected with policing.

482. *Section 316* provides that the Deputy Commissioner of Police of the Metropolis ("the Deputy Commissioner") will exercise the powers and duties of the Commissioner in the latter's absence or with the latter's consent, and will also have all the powers and duties of an Assistant Commissioner. At present there is no statutory rank of Deputy Commissioner, so when the Commissioner has been unable to perform his duties the legal position is that one of the Assistant Commissioners designated for that purpose has exercised them. The Act repeals sections of the Metropolitan Police Act 1856 which cover the powers of Assistant Commissioners; section 319 inserts equivalent provisions into the 1996 Act. An Assistant Commissioner will be able to exercise the powers and duties of the Commissioner with the consent of the latter.

483. *Section 315 and sections 317 to 320* make provision for the appointment and removal of the four most senior ranks of the metropolitan police force, that is the three Commissioner ranks plus Commanders. A Commander is the highest rank below the three Commissioner ranks, and is considered roughly equivalent to the rank of Assistant Chief Constable outside London. *Section 322* provides that the ranks that may be held in the metropolitan police force are those prescribed in regulations made under section 50 of the 1996 Act, and that they must include the four senior ranks and the ranks of superintendent, chief inspector, inspector, sergeant and constable.

484. The appointment and dismissal provisions for the four senior ranks are similar to the procedures that are already applied to Chief Constables and Assistant Chief Constables outside London. In particular, regulations made under section 50 of the 1996 Act, which are concerned with the appointment and dismissal of police officers, will be applied to the three Commissioner ranks and to Commanders. One effect of this will be that the Commissioner ranks will in future be police officer appointments - at present they are civilian posts, albeit that all recent incumbents have been police officers.

485. However, there will be a few differences in the appointment procedure to reflect the special status of the metropolitan police force, and those who hold senior office in it. Her Majesty, on a recommendation from the Home Secretary, will as now make the appointment of a Commissioner. Section 315 requires the Home Secretary to have regard to the MPA's recommendations and any representations from the Mayor before making his recommendation to Her Majesty. The procedure for the appointment of a Deputy Commissioner is set out in section 317 and is the same, except that it is the Commissioner, rather than the Mayor, whose is able to make representations.

486. Appointments of Assistant Commissioners and Commanders will be made by the MPA, subject to the approval of the Secretary of State.

487. The Act also sets out the procedure for the removal of the Commissioner, Deputy Commissioner, Assistant Commissioners and Commanders. The MPA may, having given the officer an opportunity to make representations and having obtained the Secretary of State's approval, call upon the officer to retire in the interests of efficiency or effectiveness.

488. Section 42 of the 1996 Act, which covers the procedure to be followed by the Secretary of State when requiring a police authority to exercise its powers to remove a Chief Constable (or Assistant Chief Constable), is also amended in paragraph 90 of schedule 27 so as to apply that section to the removal of the Commissioner, Deputy Commissioner, Assistant Commissioners and Commanders. Paragraph 95 of Schedule 27 (which amends section 50 of the Police Act 1996 allows the MPA, rather than (as now) the Commissioner, to decide disciplinary cases involving senior officers of the metropolitan police force. (A "senior officer" is a member of a police force

holding a rank above that of Superintendent. The three Commissioner ranks (as there will be) and Commanders come within this definition.)

489. *Section 321* makes transitional provision in respect of those individuals who are occupying any of the four senior ranks of the metropolitan police force on the date when the sections of the Act relating to their appointment come into force (which is intended to be 3 July 2000). Such individuals will be deemed to have been appointed under the new arrangements inserted into the 1996 Act by this Act. This will ensure that they are subject to other provisions made by this Act in respect of the four senior ranks – for example, the procedures for handling complaints and discipline cases against them.

Sections 323 and 324: Alteration of the metropolitan police district

490. *Section 323* amends the boundary of the metropolitan police district (MPD) to make it coterminous with Greater London, excluding the City of London, the Inner Temple and the Middle Temple (which will continue to be policed by the City of London police force). At present, the MPD extends beyond Greater London, incorporating parts of Essex, Hertfordshire and Surrey. This section removes this historical anomaly. There are 43 police areas in England and Wales, and these are based on whole counties and/or districts. *Schedule 27* makes some consequential changes, by repealing various provisions which will be obsolete once the MPD boundary is brought into line with those of the London boroughs. Paragraphs 69, 84 and 105 of *Schedule 27* remove references to the previous boundaries of the MPD. Paragraph 85 of *Schedule 27* also ensures that the GLA will be consulted should the Secretary of State decide to amend the MPD boundary.

491. *Section 324* enables the Commissioner to second officers from the metropolitan police force to the county forces of Essex, Hertfordshire and Surrey to meet demands placed (or expected to be placed) on those forces as a result of the changes to the MPD boundary. The purpose of any such secondments would be to provide adequate policing cover in the areas transferred, giving the county forces sufficient time to recruit new officers to police those areas in the longer term.

Section 325 and Schedule 27: Further amendments relating to metropolitan police etc

492. *Section 325* introduces *Schedule 27* which contains many amendments to existing legislation to reflect provisions in this Act. A few of the more significant changes which are not discussed elsewhere in this part of the explanatory notes are mentioned here.

493. Paragraph 74 of Schedule 27 provides that the MPA will be the employer of civilian staff of the metropolitan police force (although the majority of such staff will remain under the direction and control of the Commissioner). At present, they are employed under the Commissioner or Receiver for the Metropolitan Police District. Paragraph 20 ensures that these employees retain their pension entitlements under the Metropolitan Civil Staffs Superannuation Scheme when they transfer. Paragraph 75 requires the MPA to appoint a person to be its clerk. Paragraph 76 sets out the discretion the MPA will have when choosing what person to appoint to a particular office or to take on specified duties, as required by other legislation (namely, that such a person may or may not already be employed by the MPA). Paragraph 77 provides that provisions in the Local Authorities (Goods and Services) Act 1970 on the supply of local goods and services by local authorities will apply to the MPA in the same way as to police authorities outside London. Paragraph 78 provides for the holding of meetings by the London Assembly to put questions to a representative (or representatives) of the MPA on the discharge of the MPA's functions.

494. Provisions on the remuneration of the Commissioner and Assistant Commissioners contained in section 1 of the Metropolitan Police Act 1899 are repealed by Schedule 27 and will in future be covered by regulations made under section 50 of the 1996 Act.

495. *Schedule 27* places the Commissioner under the same requirement to provide to the MPA an annual general report on policing as other chief officers of police are to provide such a report to their police authority. Constables who are members of the metropolitan police force will give their attestation to a justice of the peace in the same way as constables of other forces, rather than by giving it to the Commissioner or an Assistant Commissioner as they do at the moment. The same arrangements set out in section 96 of the 1996 Act for obtaining the views of the community on policing matters and for obtaining their co-operation in preventing crime are applied to the MPD as to police areas outside London.

496. The Schedule also provides that the MPA is the appropriate authority for dealing with complaints against senior officers in its area rather than, as at present, the Commissioner. Where the complaint is against the Commissioner or Deputy Commissioner, the Secretary of State rather than the MPA appoints the person to investigate that complaint. The present requirement that the investigating officer must not be of a lower rank than the officer against whom the complaint has been made is disapplied because both the Commissioner and Deputy Commissioner are regarded as higher in rank than a Chief Constable.

497. Provision is made in respect of the national and international functions of the metropolitan police force. The Commissioner will be accountable to the MPA in respect of all of the activities of the force, including any of its national or international functions which take place outside, or relate to matters outside, the MPD. However, the Home Secretary will retain a continuing responsibility for these functions. *Paragraph 104* of Schedule 27 therefore provides that the Secretary of State and the MPA may make an agreement on the level of performance that the metropolitan police force will achieve in respect of these functions, for example the protection of prominent persons, national security and counter-terrorism. The Secretary of State has power to give directions to the MPA if he considers that the level of performance set out in the MPA is not being met or, in the absence of an agreement, if he considers that the level of performance is not satisfactory. The MPA will be under a duty to comply with any such direction.

