



Highways Act 1980

1980 CHAPTER 66

PART XII

ACQUISITION, VESTING AND TRANSFER OF LAND ETC.

Vesting of highways etc.

263 Vesting of highways maintainable at public expense.

- (1) Subject to the provisions of this section, every highway maintainable at the public expense, together with the materials and scrapings of it, vests in the authority who are for the time being the highway authority for the highway.
- (2) Subsection (1) above does not apply—
 - (a) to a highway with respect to the vesting of which, on its becoming or ceasing to be a trunk road, provision is made by section 265 below, or
 - (b) to a part of a trunk road with respect to the vesting of which provision is made by section 266 below, or
 - (c) to a part of a special road with respect to the vesting of which provision is made by section 267 below.
- (3) Where a scheme submitted to the Minister jointly by two or more ^{F1}... highway authorities under section 16 above determines which of those authorities are to be the special road authority for the special road or any part of it (“the designated authority”) and the designated authority are not the highway authority for the road or that part of it, the road or that part of it vests in the designated authority.
- (4) Where—
 - (a) the responsibility for the maintenance of a bridge or other part of a highway is transferred to a highway authority by means of an order under section 93 above, but the property in it is not so transferred, or
 - (b) the responsibility for the maintenance of a part of a highway is transferred to a highway authority in pursuance of an agreement made under section 94 above, but the property in that part is not so transferred,

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the part of the highway in question does not by virtue of subsection (1) above vest in that highway authority.

- (5) Notwithstanding anything in subsection (1) above, any such material as is referred to in that subsection which is removed from a highway by a [^{F2}non-metropolitan] district council in exercise of their powers under section 42, 50 or 230(7) above vests in the district council and not in the highway authority.

Textual Amendments

- F1** Word in s. 263(3) omitted (5.3.2015) by virtue of Infrastructure Act 2015 (c. 7), s. 57(1), Sch. 1 para. 51; S.I. 2015/481, reg. 2(a)
- F2** Word inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 8, Sch. 4 para. 37

Modifications etc. (not altering text)

- C1** S. 263: certain rights and liabilities transferred by S.I. 1986/148, art. 9(1)(2)

264 Vesting of drains etc. of certain roads.

- (1) The drains belonging to a road for which the council of a county [^{F3}or metropolitan district] are the highway authority vest in the council of the county [^{F3}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.

[^{F4}(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.]

- (3) Any difference arising under this section—

- (a) between a county council and a [^{F5}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)

^{F6}

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- (c) between a county council [^{F7}, metropolitan district council or London borough council or the Common Council], on the one hand, and a [^{F8}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.

[^{F9}(4) Subsection (3)(a) above does not apply in Wales.]

Textual Amendments

- F3** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 38(a)**
- F4** S. 264(2) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 38(b)**
- F5** Word inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para 38(c)**
- F6** S. 264(3)(b) repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 102, **Sch. 17**
- F7** Words substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 8, **Sch. 4 para. 38(c)**
- F8** 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**
- F9** S. 264(4) inserted (1.4.1996) by 1994 c. 19, s. 22(1), **Sch. 7 Pt. I 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)

- C2** 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:

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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](#)
- 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\(6\)](#)