



# Transport Act 1968

## 1968 CHAPTER 73

### PART VIII

#### BRIDGES, LEVEL CROSSINGS, ETC.

##### *Bridges*

#### 116 **Transfer of responsibility for maintenance of highways on bridges over Boards' railways, inland waterways, etc.** **E+W**

- (1) Where a highway is carried by a bridge over one or more of the following, that is to say, a railway of the Railways Board, a railway of [<sup>F1</sup>London Regional Transport], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway, and immediately before the appointed day—
- (a) the Board or Boards concerned are responsible for maintaining the highway carried by the bridge, or that highway together with the highway giving access to the bridge; and
  - (b) the highway at each end—
    - (i) of the bridge; or
    - (ii) if the Board or Boards are also responsible for maintaining the highway giving access to the bridge, of the bridge and any such highway,is a highway maintainable at the public expense,
- the highway carried by the bridge, together with any such highway as is mentioned in paragraph (b)(ii) of this subsection, shall on that day become a highway maintainable at the public expense.
- (2) Any agreement between any of the Boards mentioned in subsection (1) of this section and a highway authority, so far as it provides for that authority to carry out after the appointed day, at the expense of the Board, any maintenance for which the Board cease to be responsible by virtue of that subsection, shall cease to have effect on that day.

*Status: Point in time view as at 21/05/1992.*

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- (3) Where by virtue of any agreement or order made before the appointed day—
- (a) a highway authority is responsible for maintaining the highway carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and
  - (b) but for that agreement or order, any of the Boards mentioned in that subsection would by virtue thereof have ceased to be responsible for maintaining that highway on that day,
- that Board shall not by virtue of that agreement or order be liable to make to that highway authority in respect of the maintenance of that highway any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.
- (4) Where paragraphs (a) and (b) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of any such bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed after that day, then, if those paragraphs are satisfied in the case of that bridge on any subsequent day, the highway carried by the bridge, together with any highway giving access to the bridge for the maintenance of which the Board or Boards concerned are also responsible, shall on that subsequent day become a highway maintainable at the public expense.
- <sup>F2</sup>(5) .....
- (6) This section shall not affect the responsibility of any of the Boards for the maintenance of any part of a bridge or its approaches other than the surface of the highway, and a highway authority—
- (a) shall not by virtue of this section be under any duty to make good, or incur any liability by reason of, any defect in the surface of the highway so far as attributable to the failure of any of the Boards to discharge that responsibility;
  - (b) shall permit the Board or Boards concerned to carry out on or in relation to the surface of the highway any works reasonably required to be carried out by them for discharging that responsibility or for inspecting, maintaining or altering any apparatus of the Board or Boards incorporated in or attached to the bridge; and
  - (c) shall not, without the consent of the Board or Boards concerned, increase to a significant extent the weight of the materials constituting the surface of the highway.
- (7) Nothing in this section shall affect any liability incurred by any of the Boards by reason of any act or omission in relation to any highway before the day on which they cease by virtue of this section to be responsible for its maintenance.

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F1** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), [Sch. 4 Pt. I para. 4\(1\)](#)
- F2** [S. 116\(5\)](#) repealed (E.W.) by [Local Government Act 1972 \(c. 70\)](#), [Sch. 30](#)

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**Modifications etc. (not altering text)**

- C1** S. 116 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), [Sch. 3 para. 1\(1\)\(2\)](#)
- C2** Ss. 116, 117 extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, [Sch: 2 para. 21\(4\)](#)
- C3** Ss. 116-118 applied (with modifications) (21.5.1992) by [S.I. 1992/1267](#), [art.7](#).
- C4** Ss. 116-118 applied (with modifications) (22.6.1993) by [S.I. 1993/1607](#), [art.9](#) (with [arts. 8, 12\(2\), 13, 14](#))
- C5** Ss. 116-118 applied (with modifications) (29.6.1993) by [S.I. 1993/1651](#), [art.3\(4\)](#) (with [arts. 6, 8, 9, 10\(2\)](#))
- Ss. 116-118 applied (with modifications) (26.7.1994) by [S.I. 1994/1803](#), [art. 6](#)
- Ss. 116-118 applied (with modifications) (4.5.1995) by [S.I. 1995/1236](#), [art. 3\(5\)](#)
- Ss. 116-118 applied (with modifications) (10.5.1995) by [S.I. 1995/1300](#), [art. 3\(4\)](#)
- Ss. 116-118 applied (with modifications) (21.9.1995) by [S.I. 1995/2501](#), [art. 8](#)
- C6** Ss. 116-119 applied (with modifications) (1.9.1993) by [S.I. 1993/2154](#), [art.3\(4\)](#)

**116 Transfer of responsibility for maintenance of highways on bridges over Boards' railways, inland waterways, etc. S**