Section 326: The probation service

498. The Government has embarked upon a programme of probation service changes which include, where necessary, amalgamating probation areas so that they and the police service share common boundaries. Overall, this will mean the 54 existing English and Welsh probation areas becoming 42, including the five in London joining to create a single new probation service for the capital, its boundaries the same as those of the Metropolitan Police District (as amended by section 323), except that the single probation service will also cover the City of London. All of the planned probation amalgamations are intended to take effect on 1 April 2001.

499. *Section 326* provides an order-making power to amalgamate the probation areas in Greater London into one area and organise the probation service in that area. Provision may be made in the order to amend or repeal the Probation Service Act 1993.

Section 327: Abolition of office of Receiver

500. *Section 327* provides for the abolition of the office of Receiver, by order of the Secretary of State. Related provisions are contained in *section 312* (in the definition of a "police fund" in the 1996 Act) and in Schedule 27. The office of Receiver was created by the 1829 Act to handle financial, contractual and similar matters of the metropolitan police force. The office is unique to the MPD - in other police forces, the police authority performs these functions. The MPA will take on the majority of the police-related functions of the Receiver, although the existence of a single financial structure for the GLA means the financial roles of the MPA will be a modified version of those of other police authorities (see Part III of the Act: Financial Provisions).

501. The Receiver has over time acquired a number of responsibilities in respect of the inner London probation service (ILPS) and the inner London magistrates' courts service (ILMCS). Powers in Part XII of the Act may be used to transfer the ILPS-related responsibilities elsewhere following the use of the order-making power in section 326. The target date for this is 1 April 2001. The ILMCS-related responsibilities will be taken on by the GLMCA – see section 83 of, and paragraph 13 of Schedule 12 to, the Access to Justice Act 1999. Paragraph 33 of Schedule 14 to that Act provides for the transfer of property, rights and liabilities from the Receiver to the GLMCA; paragraph 36 is concerned with the pension arrangements of inner London court staff currently on the Metropolitan Civil Staffs Superannuation Scheme. It is intended that the GLMCA will take on its full powers on 1 April 2001. The Receiver will therefore retain responsibility for these functions for an interim period following the creation of the MPA. Once provision has been made for the transfer of those responsibilities and of the Receiver's property, rights and liabilities, the Secretary of State may abolish the office of Receiver by order.

502. Paragraph 73 of *Schedule 27* makes further provision relating to MPA funding issues. It extends to the MPA the requirement already incumbent on other police authorities to keep a police fund (i.e. a fund out of which money is paid for police purposes). Paragraph 92 of *Schedule 27* provides that the MPA rather than the Receiver will be treated as the employer of police cadets in London and paragraph 102 removes provisions relating to payments for special constables and police cadets which will no longer be required. It provides that various grants made by the Secretary of State for police purposes will go to the MPA (via the GLA) rather than to the Receiver. Paragraphs 92 to 94 also provide that grants by local authorities, and gifts of money and loans, will go to the MPA rather than to the Receiver.

Part Vii – the London Fire and Emergency Planning Authority

503. The present position is that the London Fire and Civil Defence Authority (LFCDA) is the fire authority for London. The LFCDA was established by section 27 of the Local Government Act 1985, which conferred on the LFCDA the functions of a fire authority and certain functions with respect to civil defence. The LFCDA is a "joint authority", and is comprised of one member of each of the constituent councils (the 32 London borough councils plus the Common Council).

Section 328: Reconstitution of the Fire etc. Authority

504. *Section 328* will change the name of the LFCDA to the London Fire and Emergency Planning Authority (LFEPA). It will continue in being, although it will have a different constitution under *Schedule 28*. The Act reflects the fact that the LFEPA is the same body as the LFCDA by referring to it as the "Fire etc Authority". As it is the same body, the Act will not affect its property, rights and liabilities (including rights and liabilities under contracts of employment).

505. There are numerous provisions of primary and secondary legislation which apply to the LFCDA because it was established by Part IV of the Local Government Act 1985. Some provisions, for example, refer to a "joint authority" as a body established under Part IV of that Act. Others refer directly to bodies established under Part IV of that Act. This Act provides that any references of this nature must be taken as not referring to the LFEPA.

506. The new constitution of the LFEPA is set out in Schedule 28 to the Act. The LFEPA is to consist of 17 members, 9 of whom are to be members of the London Assembly appointed by the Mayor (known as the "Assembly representatives"). The other 8 members are to be members of the London borough councils including the Common Council (known as the "borough representatives"). These will be nominated by those councils and appointed by the Mayor.

507. In appointing the Assembly representatives, the Act requires that the Mayor should ensure that, so far as practicable, the political balance of the Assembly is reflected. The borough councils are required to nominate representatives to reflect, so far as practicable, the overall balance of parties on the councils. Members of the LFCDA will cease to hold office on the date of reconstitution.

508. LFEPA members are to hold office for one year, or a shorter period if the Mayor so decides. The Mayor can renew the appointment of a member of the LFEPA except where, in the case of a borough representative, the London borough councils, at least one month before the end of the representative's term of office, give notice that they have nominated a successor. The Mayor will be able to terminate the appointment of a member of the LFEPA where satisfied that the member is unable or unfit to discharge his or her responsibilities. The Act requires the Mayor to appoint each year one of the members of the LFEPA as its chairman. The LFEPA itself will appoint each year one of its members as vice-chairman.

509. The rules which apply to meetings and proceedings of the LFCDA will in the main apply to the LFEPA. The annual meeting will be held on a date between 1 March and 30 June to be fixed by the LFEPA; and the number of members who can call an extraordinary general meeting will be three. The quorum for meetings of the LFEPA will be five, with at least one Assembly representative and at least one borough representative. The first meeting of the LFEPA will be convened by the chief fire officer of the London Fire Brigade and held as soon as reasonably practicable.

510. *Schedule 29* makes miscellaneous amendments to legislation relating to the LFCDA's functions to reflect the changes described above.

Section 329: Role as the fire authority for Greater London

511. The functions relating to fire services and fire and civil defence authorities are set out in Schedule 11 to the Local Government Act 1985. That Schedule provides that references to a fire authority in the Fire Services Acts 1947 to 1959 and any other legislation mean, as far as Greater London is concerned, the LFCDA. *Section 329* replaces the reference in that Schedule to the LFCDA being the fire authority for Greater London with a reference to the LFEPA.

Section 330: Civil Defence

512. *Section* 330 provides that the LFEPA, like the LFCDA, will be a local authority for the purposes of the Civil Defence Acts 1939 and 1948. This allows regulations made by the Secretary of State to confer functions under those Acts on the LFEPA.

Sections 331 to 333: Openness, discharge of functions and miscellaneous powers and duties

513. *Sections 331 to* 333 provide that the following provisions of the Local Government Act 1972 will apply to the LFEPA in the same way as they apply to the LFCDA: Part VA (access to meetings and documents), Part VI (discharge of functions) and Part VII (miscellaneous powers and duties).

Part Viii: Planning

514. London boroughs are the local planning authorities in London. Under the Town and Country Planning Act 1990 they produce unitary development plans (UDPs) for their areas and deal with applications for planning permission for new development. Strategic Guidance for London planning authorities (currently RPG3 ("Regional Planning Guidance 3"), published in May 1996) is issued by the Secretary of State. It sets out planning policies and principles for the guidance of boroughs in exercising these functions.

Sections 334 to 338: The Mayor's spatial development strategy

515. *Sections 334 to 338* of the Act contain provisions relating to the preparation of a spatial development strategy. The Act provides that the Mayor should produce a spatial development strategy setting out strategic planning policies for London. This will provide a framework for the boroughs' UDPs, and also set out the spatial context for the Mayor's other policies and strategies. The strategy will replace the current guidance issued by the Secretary of State. It is incorporated into the planning system established by the Town and Country Planning Act 1990, but it will not be a development plan within the meaning of that Act. Boroughs will remain the designated planning authorities for their areas.

