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STATUTORY INSTRUMENTS

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**2024 No. 45**

**The Biodiversity Gain Site Register Regulations 2024**

**PART 6**

**Amendment of an entry in the biodiversity gain site register on the register operator's own initiative**

**Amendment of an entry in the biodiversity gain site register without application**

**20.**—(1) This regulation applies where—

- (a) land is registered in an entry in the biodiversity gain site register in relation to a particular conservation covenant or section 106 agreement, and
- (b) the register operator considers that the information in the entry is inaccurate or incomplete.

(2) The register operator may, in accordance with this Part, amend the entry so that the information in question is complete and accurate.

(3) For the purposes of paragraph (1), the circumstances in which information in an entry in the biodiversity gain site register is inaccurate include the situation where—

- (a) an allocation of habitat enhancement to a development is recorded in the entry, but
- (b) that habitat enhancement was allocated to the development otherwise than in accordance with—
  - (i) where the enhancement is made available to be allocated under a conservation covenant, the terms of the conservation covenant, or
  - (ii) where the enhancement is made available to be allocated under a section 106 agreement, the terms of a planning obligation in the section 106 agreement.

(4) Where the register operator considers that information in the entry is inaccurate as mentioned in paragraph (3), amendment of the entry under paragraph (2) may include removing the record of the allocation of the habitat enhancement to the development in question.

(5) This regulation does not apply where the register operator has received an application referred to in regulation 17(1) to amend the same information on the same grounds.

**Notice of intent to be given before entry is amended under regulation 20**

**21.**—(1) Before exercising its power under regulation 20 to amend an entry in the biodiversity gain site register in which land is registered in relation to a conservation covenant or section 106 agreement, the register operator must give notice of its intention to do so (a “notice of intent”) to every required recipient.

(2) A “required recipient” of a notice of intent under paragraph (1) is a person who the register operator believes, on the basis of any information in the register operator's possession, is—

- (a) a person on whom a relevant requirement is imposed under the conservation covenant or section 106 agreement, or

(b) a person by whom any such requirement is enforceable.

(3) For the purposes of paragraph (2), where the land is registered in relation to a conservation covenant, a “relevant requirement” under the conservation covenant is a requirement under the covenant—

(a) to carry out works on the land for the purpose of habitat enhancement, or

(b) to maintain any habitat enhancement to be achieved by works required to be carried out on the land for that purpose under the covenant or obligation.

(4) For the purposes of paragraph (2), where the land is registered in relation to a section 106 agreement, a “relevant requirement” under the section 106 agreement is a requirement under a planning obligation in the section 106 agreement—

(a) to carry out works on the land for the purpose of habitat enhancement, or

(b) to maintain any habitat enhancement to be achieved by works required to be carried out on the land for that purpose under a planning obligation in the section 106 agreement.

(5) A notice of intent given under paragraph (1) must—

(a) identify the entry which the register operator intends to amend;

(b) inform the recipient of the notice that the register operator considers that the information in the entry is inaccurate or incomplete;

(c) explain why the register operator considers that the information in the entry is inaccurate or incomplete;

(d) inform the recipient of the notice that the register operator intends to amend the entry;

(e) inform the recipient of the right to make representations under regulation 22.

### **Right to make representations**

**22.**—(1) A person to whom a notice of intent is given under regulation 21 in relation to an entry in the biodiversity gain site register may, within the period of 28 days beginning with the day after the day on which that notice is given, make representations in writing about why the entry should not be amended.

(2) The register operator must have regard to any representations received under paragraph (1) in deciding whether to amend the entry.

### **Decision to amend an entry in the biodiversity gain site register**

**23.**—(1) After the period for making representations under regulation 22(1) about the proposed amendment of an entry in the biodiversity gain site register has expired in relation to every notice of intent given under regulation 21, the register operator must decide whether to amend the entry.

(2) Where the register operator amends the entry, it must—

(a) give notice that it has done so to each person to whom a notice of intent was given, and

(b) record in the biodiversity gain site register—

(i) the date on which the entry was amended, and

(ii) a description of the amendments made.

(3) A notice under paragraph (2)(a) must—

(a) give reasons for the register operator’s decision to amend the entry, and

(b) contain information about the right of appeal under regulation 30(5).

(4) Where the register operator decides not to amend the entry, it must give notice that it has made that decision to each person to whom a notice of intent was given.

(5) A person to whom notice of the amendment of the entry was not given under paragraph (2)(a) may make a request in writing to the register operator for a statement of the reasons for the register operator's decision to amend the entry.

(6) A request under paragraph (5) must contain—

(a) an address to which the requested statement of reasons may be sent to the person by post, and

(b) an email address to which the requested statement may be sent to the person by email.

(7) On receipt of a request under paragraph (5) which complies with paragraph (6), the register operator must as soon as practicable give notice to the person who made the request, setting out the reasons for the register operator's decision.