- (1) Where a highway is carried by a bridge over one or more of the following, that is to say, a railway of the Railways Board, a railway of [<sup>F36</sup>London Regional Transport], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway, and immediately before the appointed day—
- (a) the Board or Boards concerned are responsible for maintaining the highway carried by the bridge, or that highway together with the highway giving access to the bridge; and
- (b) the highway at each end—
- (i) of the bridge; or
- (ii) if the Board or Boards are also responsible for maintaining the highway giving access to the bridge, of the bridge and any such highway,
- is a highway maintainable at the public expense,
- the highway carried by the bridge, together with any such highway as is mentioned in paragraph (b)(ii) of this subsection, shall on that day become a highway maintainable at the public expense.
- (2) Any agreement between any of the Boards mentioned in subsection (1) of this section and a highway authority, so far as it provides for that authority to carry out after the appointed day, at the expense of the Board, any maintenance for which the Board cease to be responsible by virtue of that subsection, shall cease to have effect on that day.
- (3) Where by virtue of any agreement or order made before the appointed day—
- (a) a [<sup>F37</sup>roads] authority is responsible for maintaining the [<sup>F37</sup>road]carried by or giving access to a bridge such as is mentioned in subsection (1) of this section; and
- (b) but for that agreement or order, any of the Boards mentioned in that subsection would by virtue thereof have ceased to be responsible for maintaining that [<sup>F37</sup>road] on that day,
- that Board shall not by virtue of that agreement or order be liable to make to that [<sup>F37</sup>roads] authority in respect of the maintenance of that [<sup>F37</sup>road] any annual or other

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periodical payment (not being an instalment of a lump sum) which falls due after that day.

[<sup>F38</sup>(4) Where paragraphs (a) and (b) of subsection (1) of this section are not satisfied immediately before the appointed day in the case of such bridge as is mentioned in that subsection, or such a bridge as aforesaid is constructed is constructed after that day, then if on any subsequent day—

- (a) the Board or Boards concerned are responsible for maintaining the road carried by the bridge, or that road together with the road giving access to the bridge (the “access road”); and
- (b) the road at each end—
  - (i) of the bridge; or
  - (ii) if the Board or Boards are also responsible for maintaining the access road, of the bridge and the access road,

the road (or roads) for which they are so responsible shall forthwith be entered by the local roads authority in the list of public roads kept by the authority under section 1 of the Roads (Scotland) Act <sup>M15</sup>1984.]

(6) [<sup>F39</sup>Without prejudice to the provisions of the said Act of 1984,] This section shall not affect the responsibility of any of the Boards for the maintenance of any part of a bridge or its approaches other than the surface of the [<sup>F40</sup>road], and a [<sup>F40</sup>road] authority—

- (a) shall not by virtue of this section be under any duty to make good, or incur any liability by reason of, any defect in the surface of the [<sup>F40</sup>road] so far as attributable to the failure of any of the Boards to discharge that responsibility;
- (b) shall permit the Board or Boards concerned to carry out on or in relation to the surface of the [<sup>F40</sup>road] any works reasonably required to be carried out by them for discharging that responsibility or for inspecting, maintaining or altering any apparatus of the Board or Boards incorporated in or attached to the bridge; and
- (c) shall not, without the consent of the Board or Boards concerned, increase to a significant extent the weight of the materials constituting the surface of the [<sup>F40</sup>road].

(7) Nothing in this section shall affect any liability incurred by any of the Boards by reason of any act or omission in relation to any [<sup>F40</sup>road] before the day on which they cease by virtue of this section to be responsible for its maintenance.

#### Extent Information

- E3** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F36** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), [Sch. 4 Pt. I para. 4\(1\)](#)
- F37** Words in [s. 116\(3\)](#) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [s. 157\(2\)](#), [Sch. 9 para. 66\(2\)\(a\)](#)
- F38** [S. 116\(4\)](#) substituted (S.) for [s. 116\(4\)\(5\)](#) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [s. 157\(2\)](#), [Sch. 9 para. 66\(2\)\(b\)](#)
- F39** Words in [s. 116\(6\)](#) inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [s. 157\(2\)](#), [Sch. 9 para. 66\(2\)\(c\)\(i\)](#)

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**F40** Words in s. 116(6)(7) substituted (S.) (1.1.1985) by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 157(2), **Sch. 9 para. 66(2)(c)(ii)**

**Modifications etc. (not altering text)**

- C21** S. 116 amended by Transport (London) Act 1969 (c. 35), **Sch. 3 para. 1(1)(2)**
- C22** Ss. 116, 117 extended by Channel Tunnel Act 1987 (c. 53, SIF 102), ss. 6, 45, **Sch. 2 para. 21(4)**
- C23** Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art.7.**
- C24** Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art.9** (with arts. 8, 12(2), 13, 14)
- C25** Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art.3(4)** (with arts. 6, 8, 9, 10(2))
- Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**
- Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
- Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
- Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
- C26** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art.3(4)**

**Marginal Citations**

**M15** 1984 c. 54.

**117 Duty of Boards as respects bridges carrying highways. E+W**

- (1) This section applies to any bridge which—
- (a) carries a highway over one or more of the following that is to say, a railway of the Railways Board, a railway of [<sup>F3</sup>London Regional Transport], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway; and
  - (b) belongs to the Board or Boards whose railway, waterway, installation or land is crossed by the bridge.
- (2) It shall be the duty of each of the Boards mentioned in subsection (1) of this section—
- (a) in constructing a bridge which, on completion, will belong to the Board and be a bridge to which this section applies, or in reconstructing a bridge which belongs to the Board and to which this section applies, to secure that it has the required load-bearing capacity;
  - (b) to maintain and, if necessary, to improve or strengthen any bridge which belongs to the Board and to which this section applies so that it has the required load-bearing capacity, and, if at any time it is not reasonably practicable to secure that it has that capacity by means of maintenance, improvement or strengthening, to reconstruct the bridge or to replace it by a new bridge.
- (3) For the purposes of subsection (2) of this section a bridge has the required load-bearing capacity—
- (a) in the case of a bridge in relation to which load-bearing standards are prescribed by an order made by the appropriate Minister, if it complies with those standards; and
  - (b) in the case of any other bridge, if it is such as to be capable of bearing the weight of the traffic which ordinarily uses, or may reasonably be expected to use, the highway carried by the bridge on or about the day on which this section comes into force in relation to bridges of the Board concerned or, if the bridge is constructed subsequently, when it is opened for traffic.