516. *Sections 334 to 337* set out the procedures for producing the strategy. These provisions are closely modelled on those for development plans contained in the Town and Country Planning Act 1990. The Secretary of State will be able to prescribe in regulations the matters to be covered in the strategy, and the inclusion of, for example, a key diagram. The strategy must deal only with matters of strategic importance to London. The Secretary of State may prescribe bodies or persons to be consulted by the Mayor before publishing his strategy in addition to those otherwise required to be consulted included in the Act.

517. *Section 338* makes provision, as part of the consultation process, for holding a public examination of the Mayor's proposals. This is a procedure which applies at present for county structure plans and for regional planning guidance. In this case, however, the chairman or panel appointed by the Secretary of State to conduct the examination is responsible for deciding which matters need to covered, and will report their findings to the Mayor. The Secretary of State will be able to make regulations or publish guidance concerning the conduct of the examination. The intention is that the examination should provide a non-adversarial opportunity for the discussion and testing in public of the justification for selected policies and proposals; it will not be a hearing of objections, nor need it cover every aspect of the proposals.

518. *Section 336* provides for the withdrawal of any proposed strategy. Because a draft strategy might well be a "material consideration" to be taken into account in a planning decision, the Act specifically provides for the formal withdrawal of a draft strategy by the Mayor at any time before it is published so that it will be clear it no longer can be a material consideration.

519. *Section 337* covers conditions to be satisfied before publication of the strategy. The Mayor will not be able to publish his final strategy until he has considered representations made in response to the consultation exercise, received the report from the examination in public, and complied with any directions given by the Secretary of State. The Secretary of State is able to give directions requiring the modification of the Mayor's proposals where he may consider this necessary to secure consistency with national policies, including relevant planning policy guidance, or to avoid harm to the interests of areas outside Greater London.

Sections 339 to 341: Review, alteration and replacement

520. *Sections 339 to 341* deal with the review, alteration and replacement of the spatial development strategy. The Mayor is required to keep under review both the strategy itself and matters likely to affect it. The Secretary of State may direct the Mayor to undertake a review, and may also direct the alteration or replacement of the Strategy. In developing proposals for altering or replacing the strategy the same consultation procedures and other provisions apply as for the original strategy.

Sections 342: Matters to which the Mayor is to have regard

521. *Section 342* provides that in drawing up his strategy the Mayor is required to have regard to any regional planning guidance issued by the Secretary of State (such as that

which currently exists for the South East region (currently RPG9 published in March 1994)) and any other matters that the Secretary of State may prescribe in regulations. He will also be required, by virtue of section 41(5), to have regard to current national policies (such as are set out in the Secretary of State's planning policy guidance notes ("PPGs")), to the availability of resources, and to the other matters set out there which apply to all the Mayor's strategies.

Sections 344 and 345: Amendments to the Town and Country Planning Act 1990

522. *Subsections (1) to (8) of section 344* deal with the relationship between the Mayor's strategy and UDPs. The boroughs will continue to produce UDPs for their areas under sections 10 to 28 of the Town and Country Planning Act 1990. But, by amending sections 12 and 15 of that Act, the Act requires that these plans be "in general conformity with" the spatial development strategy before they can be adopted. (A similar requirement currently exists outside London for districts' local plans in relation to county structure plans).

523. *Subsections (4) and (5)* amend section 13 of the 1990 Act to require boroughs, before publicising their UDP proposals, to obtain from the Mayor a written opinion as to whether these are in general conformity with his Strategy. Where he considers that they are not, the Mayor's opinion will be considered as a formal objection at the public inquiry into the UDP. Through an amendment to section 26 of the 1990 Act made by *subsection 8*, the Secretary of State is able to make provision in regulations about how the Mayor's opinion should be obtained.

524. *Subsection 7* inserts a new section after section 21 of the 1990 Act which has the effect of enabling a borough to apply the conformity test to any published proposals for amending the strategy as if they were in force. This "permitted assumption" is based on a similar provision in section 46 of the Town and Country Planning Act 1990 in relation to the conformity between structure and local plans.

525. *Subsection (9) of section 344* makes provision for the Mayor's role in relation to planning applications by amending section 74 of the Town and Country Planning Act 1990. Section 74 enables the Secretary of State to make development orders specifying how planning applications are to be dealt with by the local planning authority. The new provision allows the Secretary of State to empower the Mayor of London to direct the borough to refuse planning permission for prescribed classes of application and in prescribed circumstances. These classes and circumstances may be prescribed by the Secretary of State in the development order. The Secretary of State's existing order-making powers under this section enable him to specify the Mayor as a statutory consultee in such cases and to set deadlines for commenting on applications.

526. *Section 345* provides for the Mayor to be liable for the costs of an inquiry into an appeal against refusal of planning permission resulting from a Mayoral direction if it is found the power has been used unreasonably. In such cases this relieves the local planning authority of liability where it has followed a Mayoral direction.

Section 346: Monitoring and data collection

527. *Section 346* places the Mayor under a duty to monitor the implementation of the strategy and matters relevant to its preparation and review, as well the boroughs' UDPs.

Sections 348 and 349: The Mayor's functions in relation to planning around Greater London and abolition of joint planning committee for Greater London and.

528. *Section 348* provides for the Mayor to inform local planning authorities for areas in the vicinity of Greater London, or any representative bodies (eg SERPLAN), the Mayor's views on matters of common interest in relation to the planning and development of Greater London or those areas. This role is currently carried out by the London Planning Advisory Committee which was set up under section 5 of the Local Government Act

1985 and which is in consequence abolished by section 349. The section also provides for the Mayor to consult the London boroughs in the exercise of this function.

Part Ix: Environmental Functions

Section 351: The Mayor's environmental report

529. *Section 351* provides that the Mayor will have a duty to produce and publish a "state of the environment report", which will contain information about the environment in Greater London. This state of the environment report is not a strategy for the purposes of sections 41 to 44 of the Act.

Section 352: The Mayor's Biodiversity Action Plan

530. In 1992 the UK Government signed the Rio Convention on Biodiversity. In January 1994 the Government published 'Biodiversity: The UK Action Plan' (Cm 2428), which sets out broad strategy and national objectives for the promotion and conservation of biodiversity in the UK. In December 1995 the UK Biodiversity Steering Group produced its report, which contains detailed plans for the promotion and conservation of national priority species and habitats and recommended that local biodiversity action plans be developed.

531. The Government response to the UK Biodiversity Steering Group Report (Cm 3260, May 1996) supported the development of local biodiversity action plans to translate the national strategy into action at a local level. Over 100 local biodiversity action plans, drawing on the national plan, are currently being prepared or implemented, including a number of plans which involve local authorities in London.

532. *Section 352* of the Act provides that the Mayor will be required to produce a "London Biodiversity Action Plan" (the Action Plan), which will contain information about:

- the ecology of Greater London,
- the wildlife of Greater London,
- proposals for the conservation and promotion of biodiversity in Greater London agreed between the Mayor and persons consulted in relation to the Action Plan,
- commitments for the conservation and promotion of biodiversity made by such persons.

533. In preparing or revising the Action Plan, the Mayor will be required to have regard to biodiversity plans drawn up by London local authorities and any guidance from the Secretary of State.

534. *Section 41* provides that the Action Plan is a strategy for the purposes of sections 41 to 44 of the Act. As a result, when preparing or revising the strategy, the Mayor is required to consult various bodies: the Assembly, the London borough councils and the Common Council, plus any other body or person which the Mayor considers it appropriate to consult. In preparing the Action Plan, the Mayor will need to have regard to national policies (as defined in section 424) and such international obligations as the Secretary of State may notify to the Mayor for this purpose.

