STATUTORY INSTRUMENTS

2026 No. 494

ENVIRONMENTAL PROTECTION, ENGLAND

INFRASTRUCTURE PLANNING, ENGLAND

The Biodiversity Gain Site Register (Amendment) Regulations 2026

Made - - - -	*5th May 2026*
Laid before Parliament	*6th May 2026*
Coming into force - -	*29th May 2026*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 100(1), (4)(b) to (d), (5)(c), (6)(f), 142(1) and 143(1) of the Environment Act 2021(**a**).

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Biodiversity Gain Site Register (Amendment) Regulations 2026.

(2) These Regulations come into force on 29th May 2026.

(3) These Regulations extend to England and Wales.

PART 2

Amendment of the Biodiversity Gain Site Register Regulations 2024

Amendment of the Biodiversity Gain Site Register Regulations 2024

2. The Biodiversity Gain Site Register Regulations 2024(**b**) are amended in accordance with regulations 3 to 7.

(**a**) 2021 c. 30.
(**b**) S.I. 2024/45.

Amendment to regulation 2

3. In regulation 2 (interpretation), in paragraph (1)—

(a) before the definition of "the biodiversity gain site register" insert—

""biodiversity gain site" means land where—

(a) a person is required under a conservation covenant(**a**) or planning obligation(**b**) to carry out works for the purpose of habitat enhancement(**c**);

(b) that or another person is required to maintain the enhancement for at least 30 years after the completion of those works; and

(c) for the purposes of Schedule 7A to the Town and Country Planning Act 1990(**d**) or Schedule 2A to the Planning Act 2008(**e**) the enhancement is made available to be allocated (conditionally or unconditionally, and whether for consideration or otherwise) in accordance with the terms of the covenant or obligation to one or more developments for which planning permission(**f**) or development consent is granted;";

(b) after the definition of "the biodiversity gain site register" insert—

""development" means—

(a) in relation to cases involving planning permission, development within the meaning of section 55 of the Town and Country Planning Act 1990(**g**), and

(b) in relation to cases involving development consent, development within the meaning of section 32 of the Planning Act 2008.

"development consent" has the meaning given in section 31 of the Planning Act 2008;".

Amendment to regulation 6

4. In regulation 6 (land eligible to be registered), in paragraph (5)—

(a) after "Schedule 7A to the Town and Country Planning Act 1990" insert "or Schedule 2A to the Planning Act 2008 (as the case may be)";

(b) after "planning permission" insert "or development consent (as the case may be)".

Amendment to regulation 8

5. In regulation 8 (required content of application to register land in the biodiversity gain site register), in paragraph (2)(k)—

(**a**) For the meaning of "conservation covenant" see section 118(1) of the Environment Act 2021.

(**b**) By virtue of section 100(11) of the Environment Act 2021, "planning obligation" has the same meaning as in Schedule 7A to the Town and Country Planning Act 1990 (c. 8). See the amendment made to section 106(1) of the Town and Country Planning Act 1990 by paragraph 3(13) of Schedule 14 to the Environment Act 2021.

(**c**) "Habitat enhancement" means enhancement of the biodiversity of habitat: see section 100(11) of the Environment Act 2021 and paragraph 12(2) of Schedule 7A to the Town and Country Planning Act 1990.

(**d**) Schedule 7A to the Town and Country Planning Act 1990 was inserted by paragraph 2 of Schedule 14 to the Environment Act 2021 and was amended by section 135 of the Levelling-up and Regeneration Act 2023 (c. 5) and by S.I. 2024/49 and 2025/418.

(**e**) 2008 c. 29. Schedule 2A was inserted by Schedule 15 to the Environment Act 2021.

(**f**) By virtue of section 100(11) of the Environment Act 2021, the expression "planning permission" has the same meaning as in Schedule 7A to the Town and Country Planning Act 1990.

(**g**) Section 55 was amended by sections 13 and 14 of, and paragraph 9 of Schedule 6 to, the Planning and Compensation Act 1991 (c. 34), section 49 of, and paragraph 2 of Schedule 6 to, the Planning and Compulsory Purchase Act 2004 (c. 5) and S.I. 1999/293.

(a) in the text before sub-paragraph (i), after "planning permission" insert "or development consent (as the case may be)";

(b) in sub-paragraph (iii), after "Schedule 7A to the Town and Country Planning Act 1990" insert "or Schedule 2A to the Planning Act 2008 (as the case may be)".

Amendment to regulation 12

6. In regulation 12 (applications to record allocation of habitat enhancement to a development after registration of the land), in paragraph (1)(a), after "planning permission" insert "or development consent (as the case may be)".

Amendment to regulation 13

7. In regulation 13 (required content of applications to record allocation of habitat enhancement), in paragraph (1)—

(a) after "planning permission" insert "or development consent (as the case may be)";

(b) in sub-paragraph (h), after "Schedule 7A to the Town and Country Planning Act 1990" insert "or Schedule 2A to the Planning Act 2008 (as the case may be)".

Mary Creagh
Parliamentary Under-Secretary of State
Department for Environment, Food and Rural Affairs

5th May 2026

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Biodiversity Gain Site Register Regulations 2024 (S.I. 2024/45, "the 2024 Regulations") which make provision for and in relation to a register of biodiversity gain sites ("the biodiversity gain site register").

Regulation 3 amends regulation 2 of the 2024 Regulations to include definitions for "biodiversity gain site", "development" and "development consent". The term "biodiversity gain site" is used in regulation 3 of the 2024 Regulations, and for the purposes of the 2024 Regulations the definition inserted by this instrument supersedes the definition contained in section 100 of the Environment Act 2021 (c. 30) under which section those Regulations were made.

Regulation 4 amends regulation 6 of the 2024 Regulations so that land where development consent has been granted under the Planning Act 2008 (c. 29) ("the 2008 Act") is eligible for inclusion in the biodiversity gain site register.

Regulation 5 amends regulation 8 of the 2024 Regulations so that applications to register land in the biodiversity gain site register which involve allocation of any of the habitat enhancement from the works on that land can provide for such allocation to a development for which development consent has been granted under the 2008 Act.

Regulations 6 and 7 amend regulations 12 and 13 of the 2024 Regulations to allow an application in respect of land which is already on the biodiversity gain site register to allocate habitat enhancement to a development for which development consent has been granted under the 2008 Act.

A full impact assessment has not been produced for this instrument because no, or no significant, impact on the private, voluntary or public sector is foreseen.

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