



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 [^{F1}Transport for London] , 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*Status: Point in time view as at 15/07/2003. There are multiple versions of this provision on screen.
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*Changes to legislation: There are currently no known outstanding effects
for the Transport Act 1968, Section 116. (See end of Document for details)*

- (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.

^{F2}(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.

^{F3}(8) Subsection (9) applies if a network owner is, or but for this section would be, responsible for maintaining—

- (a) a highway carried by a new bridge over its railway or over any other installation or land used by the network owner in connection with its railway, or
- (b) that highway together with an access highway.

^{F3}(9) Where—

- (a) the highway at each end of the bridge; or
- (b) if the network owner is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,

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is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.

^{F3}(10) In this section—

- (a) “access highway”, in relation to a bridge, means a highway giving access to the bridge; and
- (b) “new bridge” means a bridge constructed after 31st March 1994.

^{F3}(11) Subsections (6) and (7) of this section shall have effect in relation to a network owner and any such bridge of the network owner as is mentioned in subsection (8) above as they have effect in relation to a Board.]

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 in ss. 116-119 substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(2)**
- F2** S. 116(5) repealed (E.W.) by [Local Government Act 1972 \(c. 70\)](#), **Sch. 30**
- F3** S. 16(8)-(11) inserted (20.3.1996) by [S.I. 1996/420](#), art. 2, **Sch. para. 2**

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, 117 applied (with modifications) (18.12.1996) by [1996 c. 61, s. 3](#), **Sch. 3 para. 13**
- 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**
- Ss. 116-118 applied (with modifications) (16.10.1996) by [S.I. 1996/2660](#), **art. 4(7)**
- Ss. 116-118 applied (with modifications) (23.9.1997) by [S.I. 1997/2262](#), **art. 4(3)**
- Ss. 116-118 applied (with modifications) (9.10.1997) by [S.I. 1997/2534](#), **art. 7**
- Ss. 116-118 applied (with modifications) (21.7.1999) by [S.I. 1999/2382](#), **art. 4(2)**
- Ss. 116-118 applied (with modifications) (4.8.2000) by [S.I. 2000/2585](#), **art. 4(2)**
- Ss. 116-118 applied (with modifications) (12.8.2002) by [S.I. 2002/1997](#), **art. 9(1)**
- C6** Ss. 116-119 applied (with modifications) (1.9.1993) by [S.I. 1993/2154](#), **art. 3(4)**
- Ss. 116-119 applied (with modifications) (16.5.2002) by [S.I. 2002/1384](#), **art. 3(4)** (with arts. 10(2), 11)
- C7** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**

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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 [^{F1}Transport for London] , 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 [^{F4}roads] authority is responsible for maintaining the [^{F4}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 [^{F4}road] on that day,
- that Board shall not by virtue of that agreement or order be liable to make to that [^{F4}roads] authority in respect of the maintenance of that [^{F4}road] any annual or other periodical payment (not being an instalment of a lump sum) which falls due after that day.
- [^{F5}(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,

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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 ^{M1}1984.]

- (6) [^{F6}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 [^{F7}road], and a [^{F7}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 [^{F7}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 [^{F7}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 [^{F7}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 [^{F7}road] before the day on which they cease by virtue of this section to be responsible for its maintenance.
- [^{F8}(8) Subsection (9) applies if a network owner is, or but for this section would be, responsible for maintaining—
- (a) a highway carried by a new bridge over its railway or over any other installation or land used by the network owner in connection with its railway, or
 - (b) that highway together with an access highway.
- [^{F8}(9) Where—
- (a) the highway at each end of the bridge; or
 - (b) if the network owner is also responsible for maintaining any access highway, the highway at each end of the bridge and any access highway,
- is a highway maintainable at the public expense, the highway carried by the bridge, together with any access highway, shall be a highway maintainable at the public expense.
- [^{F8}(10) In this section—
- (a) “access highway”, in relation to a bridge, means a highway giving access to the bridge; and
 - (b) “new bridge” means a bridge constructed after 31st March 1994.
- [^{F8}(11) Subsections (6) and (7) of this section shall have effect in relation to a network owner and any such bridge of the network owner as is mentioned in subsection (8) above as they have effect in relation to a Board.]

Extent Information

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

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Textual Amendments

- F1** Words in ss. 116-119 substituted (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(2)**
- F4** 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)**
- F5** 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)**
- F6** 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)**
- F7** 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)**
- F8** S. 116(8)-(11) inserted (20.3.1996) by [S.I. 1996/420](#), art. 2, **Sch. para. 2**

Modifications etc. (not altering text)

- C7** Ss. 116-119 modified (15.7.2003) by [The Transport for London \(Consequential Provisions\) Order 2003 \(S.I. 2003/1615\)](#), art. 1(1), **Sch. 1 para. 4(4)**
- C8** S. 116 amended by [Transport \(London\) Act 1969 \(c. 35\)](#), **Sch. 3 para. 1(1)(2)**
- C9** Ss. 116, 117 extended by [Channel Tunnel Act 1987 \(c. 53, SIF 102\)](#), ss. 6, 45, **Sch. 2 para. 21(4)**
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- C13** Ss. 116-119 applied (with modifications) (1.9.1993) by [S.I. 1993/2154](#), **art. 3(4)**
 - Ss. 116-119 applied (with modifications) (16.5.2002) by [S.I. 2002/1384](#), **art. 3(4)** (with arts. 10(2), 11)

Marginal Citations

- M1** [1984 c. 54](#).

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