Sections 353 to 361: Municipal waste management

535. The Environmental Protection Act 1990 ("EPA '90"), as amended by the Environment Act 1995, is the main legislation on waste management in England and Wales. It provides that responsibility for waste management should lie with waste collection authorities and waste disposal authorities. In London, the London borough councils act both as waste collection authorities and as waste disposal authorities. However, in a number of cases, London borough councils work together to carry out their functions

as waste disposal authorities through statutory joint waste disposal authorities created by the Waste Regulation and Disposal (Authorities) Order 1985 (SI 1985/1884):

East London:	***North London:***	***Western Riverside:***
Barking and Dagenham	Barnet	Hammersmith and Fulham
Havering	Camden	Kensington and Chelsea
Newham	Enfield	Lambeth
Redbridge	Hackney	Wandsworth
	Haringey	
	Islington	
	Waltham Forest	
West London:		
Brent		
Ealing		
Harrow		
Hillingdon		
Hounslow		
Richmond-upon-Thames		

536. Other London borough councils act individually as waste disposal authorities:

Bexley	Merton
Bromley	Southwark
Croydon	Sutton
Greenwich	Tower Hamlets
Kingston-upon-Thames	Westminster
Lewisham	

537. EPA '90 places a duty on waste collection authorities to produce waste recycling plans, which contain details of how they will deal with municipal waste and, in particular, make provision for recycling.

538. Work by a cross-sectoral review group, set up by the Department of the Environment, gave rise to the concept of joint municipal waste management strategies. The review group recommended that waste collection authorities and waste disposal authorities work together to produce more comprehensive plans addressing all waste management options (e.g. waste minimisation, recycling, composting, incineration etc) that may be used in dealing with municipal waste.

539. The 1995 White Paper "Making Waste Work" set out governmental policy on waste. Amendments to EPA '90 made by the Environment Act 1995 require the Secretary of State to prepare a statement containing his policies in relation to the recovery and disposal of waste in England. The Government is currently reviewing the national waste strategy, a draft strategy "*A Way With Waste*" was published in June 1999, and the final strategy will be published in Spring 2000.

540. The municipal waste management strategy is one of the strategies to which sections 41 to 44 of the Act apply. Those sections make provision which applies to all of the Mayor's

strategies, and which require the Mayor to follow certain procedural steps in relation to strategies, including matters to which he is required to have regard, and persons he is required to consult. *Sections 353 to 359* of the Act contain provisions relating to the Municipal Waste Management Strategy.

541. *Section 353* of the Act places an obligation on the Mayor to prepare and publish a municipal waste management strategy for Greater London. This will include proposals and policies for the recovery, treatment and disposal of municipal waste originating in Greater London.

542. When preparing the municipal waste management strategy the Mayor must have regard to waste recycling plans prepared by waste collection authorities in Greater London. In preparing or revising the strategy the Mayor must have regard to the national waste strategy and any guidance issued by the Secretary of State to him for the purpose of implementing, or relating to the content of, the strategy. The Secretary of State has power to issue a direction about the content of the strategy if he considers either that the strategy or its implementation is likely to be detrimental to any area outside Greater London, or that a direction is needed to enable the policies in the national waste strategy to be implemented.

543. When preparing or revising the strategy, the Mayor will be required to consult:

- The Environment Agency,
- Waste disposal authorities in Greater London,
- Any waste disposal authority which has a boundary which adjoins Greater London,
- Local authorities in whose areas waste which originates in Greater London is disposed of, or is proposed to be dispose of,
- Any other body which is concerned with the minimisation, recovery, treatment or disposal of waste in Greater London, and which the Mayor considers it appropriate to consult,
- Bodies and persons set out in section 42 of the Act.

544. It is important that the Mayor has the means to ensure that the policies in his strategy are given effect. *Section 356(1)* therefore gives the Mayor, where he considers it necessary for the implementation of the municipal waste management strategy, the power to issue a direction to waste collection and waste disposal authorities in Greater London to carry out a function in a specified manner. *Sections 357(5) and 358(3)* give the Mayor power to issue a direction requiring an authority to provide him with such information as he deems necessary to determine if the authority's proposed waste contracts would be detrimental to the implementation of the strategy.

545. *Section 360(5)* provides that for the purposes of *sections 356(1)*, *357(5) and 358(3)* of the Act until the municipal waste strategy is published references to the municipal waste strategy shall have effect as if such references were to the national waste strategy. This will enable the Mayor, in the circumstances set out in those sections, to issue a direction before the municipal waste strategy is published.

546. Waste management in practice is largely dealt with by the private sector, through waste contracts let by local authorities. Authorities' actions are limited by these contracts, which can cover periods of up to 25 years and involve large amounts of capital investment. Therefore, the Mayor's effectiveness in this area is to some extent dependent on the influence, through his power of direction, he has over existing and new contracts. Long-term contracts should make allowances for some flexibility and adjustment, which will allow the Mayor some room for manoeuvre. But the Mayor cannot use the power of direction to require an authority to exercise a "break clause" in a contract.

547. The Mayor's power to issue directions under *section 356(1)* in relation to existing waste contracts is limited. The Mayor can not direct a waste collection or disposal authority to take any action which would require them to terminate a contract before its expiry date, or to do anything which would result in a breach of any term of a contract. Since some of the information supplied to the Mayor under sections 357 and 358 may be commercially sensitive, the Mayor and his staff are prevented from disclosing information provided by an authority which, in the opinion of that authority, would be exempt or confidential information as defined in the Local Government Act 1972. This will allow the authority itself to claim the protection of section 359 in any particular case but it will be necessary for the information concerned to meet the criteria of the 1972 Act.

548. Because of the size of many waste contracts (especially waste disposal contracts which can run to tens of millions of pounds) they are caught under public procurement regulations made under the European Communities Act 1972. When contracts are caught under these regulations there are special requirements concerning seeking offers in relation to the proposed contracts and confidentiality. When an authority seeks offers under the public procurement procedures, it must generally publish two notices in the Official Journal of the European Communities – the first containing general information as to, for example, the nature and extent of services to be provided, the second notice advertising the authority's invitation to seek offers. The first is usually very general in nature, the second more specific. Once this second notice is published the authority cannot substantially alter the terms without having to go through the procedure again. The Mayor's powers in relation to the contract cease to be exercisable once the second notice has been sent for publication to the Official Journal of the European Communities.

Section 361: waste recycling plans

549. Under section 49(4) of the Environmental Protection Act 1990 waste collection authorities are under a duty to send draft waste recycling plans to the Secretary of State for the purpose of enabling him to determine whether the requirements set out in section 49(3) of the 1990 Act have been complied with. *section 361* provides that for waste collection authorities in Greater London the plans should be sent to the Mayor, and it is the Mayor who determines whether the requirements have been complied with.

550. Section 49(3) of the 1990 Act provides that the plans should include information on the following:

- the kinds and quantities of controlled waste which the authority expects to collect,
- the kinds and quantities of controlled waste which the authority expects to purchase,
- the kinds and quantities of controlled waste which the authority expects to deal with for recycling purposes,
- the arrangements which the authority expects to make with waste disposal contractors,
- the plant and equipment which the authority expects to provide,
- the estimated costs or savings attributable to the methods of dealing with the waste in the ways provided for in the plan.

Sections 362 to 369: Air Quality

551. The national air quality strategy sets air quality objectives derived from health based standards for eight pollutants: benzene, 1-3-butadiene, carbon monoxide, lead, nitrogen dioxide, ozone, fine particles (PM10) and sulphur dioxide. These objectives, with the exception of ozone, were given statutory force by being prescribed in regulations made under section 87 of the Environment Act 1995. In August 1999, the Government

published its draft air quality strategy following a review during 1998. The final version will be published in early 2000 and will replace the 1997 strategy.

552. A key tool for delivering the national air quality strategy is the system of local air quality management, introduced by Part IV of the Environment Act 1995. Under local air quality management, local authorities have a duty to assess air quality in their areas to determine whether prescribed objectives are likely to be met by 2005. Where a local authority considers that one or more of the objectives is not likely to be met as a result of national measures alone, it must declare an air quality management area and draw up an action plan identifying measures to achieve the objective(s).

553. The framework for improving air quality across Europe is set out in Directive 96/62/EC (Cm 3587) of 1997, which provides for limit values to be agreed for twelve pollutants. The first of the air quality daughter directives (1999/30/EC) sets limit values for four pollutants: nitrogen dioxide, particles, lead and sulphur dioxide and entered into force in July 1999. The European Commission have now also published their proposal for the second air quality daughter directive, relating to limit values for benzene and carbon monoxide in ambient air. It is expected to be adopted during 2000.