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- (4) An order made for the purposes of subsection (3)(a) of this section—
- (a) may prescribe standards for a particular bridge or for any class or description of bridges;
  - (b) may, in prescribing standards for a particular bridge or for any class or description of bridges, at the same time prescribe different standards for any bridge or bridges resulting from the reconstruction or replacement of that bridge or of any of those bridges;
  - (c) may prescribe standards by reference to any document published by the British Standards Institution, any government department or any other body or authority, and provide that where standards are prescribed as aforesaid any question as to the requirements to be fulfilled by a particular bridge in order to comply with those standards shall be determined, in case of dispute, by a certificate of the appropriate Minister;
  - (d) shall not, so long as a bridge is not reconstructed or replaced, be such as to require the bridge to comply with standards higher than those prescribed in relation thereto by a previous order under this section.
- (5) For the purposes of subsection (3)(b) of this section, no account shall be taken of any traffic which cannot use the highway carried by the bridge in question without infringing a prohibition for the time being in force under section 1, 6, <sup>F4</sup>or 14 of the Road Traffic Regulation Act 1984].
- (6) The requirements of this section shall be in addition to, and, so far as inconsistent therewith, shall prevail over, any requirements applicable to the bridge in question under section 46, 50, 51, 52, or 66 of the <sup>M1</sup>Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the <sup>M2</sup>Railways Clauses Consolidation (Scotland) Act 1845 or under any similar enactment.
- (7) In subsection (2) of this section references to a bridge being constructed by or belonging to a Board include references to its being constructed by or belonging to any two or more of the Boards mentioned in subsection (1) of this section, and in any such case the duties imposed by the said subsection (2) shall be duties of both or all of those Boards.
- (8) In this section “the appropriate Minister” means, as respects bridges in England, the Minister and as respects bridges in Scotland or Wales, the Secretary of State.

#### Extent Information

- E2** This version of this provision extends to England and Wales only; a separate version has been created for Scotland only.

#### Textual Amendments

- F3** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), [Sch. 4 Pt. 1 para. 4\(1\)](#)
- F4** Words substituted by [Road Traffic Regulations Act 1984 \(c. 27, SIF 107:1\)](#), s. 144, [Sch. 13 para. 7](#)

#### Modifications etc. (not altering text)

- C7** [S. 117](#) amended by [Transport \(London\) Act 1969 \(c. 35\)](#), [Sch. 3 para. 1\(1\)\(2\)](#)
- C8** [Ss. 116, 117](#) extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, [Sch. 2 para. 21\(4\)](#)
- C9** [Ss. 116-118](#) applied (with modifications) (21.5.1992) by [S.I. 1992/1267](#), [art.7](#).

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- C10** Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art.9** (with arts. 8, 12(2), 13, 14)
- C11** Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art.3(4)** (with arts. 6, 8, 9, 10(2))  
Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**  
Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**  
Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**  
Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
- C12** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art.3(4)**

#### Marginal Citations

- M1** 1845 c. 20.  
**M2** 1845 c. 33.

## 117 Duty of Boards as respects bridges carrying highways. **S**

- (1) This section applies to any bridge which—
- carries a [<sup>F41</sup>road] over one or more of the following that is to say, a railway of the Railways Board, a railway of [<sup>F42</sup>London Regional Transport], an inland waterway of the Waterways Board or any other installation or land used by any of those Boards in connection with a railway or inland waterway; and
  - belongs to the Board or Boards whose railway, waterway, installation or land is crossed by the bridge.
- (2) It shall be the duty of each of the Boards mentioned in subsection (1) of this section—
- in constructing a bridge which, on completion, will belong to the Board and be a bridge to which this section applies, or in reconstructing a bridge which belongs to the Board and to which this section applies, to secure that it has the required load-bearing capacity;
  - to maintain and, if necessary, to improve or strengthen any bridge which belongs to the Board and to which this section applies so that it has the required load-bearing capacity, and, if at any time it is not reasonably practicable to secure that it has that capacity by means of maintenance, improvement or strengthening, to reconstruct the bridge or to replace it by a new bridge.
- (3) For the purposes of subsection (2) of this section a bridge has the required load-bearing capacity—
- in the case of a bridge in relation to which load-bearing standards are prescribed by an order made by the appropriate Minister, if it complies with those standards; and
  - in the case of any other bridge, if it is such as to be capable of bearing the weight of the traffic which ordinarily uses, or may reasonably be expected to use, the highway carried by the bridge on or about the day on which this section comes into force in relation to bridges of the Board concerned or, if the bridge is constructed subsequently, [<sup>F43</sup>—
- when the bridge is opened (the date of opening being before 1st January 1985) for traffic on the highway so carried;
  - when the bridge is opened (the date of opening being on or after 1st January 1985) for traffic on the road so carried.]
- (4) An order made for the purposes of subsection (3)(a) of this section—

