

GREATER LONDON AUTHORITY ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part Iv: Transport

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.

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

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.
- 275Paragraph 19* enables TfL 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 TfL 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 TfL 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).