



# Highways Act 1980

## 1980 CHAPTER 66

### PART XII **E+W**

#### ACQUISITION, VESTING AND TRANSFER OF LAND ETC.

##### *Vesting of highways etc.*

#### 264 Vesting of drains etc. of certain roads. **E+W**

- (1) The drains belonging to a road for which the council of a county [<sup>F1</sup>or metropolitan district] are the highway authority vest in the council of the county [<sup>F1</sup>or metropolitan district] in which the road is situated and where any other drain or any sewer was at the material date used for any purpose in connection with the drainage of such a road, that council continue to have the right of using the drain or sewer for that purpose.

For the purposes of this subsection the material date is—

- (a) in the case of any highway which first became maintainable at the public expense before the commencement of this Act, the date on which it first became so maintainable or 1st April 1974, whichever date was later; and
- (b) in the case of any highway which first becomes maintainable at the public expense after the commencement of this Act, the date on which it first becomes so maintainable.

[<sup>F2</sup>(2) The drains belonging to a highway—

- (a) which immediately before the date of the abolition of the Greater London Council under the Local Government Act 1985 was a metropolitan road; and
- (b) which did not become a trunk road on that date by virtue of an order made under paragraph 53 of Schedule 4 to that Act,

vest in the council of the London borough in which the highway is situated or, if it is situated in the City in the Common Council, and where any other drain or sewer was, at the date when the highway became a metropolitan road, used for any purpose in connection with the drainage of that highway, that council shall have the right of using the drain or sewer for that purpose.]

*Changes to legislation: Highways Act 1980, Section 264 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) Any difference arising under this section—
- (a) between a county council and a [<sup>F3</sup>non-metropolitan] district council—
    - (i) as to the council in whom a drain is vested, or
    - (ii) as to the use of a drain or sewer;
  - (b) .....<sup>F4</sup>
  - (c) between a county council [<sup>F5</sup>, metropolitan district council or London borough council or the Common Council], on the one hand, and a [<sup>F6</sup>sewerage undertaker], on the other, as to the use of a sewer;
- shall, if either party to the dispute so elect, be referred to and determined by the Secretary of State.

[<sup>F7</sup>(4) Subsection (3)(a) above does not apply in Wales.]

#### Textual Amendments

- F1** Words inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 38(a)**
- F2** S. 264(2) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 38(b)**
- F3** Word inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para 38(c)**
- F4** S. 264(3)(b) repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102, **Sch. 17**
- F5** Words substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, **Sch. 4 para. 38(c)**
- F6** Words substituted by Water Act 1989 (c. 15, SIF 130), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 62(10), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F7** S. 264(4) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. 1 para.24** (with s. 54(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch.1**.

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

- C1** S. 264 saved (1.12.1991) by Water Industry Act 1991 (c. 56, SIF 130), **ss. 115**, 117(5), 219(3)(7), 223(2) (with ss. 82(3), 186(1), 222(1), Sch. 14 para. 6)

**Changes to legislation:**

Highways Act 1980, Section 264 is up to date with all changes known to be in force on or before 06 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 79(15)(aa) inserted by [2023 asc 3 Sch. 13 para. 54\(b\)](#)
- s. 90B(1A) inserted by [2015 c. 20 Sch. 10 para. 15\(3\)](#)
- s. 90C(2)(2A) substituted for s. 90C(2) by [2015 c. 20 Sch. 10 para. 16\(3\)](#)
- s. 90FA inserted by [2015 c. 20 Sch. 10 para. 20](#)
- s. 118ZA(5)(a) words inserted by [2015 c. 20 s. 25\(3\)](#)
- s. 120(3ZA) inserted by [2000 c. 37 Sch. 6 para. 13\(6\)](#)
- s. 121E(1A)(1B) inserted by [2015 c. 20 s. 23\(5\)](#)
- s. 146(6) inserted by [2015 c. 20 s. 24\(6\)\(d\)](#)
- s. 147(1A) inserted by [2015 c. 20 s. 24\(3\)](#)
- s. 147(5A) inserted by [2015 c. 20 s. 24\(5\)](#)
- s. 203(2)(b)(ia) inserted by [S.I. 2023/908 reg. 6\(2\)\(b\)](#)
- s. 219(1)(a)(i)(ii) inserted by [S.I. 2023/908 reg. 6\(3\)](#)
- s. 220(1A) inserted by [S.I. 2023/908 reg. 6\(4\)\(b\)](#)
- s. 223(1A) inserted by [S.I. 2023/908 reg. 6\(5\)\(b\)](#)
- s. 223(5A) inserted by [S.I. 2023/908 reg. 6\(5\)\(d\)](#)
- s. 223(5B)-(6) s. 223(6) renumbered as s. 223(5B)(6) by [S.I. 2023/908 reg. 6\(5\)\(e\)](#)
- s. 322(5)(ab) inserted by [2004 c. 18 s. 64\(2\)](#)
- s. 325(2B) inserted by [2015 c. 20 Sch. 10 para. 21](#)
- s. 337(c) inserted by [2024 asc 3 Sch. 3 para. 2\(10\)\(b\)](#)
- Sch. 6 para. 1(3ZA) inserted by [2015 c. 20 Sch. 7 para. 8\(2\)\(b\)](#)
- Sch. 6 para. 2(2ZA)-(2ZE) inserted by [2015 c. 20 Sch. 7 para. 8\(3\)](#)
- Sch. 6 para. 2(4) inserted by [2015 c. 20 Sch. 7 para. 8\(4\)](#)
- Sch. 6 para. 2(5)(6) inserted by [2015 c. 20 Sch. 7 para. 8\(5\)](#)
- Sch. 6 para. 2ZZA inserted by [2015 c. 20 Sch. 7 para. 8\(6\)](#)
- Sch. 6 para. 4A(2) inserted by [2015 c. 20 Sch. 7 para. 8\(7\)\(c\)](#)
- Sch. 6 para. 5(ba) inserted by [2015 c. 20 Sch. 7 para. 8\(8\)](#)
- Sch. 6 para. 4A(1) words renumbered as Sch. 6 para. 4A(1) by [2015 c. 20 Sch. 7 para. 8\(7\)\(a\)](#)
- Sch. 6 para. 4A(1) words substituted by [2015 c. 20 Sch. 7 para. 8\(7\)\(b\)](#)
- Sch. 6 Pt. 1 para. 2B(4) inserted by [2015 c. 20 s. 25\(6\)](#)