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- (a) may prescribe standards for a particular bridge or for any class or description of bridges;
  - (b) may, in prescribing standards for a particular bridge or for any class or description of bridges, at the same time prescribe different standards for any bridge or bridges resulting from the reconstruction or replacement of that bridge or of any of those bridges;
  - (c) may prescribe standards by reference to any document published by the British Standards Institution, any government department or any other body or authority, and provide that where standards are prescribed as aforesaid any question as to the requirements to be fulfilled by a particular bridge in order to comply with those standards shall be determined, in case of dispute, by a certificate of the appropriate Minister;
  - (d) shall not, so long as a bridge is not reconstructed or replaced, be such as to require the bridge to comply with standards higher than those prescribed in relation thereto by a previous order under this section.
- (5) For the purposes of subsection (3)(b) of this section, no account shall be taken of any traffic which cannot use the highway <sup>F44</sup>, or as the case may be road,] carried by the bridge in question without infringing a prohibition for the time being in force under section 1, 6, <sup>F45</sup>or 14 of the Road Traffic Regulation Act 1984].
- (6) The requirements of this section shall be in addition to, and, so far as inconsistent therewith, shall prevail over, any requirements applicable to the bridge in question under section 46, 50, 51, 52, or 66 of the <sup>M16</sup>Railways Clauses Consolidation Act 1845, section 39, 43, 44, 45, or 58 of the <sup>M17</sup>Railways Clauses Consolidation (Scotland) Act 1845 or under any similar enactment.
- (7) In subsection (2) of this section references to a bridge being constructed by or belonging to a Board include references to its being constructed by or belonging to any two or more of the Boards mentioned in subsection (1) of this section, and in any such case the duties imposed by the said subsection (2) shall be duties of both or all of those Boards.
- (8) In this section “the appropriate Minister” means, as respects bridges in England, the Minister and as respects bridges in Scotland or Wales, the Secretary of State.

#### Extent Information

- E4** This version of this provision extends to Scotland only; a separate version has been created for England and Wales only.

#### Textual Amendments

- F41** Word in s. 117(1) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54\)](#), s. 157(2), **Sch. 9 para. 66(3)(a)**.
- F42** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(1)**
- F43** Words in s. 117(3) substituted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(3)(b)**
- F44** Words inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(3)(c)**
- F45** Words substituted by [Road Traffic Regulations Act 1984 \(c. 27, SIF 107:1\)](#), s. 144, **Sch. 13 para. 7**



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#### **Modifications etc. (not altering text)**

- C27** S. 117 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C28** Ss. 116, 117 extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, **Sch. 2 para. 21(4)**
- C29** Ss. 116-118 applied (with modifications) (21.5.1992) by S.I. 1992/1267, **art.7**.
- C30** Ss. 116-118 applied (with modifications) (22.6.1993) by S.I. 1993/1607, **art.9** (with arts. 8, 12(2), 13, 14)
- C31** Ss. 116-118 applied (with modifications) (29.6.1993) by S.I. 1993/1651, **art.3(4)** (with arts. 6, 8, 9, 10(2))
- Ss. 116-118 applied (with modifications) (26.7.1994) by S.I. 1994/1803, **art. 6**
- Ss. 116-118 applied (with modifications) (4.5.1995) by S.I. 1995/1236, **art. 3(5)**
- Ss. 116-118 applied (with modifications) (10.5.1995) by S.I. 1995/1300, **art. 3(4)**
- Ss. 116-118 applied (with modifications) (21.9.1995) by S.I. 1995/2501, **art. 8**
- C32** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art.3(4)**

#### **Marginal Citations**

- M16** 1845 c. 20.
- M17** 1845 c. 33.

### **118 Duty of highway authorities, etc., as respects bridges over Boards' railways or inland waterways.**

- (1) This section applies to any bridge, including a bridge constructed after the day on which this section comes into force, which—
- carries a [<sup>F5</sup>road][<sup>F5</sup>highway] over one or more of the following, that is to say, a railway of the Railways Board, a railway of [<sup>F6</sup>London Regional Transport] or an inland waterway of the Waterways Board; and
  - belongs to the Minister, the Secretary of State, a local [<sup>F7</sup>highway][<sup>F7</sup>roads] authority or some other person not being the Board or Boards whose railway or waterway is crossed by the bridge.
- (2) Subject to subsections (4) and (5) of this section, it shall be the duty of the person to whom a bridge to which this section applies belongs (in this section referred to as “the owner”) to maintain it in such a condition that it is not a source of danger to, and does not interfere with, or require any restriction to be placed on, the traffic from time to time using the railway or inland waterway crossed by the bridge.
- (3) Any of the said Boards whose railway or inland waterway is crossed by a bridge to which this section applies (in this section referred to as “the relevant Board”) shall be entitled at all reasonable times to inspect and survey that bridge and for that purpose to place on or against it such apparatus as may be reasonably required; and subject to subsection (5) of this section, the Board may—
- at any time serve on the owner a notice requiring him to carry out, within such reasonable time as may be specified in the notice, any works so specified which are required to maintain the bridge in, or to restore it to, the condition mentioned in subsection (2) of this section; and
  - if all or any of those works are not satisfactorily carried out by the owner in accordance with the notice, themselves carry out all or any of those works and recover the reasonable expenses of so doing from the owner;

and, if, in the opinion of the Board, it is necessary so to do by reason of the urgency of the matter, the Board may, without giving any such notice, themselves carry out any

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works which are required as aforesaid and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.

