
STATUTORY INSTRUMENTS

1996 No. 420

TRANSPORT

The Railways Act 1993 (Consequential Modifications) (No. 5) Order 1996

<i>Made</i>	- - - -	<i>26th February 1996</i>
<i>Laid before Parliament</i>		<i>27th February 1996</i>
<i>Coming into force</i>	- -	<i>20th March 1996</i>

Whereas it appears to the Secretary of State to be necessary or expedient in consequence of the provisions of the Railways Act 1993(1) and instruments made under or by virtue of that Act to make the modifications set out in the Schedule below to the existing provisions referred to therein;

Now therefore the Secretary of State, in exercise of powers conferred by section 153 of the Railways Act 1993(2), hereby makes the following Order:—

1. This Order may be cited as the Railways Act 1993 (Consequential Modifications) (No. 5) Order 1996 and shall come into force on 20th March 1996.
2. The provisions of the Schedule hereto shall have effect.

Signed by authority of the Secretary of State for Transport

26th February 1996

John Watts
Minister of State,
Department of Transport

(1) 1993 c. 43.
(2) See section 151(1) for the definition of “modifications”.

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SCHEDULE

Article 2

1. The Transport Act 1968(3) shall be amended in accordance with paragraphs 2 to 8 of this Schedule.

2. At the end of section 116 insert the following subsections —

“(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.

(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.

(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.

(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.”.

3. After subsection (1) of section 117 insert the following subsections—

“(1A) This section also applies to a bridge (whenever constructed) which—

- (a) carries a highway over—
 - (i) a railway comprised in a transferred network or a new network of a network owner, or
 - (ii) any other installation or land used by a network owner in connection with a railway or network comprised in a transferred network or a new network of that network owner, and
- (b) belongs to the network owner whose railway, installation or land is crossed by the bridge,

and in relation to any such bridge references in this section to each of the Boards or a Board are, subject to subsection (1B) of this section, to be read as references to the network owner.

(1B) Subsection (7) applies in relation to a bridge constructed by or belonging to a network owner and one or more of the Boards mentioned in subsection (1) of this section as it applies in relation to a bridge constructed by or belonging to any two or more Boards.”.

4. After subsection (1) of section 118 insert the following subsection—

“(1A) This section also applies to any bridge (whenever constructed) which—

- (a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, but

(3) 1968 c. 73.

- (b) does not belong to the network owner,
and in relation to any such bridge references in this section to any of the said Boards or a Board are to be read as references to the network owner.”.
5. In subsection (1) of section 119, after the words “appointed day any” insert the words “network bridge or”, and at the end of that section insert the following subsections—
- “(3) In subsection (1) above “network bridge” means a bridge (whenever constructed) which—
- (a) carries a highway over a railway comprised in a transferred network or a new network of a network owner, and
- (b) belongs to the network owner.
- (4) In relation to a network bridge, references in this section to the Boards or a Board are to be read as references to the network owner.”.
6. At the end of section 122 insert the following subsection —
- “(5) In sections 116 to 119 and 121 of this Act, and in this section,—
- (a) “network owner” means—
- (i) a person in whom is vested a network by virtue of a transfer scheme, or
- (ii) a successor in title to any such person;
- (b) “new network” means a network constructed or acquired, other than pursuant to a transfer scheme, after 31 March 1994 where any railway line comprised in that network is connected to a railway line comprised in a transferred network;
- (c) “transferred network” means a network transferred at any time by transfer scheme;
- (d) “network” and “transfer scheme” shall be construed in accordance with the Railways Act 1993; and
- (e) references to a highway are to be read, in relation to Scotland, as references to a road.”.
7. In section 123—
- (i) in subsection (1), after the words “the Railways Board”, insert the words “or a network owner” and after the words “a railway of the Board”, insert the words “, or, as the case may be, by a railway comprised in a transferred network or a new network of that network owner.”; and
- (ii) in subsection (2), after the words “Council of the City of London”, insert the words—
- “and “network owner”, “new network” and “transferred network” shall be given the meanings in section 122(5) above.”.
8. In section 124(4)—
- (i) in subsection (1)—
- (a) after the words “the Railways Board”, insert the words “or a network owner”,

(4) Section 124, in its application in England and Wales, has been prospectively repealed by sections 50 and 68(1) of, and Part 1 of Schedule 4 to, the Transport and Works Act 1992 (c. 42). At the date of the making of this Order, no day has been appointed bringing the repeal into effect. There are other amendments to section 124 not relevant to this Order.

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- (b) after the words “a railway of the Board,” insert the words “or, as the case may be, a railway comprised in a transferred network or a new network of that network owner.”;
- (ii) in subsection (2), after the words “the Board”, insert the words “or a network owner”, and after the word “them” insert the words “or it”;
- (iii) in subsection (3), after the words “the Board” (in both places) insert the words “, or, as the case may be, the network owner in question.”; and
- (iv) in subsection (4), after the words “City of London”, insert the words—
“, and “network owner”, “new network” and “transferred network” shall be given the meanings in section 122(5) above.”.

9. In article 2(1) (Interpretation) of the Railway Bridges (Load-bearing Standards) (England and Wales) Order 1972,⁽⁵⁾ for the word “and” at the end of sub-paragraph (a) in the definition of “railway bridge”, there shall be substituted—

- “(vi) a railway comprised in a transferred network or a new network of a network owner,
- (vii) any other installation or land used by a network owner in connection with a railway comprised in a transferred network or a new network of that network owner, and.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies certain statutory provisions in consequence of the provisions of the Railways Act 1993 and instruments made under or by virtue of that Act. The provisions amended are—

- (a) sections 116 to 122 of the Transport Act 1968, so that they apply in the case of a bridge over a railway comprised in a network transferred by transfer scheme made pursuant to the Railways Act 1993 and of a network built or acquired after 31st March 1994 which is connected to a transferred network;
- (b) sections 123 and 124 of the Transport Act 1968, so that they apply to the owner of a network transferred by transfer scheme made pursuant to the Railways Act 1993 and of a network built or acquired after 31st March 1994 which is connected to a transferred network;
- (c) article 2(1) of the Railway Bridges (Load-bearing Standards) (England and Wales) Order 1972, S.I.1972/1705, so that the definition of “railway bridge” is extended to bridges over a railway comprised in a network transferred by a transfer scheme made pursuant to the Railways Act 1993 and of a network built or acquired after 31st March 1994 which is connected to a transferred network.

(5) S.I. 1972/1705.