



Transport for London Act 2016

CHAPTER i

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Schedule — Property which may be charged by a TfL subsidiary without consent of the Secretary of State



Transport for London Act 2016

CHAPTER i

An Act to confer further powers upon Transport for London; and for related purposes. [4th May 2016]

WHEREAS—

- (1) It is expedient that the powers of Transport for London should be extended and amended as provided in this Act:
- (2) It is expedient that subsidiaries of Transport for London should have further powers as regards giving security for borrowing:
- (3) It is expedient that Transport for London should have further powers as regards the carrying out of activities specified pursuant to section 157 of the Greater London Authority Act 1999:
- (4) It is expedient that further provision be made as regards risk mitigation:
- (5) It is expedient that the other provisions contained in this Act should be enacted:
- (6) The purposes of this Act cannot be effected without the authority of Parliament:
- (7) In relation to the promotion of the Bill for this Act, Transport for London has complied with the requirements of section 167 of, and Schedule 13 to, the Greater London Authority Act 1999:

May it therefore please your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Citation and commencement

- (1) This Act may be cited as the Transport for London Act 2016 and, except for section 4 (power to give security for monies borrowed etc.) shall come into force at the end of the period of two months beginning with the date on which it is passed.
- (2) Section 4 shall come into force on the appointed day.

2 Interpretation

In this Act—

- “the 1999 Act” means the Greater London Authority Act 1999;
- “company” has the same meaning as in the 1999 Act;
- “Mayor” means the Mayor of London;
- “subsidiary” has the meaning given by section 1159 of the Companies Act 2006; and
- “TfL” means Transport for London.

3 Appointed day

- (1) In section 1(2) (citation and commencement) “the appointed day” means such day as may be fixed by a decision of TfL, subject to and in accordance with the provisions of this section.
- (2) No day fixed under this section may be before the end of the period of two months beginning with the date on which this Act is passed.
- (3) TfL shall cause to be published in a newspaper circulating in London and in the London Gazette notice—
 - (a) of the taking of any such decision and of the day fixed thereby; and
 - (b) of the general effect of section 4,and the day so fixed shall not be earlier than the expiration of two months from the publication of the notice or, if it is published on two days, from the later of those days.
- (4) Either a photostatic or other reproduction certified by the officer appointed for that purpose by TfL to be a reproduction of a page or part of a page of any such newspaper or the London Gazette bearing the date of its publication and containing any such notice shall be evidence of the publication of the notice and of the date of publication.

4 Power to give security for monies borrowed etc.

- (1) Section 164(a) of the 1999 Act (control of subsidiaries) does not apply to the things specified in subsection (2) which are done with the consent of the Mayor by a TfL subsidiary, even though TfL itself has no power to do them because of section 13 of the Local Government Act 2003 (security for money borrowed).

- (2) Those things are the charging by a TfL subsidiary of all or any of its property as security for money which it borrows or which it otherwise owes or the payment of which it guarantees, or in respect of which it gives an indemnity, including the creation of priority as between charges.
- (3) Where the charge was created by a company before the time at which it becomes a TfL subsidiary, the charge shall continue to have effect according to its terms and subject to the consent of the Mayor, as security for money borrowed or otherwise owed by it or the payment of which it has guaranteed, or in respect of which it has given an indemnity, immediately before that time.
- (4) For the purposes of subsection (3) the charge may continue to have effect as regards the company's property, whether the property charged is acquired before, or after, the company becomes a TfL subsidiary.
- (5) Where property is charged at any time pursuant to subsection (1) the charge shall not take priority over any other charge over that property which is in existence before that time, unless the person entitled to the benefit of that other charge consents.
- (6) Except for the property identified in the Schedule to this Act, a TfL subsidiary may not charge any property for any of the purposes mentioned in subsection (2) without the consent of the Secretary of State.
- (7) In this section—
 - “acquire”, in relation to revenue, includes generate;
 - “charge” includes mortgage and includes a charge by way of a fixed or floating charge over all or any part of the TfL subsidiary's property;
 - “property” includes revenue and rights;
 - “revenue” includes future revenue;
 - “rights” includes rights to property; and
 - “TfL subsidiary” means a subsidiary of TfL.

5 Specified activities

- (1) In section 157(1) of the 1999 Act (power of the Secretary of State to specify activities which may not be carried out by TfL except through certain companies limited by shares) for the words from “a company which is limited” to the end substitute—
 - (a) a limited liability partnership of which a subsidiary of Transport for London (but not Transport for London) is a member; or
 - (b) a company which is registered under the Companies Act 2006 and limited by shares or limited by guarantee and which is—
 - (i) a subsidiary of Transport for London; or
 - (ii) a company which Transport for London formed, or joined with others in forming, by virtue of section 156(1) above and which does not fall within sub-paragraph (i) above.”