- (4) The relevant Board shall afford to the owner of a bridge to which this section applies such access to land occupied by them as he may reasonably require for maintaining the bridge in, or restoring it to, the condition mentioned in subsection (2) of this section, except that the Board shall not be obliged to afford access for any works the carrying out of which would, in the opinion of the Board, involve danger to or interference with, or require any restriction to be placed on, traffic using the railway or inland waterway crossed by the bridge, and where the Board refuse access as aforesaid—
  - (a) the owner of the bridge shall not by virtue of subsection (2) of this section be under any duty to carry out those works; but
  - (b) the Board may themselves carry out those works and, subject to subsection (5) of this section, recover the reasonable expenses of so doing from the owner.
- (5) The owner of a bridge shall not by virtue of the foregoing provisions of this section be under any duty to carry out or pay for works for making good any defect—
  - (a) caused by the withdrawal of support from land in connection with the working or getting of minerals or with brine pumping; or
  - (b) for which the relevant Board are themselves responsible;

but nothing in this subsection shall affect any agreement between the owner of the bridge and the relevant Board and, subject to any such agreement, the relevant Board shall be entitled to carry out any works which are required to make good any such defect as aforesaid.
- (6) The owner of any bridge to which this section applies shall afford to the relevant Board such access to land occupied by him as they may reasonably require for exercising their powers under this section; but the Board shall not claim such access as of right unless they have given the owner not less than seven days previous notice in writing stating the purpose of the proposed entry, except that they shall not be obliged to give such a notice if, in their opinion, it is impracticable to do so by reason of the urgency of the matter, in which case they shall take such steps as are reasonably practicable (before or after they enter the land) for informing the owner of the purpose of the entry.
- (7) Where, in exercising their powers under this section in relation to any bridge, a Board cause damage to the bridge or to any land occupied by the owner of the bridge, they shall pay to the owner such compensation as may be just.
- (8) The duty imposed by subsection (2) of this section on the owner of a bridge shall be in addition to any duty of the owner to maintain the bridge which arises under any other enactment or any order or agreement passed or made before the day on which this section comes into force or the date on which the bridge became a bridge to which this section applies, as the case may be; and, if under any such enactment, order or agreement there are subsisting as between the owner and the relevant Board any rights or liabilities as respects the making of payments in connection with the maintenance of the bridge, those rights and liabilities may be abrogated or modified by agreement between them or, in default of agreement, on the application of either of them, by arbitration.
- (9) Any dispute arising out of this section between the owner of a bridge and a Board shall be referred to arbitration, but this subsection—
  - (a) shall be without prejudice to any provision of this section whereby any matter is to be determined by the opinion of a Board; and

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- (b) shall not preclude the carrying out by a Board of any works pending the determination of any arbitration proceedings.
- (10) The provisions of this section shall have effect in relation to any bridge subject to any agreement made between the owner of the bridge and the relevant Board after the date on which those provisions became applicable to the bridge.
- (11) Where any cable, pipe or other apparatus is incorporated in or attached to a bridge to which this section applies, then—
- (a) if the apparatus belongs to the owner of the bridge, it shall be treated for the purposes of this section as forming part of the bridge; and
- (b) if the apparatus belongs to some other person, the provisions of subsections (2) to (10) of this section shall have effect in relation to the apparatus and to that person as they have effect in relation to a bridge to which this section applies and to the owner of such a bridge;
- but none of the said Boards shall by virtue of this subsection interfere with the use of any such apparatus for providing any supply or service if the apparatus is so used by its owner under statutory powers and he has not consented to that interference.
- (12) Nothing in this section shall be taken as authorising any person to interfere with traffic lawfully using any bridge, or as authorising the disregard of any of the provisions of the <sup>M3</sup>Public Utilities Street Works Act 1950.

#### Textual Amendments

- F5** Word “road” substituted (S.) (1.1.1985) for word “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 157\(2\), Sch. 9 para. 66\(4\)\(a\)](#)
- F6** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\), Sch. 4 Pt. I para. 4\(1\)](#)
- F7** Word “road” substituted (S.) (1.1.1985) for word “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\), s. 157\(2\), Sch. 9 para. 66\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

- C13** [S. 118](#) amended by [Transport \(London\) Act 1969 \(c. 35\), Sch. 3 para. 1\(1\)\(2\)](#)
- C14** [Ss. 116-118](#) applied (with modifications) (21.5.1992) by [S.I. 1992/1267, art.7.](#)

#### Marginal Citations

- M3** [1950 c. 39.](#)

## 119 Ending of liability of Boards to make payments on being relieved of responsibility for bridges carrying trunk or special roads.