554. *Section 362* of the Act provides for the Mayor to prepare and publish a London air quality strategy, which will contain policies for implementing in Greater London the national air quality strategy and the standards and objectives prescribed under section 87 of the 1995 Act. The London air quality strategy must also contain information about current and likely future air quality in Greater London; the measures which are to be taken by the Greater London Authority, TfL and the London Development Agency for the purpose of implementing the London air quality strategy; and information about the measures which other persons or bodies are to be encouraged by the Mayor to take.

555. The Mayor's strategy may also contain other air quality proposals and policies which the Mayor wishes to include. Although the Mayor may draw upon the work of local authorities, the London air quality strategy will not replace local authority functions under the system of local air quality management.

556. The London air quality strategy is a strategy for the purposes of sections 41 to 44 of the Act. Those sections make provision which applies to all of the Mayor's strategies, and which require the Mayor to follow certain procedural steps in relation to strategies, including matters to which regard must be had, and persons he is required to consult. In addition to the consultees set out in section 42 of the Act, section 362 also requires the Mayor to consult the Environment Agency and local authorities which have a boundary with Greater London.

Section 363: Directions by the Secretary of State

557. *Section 363* provides for the Secretary of State to give the Mayor directions about the content of the London air quality strategy in subsection (2).

Section 364: Duty of local authorities in Greater London

558. *Section 364* provides that the London local authorities will be required to have regard to the London air quality strategy when exercising local air quality management functions under Part IV of the Environment Act 1995.

Section 365: Directions by the Mayor

559. *Section 365* provides for the Mayor to be able to direct London local authorities to provide any information, advice and assistance necessary for the drafting of the London air quality strategy.

Section 367: Directions under the Environment Act 1995

560. *Section 367* amends section 85 of the Environment Act 1995 to confer certain reserve powers on the Mayor. The Mayor will consequently be able to make, or cause to be made, reviews and assessments of air quality in London, and be able to direct London local authorities to take action if air quality standards and objectives are not being met in their area, or if they are failing to discharge their duties under the 1995 Act regarding air quality. The Mayor must consult a local authority before giving it a direction under this section.

Sections 368 and 369: Consultation

561. *Sections 368 and 369* provide that the London local authorities and authorities neighbouring London will be required to consult the Mayor when undertaking reviews and assessments or preparing action plans under local air quality management. The Mayor will also contribute to any action plans drawn up by the London local authorities.

Section 370: The ambient noise strategy

562. The Government will be undertaking projects in 1999-2001 to assess the ambient noise climate in England and Wales and to gauge public attitudes to environmental noise. The results will be compared to baselines developed in 1990 and 1991. Over the same period, Government-funded research will investigate links between environmental noise and health.

563. *Section 370* of the Act provides that the Mayor will be required to produce a London ambient noise strategy. The strategy will contain information about ambient noise levels in Greater London and an assessment of the impact of the Mayor's other strategies on them. There will be a summary of the action the Mayor has taken or proposes to take for the purpose of promoting measures to reduce ambient noise levels in Greater London, and the impact of such levels of those living and working in London.

564. "Ambient noise" is defined as noise related to transport, and noise of other descriptions which the Mayor considers it appropriate to include within the strategy. The strategy will not, generally, include noise which may be controlled by a local authority, but the Mayor will be able to include noise from fixed industrial sources within the strategy where considered appropriate.

565. The London ambient noise strategy is a strategy for the purposes of sections 41 to 44 of the Act.

Sections 371 and 372: Consultation about aviation noise

566. *Section 371* provides that where proposed changes to aircraft operations have a significant adverse effect on levels or distribution of noise in Greater London, or any part of Greater London, the Mayor will have the right to be consulted where it is reasonably practicable to do so.

567. Consultation will cover the proposed alteration or addition of routes used or to be used regularly by civil aircraft before arriving at or departing from aerodromes or substantial alterations to the procedures used for managing the arrival of civil aircraft at aerodromes. The Mayor need not be consulted about tactical decisions necessary in day-to-day air traffic control.

568. *Section 372* amends section 35 of the Civil Aviation Act 1982 so that persons managing any aerodrome which has been designated for the purposes of section 35 by an order made by the Secretary of State, are under a duty to consult the Mayor about matters concerning the administration or management of those aerodromes which affect the Mayor's interests.

Part X: Culture, Media and Sport

569. *Sections 375 and 376* relate to the Mayor's culture strategy. The Cultural Strategy Group for London is responsible for drafting the strategy. Outside London a Regional Cultural Consortium has been established in each of the eight English regions under a Chair appointed by the Secretary of State for Culture, Media and Sport. Each Consortium brings together wide representation of the region#s cultural and creative interests including cultural agencies, local government and the creative industries. The Consortium is responsible for producing a regional cultural strategy. These non-statutory arrangements are broadly analogous to the arrangements established by the Act in London.

Section 375: The Cultural Strategy Group for London

570. *Section 375* establishes the Cultural Strategy Group for London which will assist the Mayor in the preparation and implementation of a culture strategy for London, and provide expert advice on the strategy. Subsection (2)(b) makes provision for possible future additions to the Group's role and functions (eg functions which may be delegated under section 380).

571. *Schedule 30* contains the constitution of the Cultural Strategy Group. It establishes that the Cultural Strategy Group is not a Crown body with the privileges entailed by that status, and its members and staff are not civil servants. It is able to undertake any actions or transactions which are necessary for the discharge of its functions. It is also able to acquire and hold land; this includes the provision of any required office space.

572. The Cultural Strategy Group will consist of between 10 and 25 members. It is for the Mayor to determine the exact size of the Group and its composition. The Mayor appoints members to the group - including appointing one of the members to chair it - and decides their length of tenure. Appointments are at the Mayor's discretion.

573. The Mayor can appoint individuals with relevant knowledge, experience or expertise. Before making any appointment it is the duty of the Mayor to consult appropriate persons or bodies. More specifically, in the case of appointments of representatives of particular bodies, the Mayor must consult that body first.

574. *Schedule 30* also contains administrative provisions relating to members' tenure of office (*paragraph 4*), members' expenses (*paragraph 5*), staff (*paragraph 6*), financial provisions (paragraph 7), the validity of the Group's proceedings (*paragraph 8*), and the validity of the Group's seal and members' signatures on behalf of the Group (*paragraphs 9 and 10*).

Section 376: The Mayor's culture strategy

575. *Section 376* provides for the Cultural Strategy Group to draw up a draft culture strategy. The Mayor has the power to give the Cultural Strategy Group directions requiring it to produce the draft strategy by a set date. The draft will be submitted to the Mayor, who has discretion to make any modifications to it. The document will then be published by the Mayor as the Mayor's "culture strategy". The Mayor (under section 41) and the Cultural Strategy Group together will keep the strategy under review. The Group can propose revisions to the Mayor and the strategy can be revised and reissued subject to consultation.

576. Sections 41 to 44 apply to all the Mayor's strategies, and require the Mayor to follow certain procedural steps. Section 42 sets out the provisions for consultation in respect of all the Mayor's strategies. Where the Mayor wishes to make material revisions to the culture strategy which have not been recommended by the Cultural Strategy Group, Section 376 provides that the Group itself must be consulted along with the Assembly and the functional bodies, before any other persons or bodies the Mayor proposes to consult.

577. Section 41 sets out matters to which the Mayor must have regard in preparing or revising any of the strategies. The content of the culture strategy however, is not prescribed by the Act. Subsection (5) of section 376 sets out a list of topics for which policies may be included in the strategy.

Section 377: Assistance by the Mayor for museums, galleries, etc.

578. *Section 377* gives the Greater London Authority the power to give assistance, both financial and non-financial, for the purposes of museums, galleries, libraries, archives and other cultural institutions. The assistance may be subject to conditions such as, for example, the keeping and inspection of accounts and records, or a requirement to repay any grant in full or in part.

Sections 378 to 379 and 381 to 382: The Mayor's tourism functions

579. *Sections 378 and 379* give the Authority, acting through the Mayor, certain powers and duties with respect to tourism in Greater London.