- (2) For article 3 of the Transport for London (Specified Activities) Order 2000 (S.I. 2000/1548) (prohibition against carrying on specified activities through companies) substitute—

“Prohibition against carrying on specified activities through a partnership or company

3. Transport for London shall not carry on any specified activity except through—

- (a) a limited liability partnership of which a subsidiary of Transport for London (but not Transport for London) is a member, or
- (b) a company which is registered under the Companies Act 2006 and limited by shares or limited by guarantee and which is—
 - (i) a subsidiary of Transport for London; or
 - (ii) a company which Transport for London formed, or joined with others in forming, by virtue of section 156(1) of the 1999 Act and which does not fall within sub-paragraph (i) of this paragraph.”

6 Arrangements for risk mitigation

- (1) Section 49 of the Transport for London Act 2008 (power to make arrangements for risk mitigation) shall be amended as follows.
- (2) In subsection (3)—
- (a) in paragraph (c), leave out “any index reflecting”;
 - (b) in paragraph (d), after “TfL body” insert “or by which a TfL body is affected or to which it is otherwise exposed under a relevant agreement” and, at the end of that paragraph, leave out “or”; and
 - (c) after paragraph (e), insert “or
 - (f) any index reflecting any of the matters referred to in paragraphs (a) to (e).”
- (3) After subsection (9) insert—
- “(9A) Subsection (9B) applies where a TfL body incurs an actual or prospective liability with respect to any pension scheme or arrangement.
- (9B) The powers of subsection (2) may be exercised by a qualifying TfL subsidiary for the purpose of limiting the extent to which the TfL body will be affected by changes in any of the matters specified in subsection (3) notwithstanding that the exercise of the powers may also limit the extent to which a person other than a TfL body will be affected by those changes.”
- (4) After subsection (10)(h) insert—
- “(ha) “relevant agreement” means an agreement entered into by a TfL body under either section 156(2) or (3) of the 1999 Act or section 169 of the 1999 Act;”.

7 Minor amendment of the 1999 Act

In paragraph 14(1)(b) of Schedule 20 to the 1999 Act (transitional provisions) for “paragraph 7” substitute “paragraph 5”.

SCHEDULE

Section 4

PROPERTY WHICH MAY BE CHARGED BY A TfL SUBSIDIARY WITHOUT THE CONSENT OF THE SECRETARY OF STATE

- 1 The property referred to in section 4(6) is—
 - (a) property related to a road user charging scheme;
 - (b) property related to a tolling scheme;
 - (c) property related to the use of land for the hosting of any electronic communications apparatus;
 - (d) property related to the generation of power;
 - (e) property related to the charging of vehicle, driver and operator licensing and permit fees;
 - (f) property related to the issuing of penalty fares;
 - (g) property related to the levying of penalty charges;
 - (h) property related to the issuing of penalty notices;
 - (i) property related to sponsorship activities being carried out by third parties;
 - (j) property related to the use of land for the placing of advertisements;
 - (k) property related to the use of land for keeping installed automated teller machines within stations and other property at stations which is exploited for commercial purposes;
 - (l) property related to the use of land for the purposes of a car park;
 - (m) property related to the use of land for commercial letting;
 - (n) land which is not operational land; and
 - (o) property related to the exploitation of intellectual property for commercial purposes.

2. In this Schedule—
 - “electronic communications apparatus” has the same meaning as in the electronic communications code;
 - “electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003;
 - “enactment” has the same meaning as in section 336 of the Town and Country Planning Act 1990;
 - “operational land” has the meaning given in section 163 of the 1999 Act;
 - “penalty charges” mean penalty charges which may be levied in relation to a matter which is subject to civil enforcement under—
 - (a) section 37(6) and Part 6 of the Traffic Management Act 2004;
 - (b) the Road Traffic Regulation Act 1984;
 - (c) the Road Traffic Act 1991;
 - (d) the London Local Authorities Act 1996;
 - (e) the London Local Authorities and Transport for London Act 2003; or
 - (f) paragraph 12 of Schedule 23 to the 1999 Act;
 - “penalty fares” means penalty fares that may be levied under paragraphs 3 or 4 of Schedule 17 to the 1999 Act or by virtue of any

order made under paragraph 9 of that Schedule;

“penalty notices” means fixed penalty notices that may be issued to a person under section 17 of the Transport for London Act 2008;

“road user charging scheme” means a scheme established by TfL under section 295 of, and Schedule 23 to, the 1999 Act to impose charges for the keeping or use of motor vehicles on roads;

“tolling scheme” means a scheme established by TfL under any enactment to impose charges for the keeping or use of motor vehicles on a road, other than a road user charging scheme; and

“vehicle, driver and operator licensing and permit fees” means fees that may be charged in connection with the licensing of, or the issue of permits for, vehicles, drivers or operators under—

- (a) the Metropolitan Public Carriage Act 1869;
- (b) the Private Hire Vehicles (London) Act 1998; or
- (c) Chapter 5 of Part 4 of the 1999 Act.

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