



Transport for London Act 2008

2008 CHAPTER i

PART 6

MISCELLANEOUS

49 Power to make arrangements for risk mitigation

- (1) The powers of subsection (2) are exercisable for the purposes of the prudent management of the financial affairs of TfL and its subsidiaries.
- (2) A qualifying TfL subsidiary may enter into any derivative investment in connection with any actual or prospective asset or liability of a TfL body if such derivative investment is entered into—
 - (a) for the purpose of limiting the extent to which any TfL body will be affected by changes in the matters specified in subsection (3); and
 - (b) with the consent of TfL.
- (3) The matters referred to in subsection (2) are—
 - (a) interest rates;
 - (b) exchange rates;
 - (c) any index reflecting inflation of the United Kingdom or elsewhere;
 - (d) rates or prices applicable to oil, electricity or any commodity which is used by any TfL body; or
 - (e) rates or prices applicable to any securities creating or acknowledging indebtedness issued by or on behalf of—
 - (i) the government of the United Kingdom;
 - (ii) any state outside the United Kingdom;
 - (iii) any body the members of which comprise states which include the United Kingdom or another EEA State; or
 - (iv) any body the members of which comprise bodies whose members comprise states which include the United Kingdom or another EEA State.

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- (4) TfL may issue to a qualifying TfL subsidiary—
- (a) guidance as to the manner in which it is to exercise its functions under or connected with this section;
 - (b) general directions as to the manner in which it is to exercise those functions; or
 - (c) specific directions as to the exercise of those functions.
- (5) Directions issued by TfL under subsection (4)(c) may include a direction not to exercise a power specified in the direction.
- (6) Any guidance or directions under subsection (4) must be issued in writing.
- (7) Subsections (4) and (5) shall not prejudice the power of the Mayor to issue guidance or directions to TfL under section 155 of the 1999 Act.
- (8) Section 164(a) of the 1999 Act does not apply in relation to anything done by a qualifying TfL subsidiary under the powers of subsection (2).
- (9) Subsections (2), (4) and (5) shall not prejudice any other powers conferred on TfL by any other enactment.
- (10) In this section—
- (a) “associated undertaking” has the meaning given by Schedule 3 to this Act;
 - (b) “contract for differences” means a contract the purpose or purported purpose of which is to secure a profit or avoid a loss by reference to fluctuations in—
 - (i) the value or price of property of any description; or
 - (ii) an index or other factor designated for that purpose in the contract;and for this purpose, an index or factor may be determined by reference to any matter and a numerical value may be attributed to any variation in a matter;
 - (c) “derivative investment” means an investment of any of the following kinds—
 - (i) an instrument giving entitlements to investments;
 - (ii) an option;
 - (iii) a future;
 - (iv) a contract for differences.
 - (d) “EEA State” has the meaning given by section 1170 of the Companies Act 2006 (c. 46);
 - (e) “future” means a contract for the sale of property under which delivery is to be made at a future date, and at a price, agreed when the contract is made; and for this purpose, a price is to be taken to be agreed when the contract is made—
 - (i) notwithstanding that it is left to be determined by reference to the price at which a contract is to be entered into on a market or exchange or could be entered into at a time and place specified in the contract; or
 - (ii) in a case where the contract is expressed to be by reference to a standard lot and quality, notwithstanding that provision is made for a variation in the price to take account of any variation in quantity or quality on delivery;
 - (f) “investment” means any asset, right or interest;
 - (g) “joint venture” means any undertaking managed jointly by—
 - (i) TfL, any subsidiary of TfL, or an associated undertaking of TfL; and
 - (ii) one or more undertakings not falling within sub-paragraph (i).

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- (h) “qualifying TfL subsidiary” means any subsidiary of TfL (whether or not formed at the date of the passing of this Act) to which TfL has for the time being delegated power to do things in relation to TfL’s functions which TfL is empowered to do (whether directly or through a subsidiary) for the purposes referred to in section 154(3)(b) and (c) of the 1999 Act (facilitating the promotion, encouragement and provision of safe, integrated, efficient and economic transport facilities and services to, from and within Greater London and securing, or facilitating the implementation of, the transport strategy);
- (i) “TfL body” means TfL, any subsidiary of TfL, a joint venture of TfL or an associated undertaking of TfL; and
- (j) “undertaking” has the same meaning as in section 1161(1) of the Companies Act 2006 (c. 46).