580. *Section 378* imposes a duty to promote Greater London, both at home and abroad, as a tourist destination in its own right and as a first destination or start point for visitors from overseas to the rest of the United Kingdom. There is also a duty to encourage the provision and improvement of tourist amenities and facilities in Greater London. This covers any amenities and facilities used by tourists and not just those provided solely for their use.

581. The Mayor has the power to do anything necessary for the purpose of fulfilling these duties including entering into arrangements with others, and acting overseas. Specific powers include undertaking publicity or other promotional activities; providing advisory and information services; and promoting and undertaking research.

582. Under *section 378* the Mayor is able to offer assistance for tourism-related initiatives, and also to charge for services and to receive contributions from others to help with the tourism duties. Such assistance may be made subject to conditions: eg that accounts and records be subject to inspection; or that a grant be repaid in full or in part in certain circumstances. Under *section 381* the Secretary of State may pay grants to the Authority for the exercise of its tourism functions subject to conditions, eg that the Mayor implement tourism schemes and initiatives in Greater London consistent with the national strategies for tourism.

583. In discharging the tourism functions, the Mayor must have regard to the desirability of undertaking appropriate consultation and co-operation with the Secretary of State, Tourist Boards (including the English Tourism Council whose legal name remains the English Tourist Board) and other relevant persons and organisations (section 378(5)). The Mayor must also advise Tourist Boards and Ministers if required (section 379).

Section 380 Powers of delegation under Part X

584. *Section 380* largely mirrors section 38 which provides the general powers of delegation. Section 380 provides that functions under Part X can only be delegated to certain bodies and creates specific limitations. The Mayor is only able to delegate Part X functions to the Deputy Mayor and GLA staff, to another local authority including the Common Council, and to the Cultural Strategy Group for London or the London Development Agency. Decisions on the culture strategy, the making of byelaws for Trafalgar Square or Parliament Square and the holding of public rallies and demonstrations in the Squares are reserved for the GLA itself. Delegation of the policing of the squares is restricted to the GLA or a local authority.

585. Functions delegated must be carried out subject to any conditions the Mayor chooses to impose. Any delegation must, be in writing and, in the case of a local authority, with their written consent. Delegates are given specific powers under this section to carry

out these functions and to operate through committees or employees unless otherwise directed by the Mayor. Delegation can be revoked.

Chapter II

Sections 383 and 384: Trafalgar Square and Parliament Square

586. Chapter II vests Parliament Square garden as part of the hereditary possessions and revenues of Her Majesty (*section 384*). It also transfers management responsibility for Trafalgar Square and Parliament Square to the Authority. These responsibilities in respect of Trafalgar Square (section 383) and Parliament Square (section 384) cover the repair and maintenance of the fabric (eg lighting, repairs to statues) and controlling and licensing their use (eg demonstrations, advertising). The transfer affects only the central island in each case. Responsibility for the roads surrounding the Squares remains with the highway authority (Westminster City Council) and is not affected.

Section 385: Byelaws

587. The Authority acting through the Mayor may make byelaws for the general regulation of the Squares. (These will replace the Parks and Other Open Places Regulations 1997, under which the squares were previously regulated.) The Mayor has an explicit power through the byelaws to regulate trading, and such byelaws may provide for the seizure and retention of property used in unauthorised trading. This would include the trader#s outlet and goods. This power would enable the Mayor to implement a regime to control illegal trading. The Secretary of State is the confirming authority for the byelaws. The maximum fine for contravening trading byelaws will be level 3 on the standard scale (£1000). The maximum fine for contravention of any other byelaws will be level 1 on the standard scale (£200).

Section 386 Guidance

588. *Section 386* gives the Secretary of State the power to issue guidance to the Mayor about the exercise of certain functions such as the care, control, management and regulation of the Squares. The Mayor, and any person or body exercising functions on the Mayor's behalf, must take this guidance into account when exercising any duties or powers with respect to the Squares.

Part Xi: Miscellaneous and General Provisions

Section 387: The Trustee Investments Act 1961

589. *Section 387* brings the GLA and the functional bodies within the scope of the Trustee Investments Act 1961. That Act makes provision about the investment powers of trustees where these are not specifically set out in a trust deed. It imposes restrictions on the range of investments that trustees might select, particularly on wider range investments such as equities.

Section 388 : The Local Authorities (Goods and Services) Act 1970

590. *Section 388* provides that the GLA, TfL, the London Fire and Emergency Planning Authority and the London Development Agency will be local authorities and public bodies for the purposes of the Local Authorities (Goods and Services) Act 1970. This means they will be able to supply goods and services to local authorities and other public bodies, or receive goods and services from other local authorities. The Metropolitan Police Authority will, like police authorities generally, be defined only as a public body and not as a local authority under the 1970 Act (see Schedule 27, paragraph 77) and will be able to receive goods and services but not supply them.

Section 389: The Superannuation Act 1972

591. *Section 389* provides for Schedule 1 of the Superannuation Act 1972 to be amended so as to add the Greater London Authority, Transport for London, the London Development Agency, the Metropolitan Police Authority and the London Transport Users' Committee to the list of bodies whose staff are entitled to be members of the Principal Civil Service Pension Scheme (PCSPS). As a result, staff transferring to these bodies who are currently members of PCSPS will be able to retain their membership on transfer.

Section 390: The Superannuation Act 1972: delegation of functions

592. *Section 390* allows the Minister for the Civil Service to delegate responsibility for overseeing the operation of the PCSPS in relation to the Greater London Authority, London Development Agency, Transport for London, Metropolitan Police Authority and London Transport Users' Committee to such persons as he deems appropriate. At present the ruling legislation for the PCSPS - the Superannuation Act 1972 - only allows responsibility to be delegated to a Minister or an officer of the Crown. The section also allows each of those bodies to contract out responsibility for the administration of the PCSPS to other organisations, including private sector ones, should it wish.

Section 391: The Race Relations Act 1976

593. *Section 391* brings the GLA, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority within the scope of the Race Relations Act 1976. It will ensure that the same duties that apply to all local authorities under this Act will also apply to the GLA and the police and fire authorities.

Section 392: The Stock Transfer Act 1982

594. *Section 392*, by amending the Stock Transfer Act 1982, provides that any securities issued by the GLA or the functional bodies may be settled through the Central Gilts Office (CGO) of the Bank of England. That Act gives the Treasury power to make provision permitting the transfer of specified securities through the CGO system established by the Bank of England and the Stock Exchange. Responsibility for the CGO was transferred from the Bank of England to CRESTCo (the private sector company responsible for the settlement of equities and corporate bonds) on 24 May 1999. Full integration is planned to take place in 2000.

Section 393: Companies in which local authorities have interests

595. *Section 393* brings the Greater London Authority and the four functional bodies within section 67(3) of the Local Government and Housing Act 1989. It thereby makes them subject to Part V of the 1989 Act, which contains certain requirements and controls with respect to companies in which local authorities have interests. The effect of the section is that the new London bodies will be subject to those requirements and controls in relation to companies controlled or influenced by them. But there is also a financial consequence. The Local Authorities (Companies) Order 1995, made under section 39(5) of the LGHA 1989, provided that a local authority would be treated, for the purpose of capital finance controls, as having undertaken certain transactions of companies under their control or subject to a specified level of influence ("regulated companies"). Any regulated company of the GLA or a functional body will be covered by this order, with the result that capital transactions, including borrowing, credit arrangements, and anything that affects the company's net liabilities, will be reflected in the capital finance limits and resources of the relevant authority. Equally, if a company builds up cash through profitable trading, the relevant authority's capital spending power will be increased.

Section 394: Investigation by the Commission for Local Administration

596. *Section 394* adds the London Development Agency, TfL, the London Fire and Emergency Planning Authority and the Metropolitan Police Authority to the list of bodies that are subject to investigation by the local government ombudsman.

Section 395: Provision of information, advice and assistance by functional bodies

597. *Section 395* provides that the Mayor will be able to require information, advice and assistance to be provided to him by any of the functional bodies. The Secretary of State will have the power to make regulations to establish categories of information which the bodies may refuse to give to the Mayor, and to restrict the purposes for which the Mayor may require information, assistance and advice.