- (1) Where after the appointed day any bridge belonging to the Railways Board, [<sup>F8</sup>London Regional Transport] or the Waterways Board is transferred to the Minister or the Secretary of State under [<sup>F9</sup>section [<sup>F10</sup>266 of the <sup>M4</sup>Highways Act 1980] or section 7 of the <sup>M5</sup>Trunk Roads Act 1946 [<sup>F10</sup>266 of the <sup>M6</sup>Highways Act 1980 or section 80 of the [Roads \(Scotland\) Act 1984\]\] \(bridges carrying highways \[<sup>F11</sup>, or as the case may be roads\] which become trunk roads\) or to a special road authority by an order made by virtue of \[<sup>F9</sup>section \[<sup>F12</sup>267 of the said Act of 1980\] or section 8 of the <sup>M7</sup>Special Roads Act 1949\]\[<sup>F12</sup>267 of the said Act of 1980 or section 81 of the said Act of 1984\] \(bridges carrying highways \[<sup>F11</sup>, or as the case may be roads,\] which are included in special road schemes\), the Board—](#)

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- (a) shall not be liable under the provisions of [F<sup>9</sup>section [F<sup>13</sup>55(2) of the said Act of 1980], section 7(3) of the said Act of 1946 or section 8(2) of the said Act of 1949], [F<sup>13</sup>55(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection as applied by subsection (2) of the said section 81)], to pay any sum in respect of the value to the Board of the extinguishment of their liability for the maintenance, [F<sup>14</sup>repair] or improvement of the bridge or the highway [F<sup>15</sup>, or as the case may be road,] carried thereby; but
- (b) shall not be entitled to receive under [F<sup>9</sup>section [F<sup>16</sup>266(5) or 267(2) of the said Act of 1980] or the said section 7(3) or 8(2)][F<sup>16</sup>266(5) or 267(2) of the said Act of 1980 or subsection (4) of the said section 80 (or that subsection applied as aforesaid)] any sum in respect of the value to them of the bridge as an asset productive of revenue except to the extent (if any) by which that sum exceeds the sum which, apart from paragraph (a) of this subsection, the Board would be liable to pay under the provisions mentioned in that paragraph.
- (2) None of the Boards mentioned in subsection (1) of this section shall be liable to pay any instalment or make any annual payment under the provisions mentioned in paragraph (a) of that subsection if the obligation to pay that instalment or to make that payment arises from the transfer of any bridge before the appointed day and that instalment or payment falls due after that day.

#### Textual Amendments

- F8** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(1)**
- F9** Words substituted by [Highways Act 1980 \(c. 66\)](#), **Sch. 24 para. 18**
- F10** Words “266” to “1984” substituted (S.) (1.1.1985) for words “266” to “1946” by virtue of [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(5)(a)**
- F11** Words inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(5)(b)**
- F12** Words “267” to “1984” substituted (S.) (1.1.1985) for words “267” to “1949” by virtue of [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(5)(c)**
- F13** Words “55(2)” to “81” substituted (S.) (1.1.1985) for words “55(2)” to “1949” by virtue of [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(5)(d)**
- F14** Words repealed (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), 157(2), **Sch. 11**
- F15** Words inserted (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(5)(d)**
- F16** Words “266(5)” to “aforesaid” substituted (S.) (1.1.1985) for words “266(5)” to “8(2)” by virtue of [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para.66(5)(e)**

#### Modifications etc. (not altering text)

- C15** S. 119 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C16** Ss. 116-119 applied (with modifications) (1.9.1993) by S.I. 1993/2154, **art.3(4)**

#### Marginal Citations

- M4** 1980 c. 66.
- M5** 1946 c. 30
- M6** 1980 c. 66.
- M7** 1949 c. 32.

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120 ..... F17

**Textual Amendments**

F17 S. 120 repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:1, 2:103:1, 2), Sch. 34 Pt. VII

**121 Application of foregoing sections to undertakers other than Railways Board, London Board and Waterways Board.**

- (1) In the foregoing sections of this Part of this Act any reference to the Railways Board, [F18London Regional Transport] or the Waterways Board includes a reference to any subsidiary of that Board;. . . F19
- (2) The Minister may by order apply—
  - (a) all or any of the provisions of section 116 or 117 of this Act to bridges over railways or inland waterways of persons other than the Boards mentioned in those sections or their subsidiaries, or over installations or land used in connection with a railway or inland waterway by persons other than those Boards or subsidiaries;. . . F19;
  - (b) all or any of the provisions of section 118 of this Act to bridges over railways or inland waterways of persons other than the Boards mentioned in that section or their subsidiaries.
- (3) An order under subsection (2) of this section may make such modifications in the provisions applied by it, and in any other enactment or instrument relating to the bridge, railway, inland waterway, installation or land to which it relates, as appear to the Minister to be appropriate.
- (4) An order under the M8Light Railways Act 1896 may make provision for any matter for which provision can be made by an order made under subsection (2) of this section in relation to a railway or to any installation or land used in connection with a railway.
- (5) Before making an order under subsection (2) of this section or by virtue of subsection (4) thereof, the Minister shall consult with the highway authority concerned (unless he is himself that authority); and, before making an order under the said subsection (2), the Minister shall consult with the owner of the railway, inland waterway, installation or land concerned.
- [F20(6) Where an order made under subsection (2) or by virtue of subsection (4) of this section applies all or any of the provisions of section 117 of this Act to any bridge to which that section has not at any previous time applied, paragraphs 15, 16, 18, 19 and 20 of Schedule 11 to [F21the M9Highways Act 1980] (which relate to the apportionment of expenses) shall apply in relation to that bridge as if—
  - (a) the provisions of the said section 117 so applied were an order to which the said paragraph 15 applies; and
  - (b) the bridge were such a bridge as is mentioned in the said paragraph 15; and
  - (c) the highway authorities referred to in those paragraphs of the said Schedule 11 were the highway authority or highway authorities for the highway carried by the bridge;

but if the order made as aforesaid also applies to the bridge all or any of the provisions of section 116 of this Act and the highway carried by or giving access to the bridge has

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under the provisions of the said section 116 so applied become a highway maintainable at the public expense instead of by the owners of the bridge, then, for the purposes of [<sup>F21</sup>sub-paragraph (2)(c) of] the said paragraph 15, the share of the expense there referred to of those owners shall be increased by an amount equivalent to the amount of any saving to those owners, in consequence of those provisions of the said section 116, of expense in maintaining that highway.

