
STATUTORY INSTRUMENTS

2024 No. 50

**The Biodiversity Gain (Town and Country Planning)
(Modifications and Amendments) (England) Regulations 2024**

PART 2

**Modification of Application of Part 2 of Schedule 7A
to the 1990 Act: Development in Phases**

Modification of paragraph 15 (approval of biodiversity gain plan)

7. For the purposes of paragraph 13(3)(a) (overall plan) as modified by regulation 4, paragraph 15 applies as if—

- (a) in the heading, for “biodiversity gain” there were substituted “overall”;
- (b) for sub-paragraph (1) there were substituted—
 - “(1) For the purposes of paragraph 13(3)(a) (overall plan), a planning authority to which a biodiversity gain plan is submitted must approve the plan if, and only if, it is satisfied as to the matters specified in sub-paragraph (2).”;
- (c) in sub-paragraph (2), for paragraphs (a) to (e) there were substituted—
 - “(a) that the pre-development biodiversity value of the onsite habitat is as specified in the plan,
 - (b) where the onsite habitat of any part of a development is irreplaceable habitat, that the adverse effect of the development on the biodiversity of the onsite habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact,
 - (c) except in a section 73 case, and subject to sub-paragraph (3), that the biodiversity gain objective will be met, taking into account—
 - (i) the post-development biodiversity value of the onsite habitat for the overall development,
 - (ii) the post-development biodiversity value of the onsite habitat for each phase of the development,
 - (iii) the biodiversity value in relation to the development of any registered offsite biodiversity gain allocated or proposed to be allocated to the development (and, if the allocation is conditional, whether any conditions have been met or will be met by the time development begins), and
 - (iv) any biodiversity credits purchased or proposed to be purchased for the development,
 - (d) in a section 73 case, and subject to sub-paragraph (3), that the biodiversity gain objective will be met, taking into account—

- (i) the post-development biodiversity value of the onsite habitat for the overall development,
 - (ii) the post-development biodiversity value of the onsite habitat for each phase of the development (whether begun or otherwise),
 - (iii) the biodiversity value in relation to the development of any registered offsite biodiversity gain allocated or proposed to be allocated to the development (and, if the allocation is conditional, whether any conditions have been met or will be met by the time development begins), and
 - (iv) any biodiversity credits purchased or proposed to be purchased for the development,
- (e) subject to sub-paragraph (3), that—
- (i) any biodiversity credits specified in the biodiversity gain plan as having been purchased for the development before the date of submission of that plan have been so purchased,
 - (ii) in a case where any registered offsite biodiversity gain is specified in the biodiversity gain plan as having been allocated to the development before the date of submission of that plan, that the registered offsite biodiversity gain—
 - (aa) is so allocated, and
 - (bb) has the value specified in the biodiversity gain plan in relation to the development, and
 - (ea) in a section 73 case, that the post-development biodiversity value of the onsite habitat of any phases that have been begun is at least the value specified in the plan most recently approved for that phase, unless the conditions subject to which planning permission has been granted under section 73 affect the post-development biodiversity value of the onsite habitat as specified in that biodiversity gain plan, and”;
- (d) after sub-paragraph (2) there were inserted—
- “(3) Where the onsite habitat of any part of a development is irreplaceable habitat, sub-paragraph (2)(c)(iii) and (iv), (d)(iii) and (iv), or (e) as the case may be, does not apply in relation to that part of the development.
- (4) For the purposes of sub-paragraph (2)(b), arrangements are appropriate only if they secure that there is a compensation plan in place that secures appropriate compensation relative to the baseline habitat type, and which does not include the use of biodiversity credits.”.