Sections 396 to 399: Research and collection of information; information schemes; London Research Centre etc.

598. *Section 396* provides that the GLA has power to carry out research and to collect information relating to the Greater London area or any part of it, and to make arrangements for making the research or information available to government departments, London Boroughs, other bodies and the public.

599. These powers are exercisable by the Mayor who must consult each London local authority at least once a year about their exercise.

600. The London Research Centre will be abolished, but the GLA will continue to have the power to provide information and data services to London borough councils using its powers under the Local Authorities (Goods and Services) Act 1970 (see section 388). The Secretary of State has the power to make regulations to make particular research and information collection exercises mandatory. The Secretary of State is also able to make regulations requiring that information arising from GLA research, or from research carried out by its predecessor bodies, is made available to government departments, other bodies or the public.

601. *Section 397* provides that the Mayor may make schemes for the collection of information relating to any matters concerning Greater London or any part of it. Such schemes may require each London local authority (defined in subsection (10))to provide information in accordance with its terms. Schemes will be capable of covering, for example, all aspects of the activities that would normally be involved in a research proposal, and all areas on which the Mayor or London local authorities might wish to carry out research. The provisions that may be included within a scheme relate to, amongst other things, descriptions of the information required, the collection, format and ownership of the information, who will bear the costs of the scheme and access to the information collected.

602. The Mayor will be required to consult the boroughs on the content of any scheme. If at least two-thirds of London local authorities agree to a proposed scheme, it will be binding on all of them.

603. *Section 398* provides that, if the agreement of at least two-thirds of London local authorities can not be obtained to a scheme, the Mayor may apply to the Secretary of State for a direction requiring them nevertheless to comply with the scheme. The Secretary of State may only make such a direction if satisfied that the Mayor's proposed scheme is both necessary to enable the exercise of functions of the Authority and does not place an unreasonable financial burden on London local authorities. This section also provides that London local authorities shall have the power to collect any information they are required to provide under section 397.

604. *Section 399* provides that information schemes may be revoked by the Mayor, or varied by agreement of at least two-thirds of London local authorities or under the terms of the

scheme. Before deciding whether to revoke or vary a scheme the Mayor must consult each London local authority.

Section 400: Overseas Assistance

605. *Section 400* provides for the GLA and LDA to be able to provide advice and assistance under the Local Government (Overseas Assistance) Act 1993. Subsection (3) adds the GLA to the list of authorities empowered to give advice and assistance under that Act. Subsection (2) provides that the GLA may also provide advice and assistance in matters where it otherwise could not do so, if the LDA has the requisite expertise and provides the necessary advice and assistance to the GLA.

606. TfL has wider powers to provide advice and assistance under *paragraph 9* of *Schedule 11* of this Act; the abilities of the MPA and LFEPA to offer advice and assistance are already covered by existing legislation as amended or applied by the Act.

Section 401: Accommodation for Authority and functional bodies

607. Subsection (1) provides that the Secretary of State is under a duty to provide accommodation for the Authority and each of the functional bodies for a period of 5 years from Royal Assent ("the 5 year period"). Under subsections (2) and (3), the Secretary of State may make an Order reducing the 5 year period for a body falling within subsection (1), (the Authority and each of the functional bodies), if he is satisfied that appropriate accommodation is provided for that body; this reduced period can be extended by the Secretary of State making a further order, substituting a longer period if he considers it necessary, expedient or desirable to do so, although the longer period cannot extend beyond the 5 year period.

608. Subsections (4) and (5) provide that the Secretary of State need not provide accommodation for a body under subsection (1), for any period during which that body notifies him that it does not require accommodation. The provision of accommodation under subsection (1) is on such financial and other terms as the Secretary of State may determine.

Section 402 and 403: London Pensions Fund Authority

609. *Sections 402 and 403* deal with the London Pensions Fund Authority (the "LPFA"). The LPFA administers former GLC pensions and employer liabilities and the pensions of certain other bodies admitted to the Fund under the Local Government Pension Scheme Regulations 1995.

610. *Section 402* provides that for each financial year the LPFA shall prepare two statements, one containing a draft budget for the LPFA for that financial year and specifying the amount of levy the LPFA proposes to make, (the budget statement) and the other containing the LPFA's strategic plans for that financial year and the two following financial years (the second statement). The LPFA must submit the budget statement and the second statement to the Mayor on or before 31 December in the financial year preceding the financial year to which the budget relates. The LPFA must have regard to any comments received from the Mayor regarding the budget statement when setting its budget, provided these comments are received on or before 31 January following the submission of the budget statement to the Mayor.

611. *Section 403* provides that various functions imposed on the Secretary of State in connection with the LPFA should transfer to the Mayor. The functions are the appointment and termination of appointments of members of the board of the LPFA, the determination of the remuneration of members, and the receipt of annual reports and other information from the LPFA. Subsection (3) provides that the consent of the Treasury is not required for any determination of the Mayor relating to remuneration etc for members; and subsection (4) provides that copies of the LPFA's annual report are no longer required to be laid before each House of Parliament.

Section 404: Discrimination

612. *Section 404* requires the GLA, MPA and LFEPA, in exercising their functions, to have regard to the need to:

- promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
- eliminate unlawful discrimination; and
- promote good relations between persons of different racial groups, religious beliefs and sexual orientation.

Part Xii: Supplementary Provisions

Section 405: Power to amend Acts and subordinate legislation

613. S*ection 405* provides that a Minister of the Crown may, by order, make such amendments, repeals or revocations to primary and subordinate legislation as appear to him to be appropriate in consequence of this Act or any regulations and orders made under this Act. The section enables an order to amend, repeal or revoke any such legislation (including this Act and any regulations or orders made under it) made before the 'relevant day', which is defined as the earliest day on which the Authority and all of the functional bodies are in being, and London Regional Transport and the Receiver for the Metropolitan Police District have ceased to exist.

Section 406: Transitional and consequential provision

614. *Section 406(1)* enables a Minister of the Crown to make by Order such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or expedient for the reasons set out in paragraphs (a) to (d), for instance for giving full effect to this Act or for the general purposes or any particular purpose of this Act. For example, the power would be used to set out the transitional financial arrangements to apply to the GLA and functional bodies in 2000-01, because the GLA will not exist until part way through the year.

615. Provisions that may be made by Order under this section include those provisions set out in *section 406(2);* those include provisions requiring or enabling preliminary steps to be taken by a person or body before the date on which powers conferred by the Act become exercisable by that person or body.

Section 407: Appointments by the Secretary of State

616. *Section 407* provides that the Secretary of State may exercise functions which will become exercisable by another body or person under or by virtue of this Act, for the purpose of appointing such persons as he considers necessary to provide for the satisfactory operation of any provision made by or under this Act when it comes into force. The power of the Secretary of State to exercise such functions for the purposes of appointing staff only continues until the relevant function becomes exercisable by the person or body concerned. When that function becomes so exercisable, the staff so appointed may be transferred to that person or body. Accordingly, any such staff may be appointed on terms and conditions which differ from standard Civil Service ones.

617. The power may be used, for example, to allow staff presently working within the London Ecology Unit, London Planning Advisory Committee and London Research Centre to be employed by the Secretary of State for the Environment, Transport and the Regions between the abolition of the three bodies, which it is anticipated will be on 1 April 2000, and the establishment of the GLA, which it is anticipated will be on 8 May 2000. It will also allow persons who will eventually work for the GLA and functional bodies to be recruited in advance of their establishment to do the necessary groundwork so that the bodies can operate effectively from the outset. The intention

is that the Secretary of State for the Environment, Transport and the Regions or the Home Secretary, as appropriate, would act as the employer of these persons prior to their transfer to the GLA or the relevant functional body once they had been established.