- (7) In the application of the last foregoing subsection to Scotland, references therein to paragraphs 15, 16, 18, 19 and 20 of Schedule 11 to [<sup>F21</sup>the <sup>M10</sup>Highways Act 1980] and to [<sup>F21</sup>sub-paragraph (2)(c) of] the said paragraph 15 shall be construed as references to the following provisions respectively of the <sup>M11</sup>Bridges Act 1929, namely, sections 6(1), 6(2), 6(3), 7(2) and 15(b) and paragraph (c) of the proviso to the said section 6(1).]
- (8) In subsections (2) and (3) of this section, and in subsection (5) thereof so far as it relates to subsection (2), references to the Minister shall, as respects bridges in Scotland or Wales, be construed as references to the Secretary of State. [<sup>F22</sup>; and in the application of the said subsection (5) to Scotland the reference to a highway authority shall be construed as a reference to a roads authority.]

#### Textual Amendments

- F18** Words substituted by virtue of [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(2)**
- F19** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), **Sch. 9 Pt. III**
- F20** [S. 121\(6\)\(7\)](#) repealed (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), ss. 156(3), 157(2), **Sch. 11**
- F21** Words substituted by [Highways Act 1980 \(c. 66\)](#), **Sch. 24 para. 18**
- F22** Words added (S.) (1.1.1985) by [Roads \(Scotland\) \(c. 54, SIF 108\)](#), Sch. 9 para. 66(6)

#### Modifications etc. (not altering text)

- C17** [S. 121](#) modified by [London Regional Transport Act 1984 \(c. 32, SIF 126\)](#), **Sch. 4 Pt. I para. 4(3)**

#### Marginal Citations

- M8** 1896 c. 48.
- M9** 1980 c. 66.
- M10** 1980 c. 66.
- M11** 1929 c. 33.

## 122 Interpretations of sections 116 to 121.

- (1) Where a railway or an inland waterway passes under a [<sup>F23</sup>highway][<sup>F23</sup>road] by means of a tunnel, or runs in a cutting over which a [<sup>F23</sup>highway][<sup>F23</sup>road] is superimposed, the foregoing provisions of this Part of this Act (except sections 119 and 120) shall, so far as applicable and subject to any necessary modifications, have effect in relation to the [<sup>F23</sup>highway][<sup>F23</sup>road] as if it were carried by a bridge and to the structure of the tunnel or, as the case may be, the structure by means of which the [<sup>F23</sup>highway][<sup>F23</sup>road] is superimposed as aforesaid, as if that structure were a bridge.
- (2) In sections 116, 117 and 120 of this Act, and in section 121 thereof so far as it relates to the said sections 116 and 117, references to a railway include references to a railway which has ceased to carry any traffic and to the site of a railway from which the track has been removed.

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(3) In sections 117 and 118 of this Act, and in section 121 thereof so far as it relates to those sections, references to a bridge include references to any abutments or other parts of a bridge and, if the person to whom the bridge belongs is responsible for the maintenance thereof—

- (a) to the surface of the [<sup>F23</sup>highway][<sup>F23</sup>road] carried by, or giving access to, the bridge;
- (b) to any embankment, retaining wall or other work or substance supporting or protecting the surface of that [<sup>F23</sup>highway][<sup>F23</sup>road].

[<sup>F24</sup>(4) In the foregoing provisions of this Part of this Act, and in this section, references to a highway do not include references to a waterway.]

#### Textual Amendments

- F23** Word “road” substituted (S.) (1.1.1985) for word “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), [Sch. 9 para. 66\(7\)\(a\)](#)
- F24** [S. 122\(4\)](#) repealed (S.) (1.1.1985) by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), ss. 156(3), 157(2), [Sch. 11](#)

### *Level crossings*

#### **123 Power of highway and other authorities to contribute to cost of barriers, etc., at level crossings.**

(1) Contributions to the expenses incurred by the Railways Board in providing lifting or other barriers, lights, signs, or other devices or appliances for the protection or convenience of the public at or near any level crossing where a road is crossed by a railway of the Board may be made by—

- (a) the [<sup>F25</sup>highway][<sup>F25</sup>roads] authority, if any, for that road; [<sup>F26</sup>and
- (b) any local authority, not being the highway authority, in whose area the level crossing is situated.]

(2) In this section “local authority” means, as respects England and Wales, the council of a county, . . . <sup>F27</sup> London borough or county [<sup>F28</sup>district]. . . <sup>F29</sup> and the Common Council of the City of London and, as respects Scotland, a county council and a town council.