Sections 408 and 409: Transfers of property, rights or liabilities and transfer schemes

618. *Sections 408 and 409* make provision to enable the transfer of such property, rights or liabilities as a Minister of the Crown considers appropriate to be made from various bodies and persons (referred to in these notes as the "predecessor bodies") to various bodies or persons (referred to in these notes as the "successor bodies"). The predecessor bodies and the successor bodies are listed in section 408. Such transfers may be effected in two ways. A Minister of the Crown may make provision for transfers to take place by Order. Such an order would be made by a statutory instrument subject to the negative resolution procedure. Alternatively, a Minister of the Crown can instruct the predecessor body itself to prepare a transfer scheme. There is no requirement that transfer schemes should be laid before Parliament. A Minister of the Crown would also be able to make transfer schemes himself in relation to property, rights and liabilities of the Crown, such as those relating to the Highways Agency. Sections 408(4) and 409(3) specify the circumstances in which the power of a Minister to make an Order, and the powers in relation to the making of transfer schemes, are exercisable. These circumstances include the exercise of powers for the general purpose or any particular purpose of the Act.

619. The sections also provide for transfers, whether by order or transfer scheme under the Act, from the Urban Regeneration Agency or the Commission for the New Towns to the LDA. Section 38 of the RDA Act 1998 which, relates to corporation tax, is applied to such transfers. This will ensure, in particular, that any expenditure incurred by those predecessor bodies in developing land for regeneration can be set off against tax payable on the proceeds of sale of that land by the LDA.

Schedule 31: Transfer Schemes

620. *Schedule 31* makes further provision about the making and content of transfer schemes. Where a predecessor body makes a transfer scheme, it must be submitted to the Minister concerned for approval before it can come into operation. The Schedule provides for the Minister to make a scheme himself in relation to a predecessor body if he decides not to approve the one which the body itself has prepared. It also provides that before approving a transfer scheme the Minister must consult the body from which the transfer is being made and such successor bodies as have been established and are affected by the scheme. In the case of provisions affecting an existing pension scheme, the trustees, managers or administrators of the scheme must be consulted.

Section 410: Contracts of employment etc

621. *Section 410* provides that transfers between predecessor and successor bodies which may be made under the powers in sections 408 and 409 include the transfer of staff. In particular, it provides that where members of staff transfer, they will be treated as if their length of service is continuous between the predecessor and successor body, so that (for example) they are not disadvantaged when pension benefits are calculated. As the period of service is continuous, then for the purposes of Part XI of the Employment Rights Act 1996 (which covers, amongst other things, redundancy entitlements) the member of staff is not regarded as having being dismissed by the predecessor body and subsequently re-employed by the successor body as a result of the transfer.

Section 411: Pensions

622. *Section 411* allows a Minister of the Crown to make provision by order in relation to the pension arrangements for staff of predecessor and successor bodies. The broad

intention is that staff who transfer to successor bodies should retain their membership of their current pension scheme on transfer. Amongst other things, an order made under this section can make provisions relating to the setting up of new pension schemes, the administration of schemes, and allowing participants in a particular pension scheme to become members of another scheme.

Schedule 32: London Regional Transport pension etc schemes

623. *Schedule 32* contains provisions implementing the assurances given by the Deputy Prime Minister (DPM) to LRT staff about their pension rights. The Schedule enables the Secretary of State to make orders to give staff transferring to the private sector the statutory right to remain as participating members of the London Regional Transport Pension Fund as long as they remain in work related to London Underground. It also enables the protection of the pension benefits of staff who transfer to the private sector and move out of Tube-related work while remaining in continuous employment. This protection applies to staff transferring as part of the London Underground PPP, and also those who will transfer or have transferred as part of Private Finance Initiative deals since the DPM gave his assurances. The Schedule also provides for the continuation of certain LRT schemes into the new structure that will take effect with the establishment of Transport for London.

Section 412: Transfer and pension instruments: common provisions

624. *Section 412* sets out common provisions which apply to transfers of property, rights or liabilities which take place by transfer and pension instruments (defined as an order made under sections 408 or 411 or a scheme under section 409). Some examples of these are considered below. There may be situations where some but not all of a predecessor body's functions transfer to a successor body, and the predecessor body will remain in existence after the transfer (for example the Highways Agency). This section provides that a transfer or pension instrument may provide for the apportionment or division of any property, rights or liabilities.

625. Where successor bodies take over the functions of predecessor bodies they will need also to be able to take over those things such as contracts or property which allow these functions to be carried out effectively. Contracts or leases will, on occasion, contain provisions preventing their being transferred or assigned to a third party. The consequence of a breach of such a provision may be the termination of the contract or lease. In the case of the establishment of the GLA and the functional bodies, contracts or leases will simply be transferred as the result of the transfer of an accompanying function to a successor body. It is necessary to ensure that such "anti-assignment clauses" do not operate to prevent the successor body from inheriting contract or lease. The section therefore provides for such contracts or leases to continue as if in law no transfer had taken place.

626. That property etc which is being transferred may be described specifically, or in relation to a function, or through a combination of these two. The section also provides that a transfer or pension instrument (other than an order under section 411) may provide an arbitration process for resolving any disputes which may occur concerning the effect of that instrument and, in addition, that certificates given jointly by the transferor and transferee would be conclusive for all purposes regarding the effect of the instrument.

627. The section provides that a Minister of the Crown may by order confer on successor bodies any statutory functions which were exercisable in relation to property, rights or liabilities transferred by a transfer or pension instrument. It also requires predecessor bodies, successor bodies and the managers and administrators of pension schemes to provide Ministers with such assistance or information as is reasonably required to exercise powers relating to transfer or pension instruments. The section also creates rights for the production of documents of title in certain situations, such as where the

transferor is entitled to retain possession of such documents and needs to provide the transferee with a copy of them.

Section 413: Modification of transfer or pension instruments

628. *Section 413* provides for the modification of transfer or pension instruments. A transfer or pension instrument may be modified at any time after it has come into force by an order made by a Minister of the Crown. In relation to transfer schemes, a Minister of the Crown may direct that any of the predecessor bodies shall prepare modifications to the scheme in accordance with the terms of the direction. Before approving any modifications, the Minister will have to consult other parties affected. In the case of instruments relating to pensions, the Minister will have to consult any trustees, managers or administrators of the pension scheme affected.

Section 414: Foreign property, rights or liabilities: perfection of vesting

629. *Section 414* makes provision as to the duties of the predecessor body and successor body in connection with the vesting under the relevant foreign law of foreign property, rights and liabilities, and provides that the transferor shall have the necessary powers to enable the performance of these duties.

Section 415 and 416: Continuity

630. *Section 415* amongst other matters, contains provisions whereby acts done by the predecessor body shall be taken to have been done by the successor body, unless the transfer order or instrument provides otherwise. It also provides for the continuation of matters, including legal proceedings, which relate to any of the functions, property, rights or liabilities transferred and in the process of being done by or in relation to the transfer of. *Section 416* provides for the continuation of agreements made by LRT under sub-paragraph (a) of section 3(2A) of the LRT Act 1984, notwithstanding that certain statutory functions of LRT referred to in such agreements are to be re-enacted and held by the Mayor and TfL.

Sections 417 to 419 and Schedule 33: Taxation

631. Sections 417 and 418 exempt transfers by or under the Act from stamp duty and stamp duty reserve tax. Section 417 exempts transfers made by order or scheme under sections 408, 409 and 411, and transfers to prepare predecessor bodies for transfer to the GLA or a functional body. Section 418 exempts transfer schemes made by LRT for the vesting of property in subsidiaries of London Underground in order to implement the PPP.

632. *Section 419* exempts TfL, the MPA, and the LFEPA from paying income tax, corporation tax and capital gains tax, by treating them as local authorities for the purposes of section 519 of the Income and Corporation Taxes Act 1988 and section 271 of the Taxation of Chargeable Gains Act 1992. The predecessor bodies of both the MPA and LFEPA – the Receiver for the Metropolitan Police District and the London Fire and Civil Defence Authority – fall within the ambit of these Acts as major precepting authorities, and do not pay tax. As a major precepting authority the GLA itself will not pay tax. The LDA will pay tax in the same way as RDAs generally.

633. This section also gives effect to *Schedule 33*. This Schedule provides for transfers made between LRT and TfL, and transfers made during any preceding reorganisation of LRT, to be tax neutral. It also clarifies the tax treatment of London Underground PPP agreements.