#### Textual Amendments

- F25** Word “roads” substituted (S.) (1.1.1985) for word “highway” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), [Sch. 9 para. 66\(8\)](#)
- F26** Words repealed (S.) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#) and repealed (E.W.S.) by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 57(6), [Sch. 3 para. 21\(3\)\(b\)](#)
- F27** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), [Sch. 30](#)
- F28** Word substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 179(3)
- F29** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, [Sch. 17](#)

#### **124 Board’s obligations at level crossings with roads other than public carriage roads.**

(1) The Minister may by order require the Railways Board—

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- (a) to provide, maintain and operate, at or near any level crossing where a road other than a [<sup>F30</sup>public carriage][<sup>F30</sup>carriageway of a public] road is crossed by a railway of the Board, such lifting or other barriers, lights, signs or other devices or appliances; and
  - (b) to comply with such other requirements in relation to the level crossing, as he considers necessary or desirable for the protection or convenience of the public.
- (2) The obligations imposed on the Board in respect of any level crossing by an order under this section shall be in substitution for any obligations imposed on them in respect of that crossing by section 68 of the <sup>M12</sup>Railways Clauses Consolidation Act 1845 (which requires gates and other works to be provided for the benefit of adjacent land), section 60 of the <sup>M13</sup>Railways Clauses Consolidation (Scotland) Act 1845 (which makes corresponding provision for Scotland) or any other enactment for purposes similar to either of those sections.
- (3) Not less than two months before making an order under this section in respect of any level crossing (other than an order varying or revoking a previous order under this section) the Minister shall send a draft of the proposed order to the Board and to each local authority in whose area the level crossing is situated, and if the Board or any such authority makes representations to the Minister with respect to the proposed order he shall consider the representations and may then make the order in the form of the draft or in that form with such modifications as he thinks fit.
- (4) In this section “local authority” means, as respects England and Wales, the council of a county, . . . <sup>F31</sup> London borough or [<sup>F32</sup>district]. . . <sup>F33</sup> and the Common Council of the City of London and, as respects Scotland, a [<sup>F34</sup>regional or islands] council.

#### Textual Amendments

- F30** Words “carriageway of a public” substituted (S.) (1.1.1985) for words “public carriage” by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 157(2), **Sch. 9 para. 66(9)**
- F31** Words repealed by [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), **Sch. 30**
- F32** Word substituted by virtue of [Local Government Act 1972 \(c. 70, SIF 81:1\)](#), s. 179(3)
- F33** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F34** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 14 para. 75**

#### Marginal Citations

- M12** 1845 c. 20.  
**M13** 1845 c. 33.

### *Inspectors of railways*

#### **125 Powers of inspectors of railways as respects persons other than railway companies and their staff.**

- (1) The powers of an inspector of railways under paragraph (1) of section 4 of the <sup>M14</sup>Regulation of Railways Act 1871 (entry to and inspection of railway premises and equipment) shall also be exercisable in respect of—
- (a) any bridge over or under which any railway passes, being a bridge not belonging to a railway company;



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- (b) any premises occupied by a person to whom paragraph (a), (c) or (d) of subsection (2) of this section applies and used for the purposes of any such work as is mentioned in that paragraph.
- (2) The power of such an inspector under paragraph (2) of the said section 4 (summoning, questioning and obtaining of returns from railway companies and their staff) shall also be exercisable in respect of—
- (a) any person (other than a person mentioned in the said paragraph (2)) who, in pursuance of a contract with a railway company, is carrying or has carried out any work on, over or under a railway or in respect of any premises or equipment used in connection with a railway;
- (b) any person who is the owner, or responsible for the maintenance, of any such bridge as is mentioned in subsection (1)(a) of this section;
- (c) any person who, in pursuance of a contract with a person to whom paragraph (b) of this subsection applies, is carrying or has carried out any work in connection with any such bridge as aforesaid;
- (d) any person who, in pursuance of a contract with a person to whom paragraph (a) or (c) of this subsection applies, is carrying or has carried out any such work as is mentioned in that paragraph;
- (e) any employee of a person to whom any of the foregoing paragraphs of this subsection applies, being an employee whose duties are connected with any such work or bridge as is mentioned in that paragraph, and, where a person to whom any of the foregoing paragraphs of this subsection applies is a body corporate, any director or other person engaged in the management of that body.
- (3) The power of any such inspector under paragraph (3) of the said section 4 (production of books, papers and documents of a railway company) shall also be exercisable in respect of the books, papers and documents of a person to whom paragraph (a), (b), (c) or (d) of subsection (2) of this section applies which relate to any such work or bridge as is mentioned in that paragraph.
- (4) In this section references to a railway company include references to any of the Boards whose undertaking includes a railway. . . <sup>F35</sup>.

#### Textual Amendments

**F35** Words repealed by [Transport Act 1980 \(c. 34, SIF 126\)](#), [Sch. 9 Pt. III](#)

#### Modifications etc. (not altering text)

**C18** [S. 125](#) amended (2.2.1994) by 1993 c. 43, [s. 117\(1\)\(6\)](#) (with [S.I. 1990/1380arts. 3, 4](#)); [S.I. 1994/202, art. 2](#)

**C19** [S. 125](#) power to repeal or modify (2.2.1994) by 1993 c. 43, [ss. 117\(4\)\(k\)\(6\)](#), [150 \(1\)\(e\)](#); [S.I. 1994/202, art. 2](#)

**C20** [S. 125](#) amended by [Transport \(London\) Act 1969 \(c. 35\)](#), [Sch. 3 para. 1\(1\)\(2\)](#)

#### Marginal Citations

**M14** [1871 c. 78](#).

**Status:**

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