

*Status: Point in time view as at 12/02/2024.*

*Changes to legislation: There are currently no known outstanding effects for the Environment Act 2021, Paragraph 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 14

#### BIODIVERSITY GAIN AS CONDITION OF PLANNING PERMISSION

#### PART 2

##### CONSEQUENTIAL AMENDMENTS

- 3 (1) The Town and Country Planning Act 1990 is amended as follows.
- (2) In section 56 (time when development begins), in subsection (3), at the end insert “and paragraph 13 of Schedule 7A”.
- (3) In section 69 (register of applications etc)—
- (a) in subsection (1), at the end insert—
- “(e) applications for approval of biodiversity gain plans under Part 2 of Schedule 7A.”;
- (b) in subsection (2)(a), for “and (aza)” substitute “, (aza) and (e)”.
- (4) In section 70 (determination of applications: general considerations), in subsection (1)(a), after “section 62D(5)” insert “, paragraph 13 of Schedule 7A”.
- (5) In section 73 (determination of applications to develop land after non-compliance), after subsection (2A) insert—
- “(2B) Nothing in this section authorises the disapplication of the condition under paragraph 13 of Schedule 7A (biodiversity gain condition).
- (2C) Subsection (2D) applies where—
- (a) for the purposes of paragraph 13 of Schedule 7A a biodiversity gain plan was approved in relation to the previous planning permission (“the earlier biodiversity gain plan”),
- (b) planning permission is granted under this section, and
- (c) the conditions subject to which the planning permission is granted under this section do not affect the post-development biodiversity value of the onsite habitat as specified in the earlier biodiversity gain plan.
- (2D) Where this subsection applies, the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A in relation to the planning permission granted under this section.”
- (6) In section 74A (deemed discharge of planning permission conditions), after subsection (2) insert—
- “(2A) But this section does not apply to the condition under paragraph 13 of Schedule 7A (biodiversity gain condition).”

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- (7) In section 76C (provisions applying to applications made under section 62A), in subsection (2), after “Schedule 1” insert “, or by regulations under paragraph 14(3) or 16 of Schedule 7A.”.
- (8) In section 84 (simplified planning zone schemes: conditions and limitations on planning permission), at the end insert—
- “(5) A simplified planning zone scheme may not disapply the condition under paragraph 13 of Schedule 7A (biodiversity gain condition).”
- (9) In section 88 (enterprise zones), after subsection (3) insert—
- “(3A) Subsection (3) is subject to paragraph 13 of Schedule 7A (biodiversity gain condition).”
- (10) In section 96A (power to make non-material changes to planning permission), after subsection (3) insert—
- “(3A) The conditions referred to in subsection (3)(b) do not include the condition under paragraph 13 of Schedule 7A (biodiversity gain condition).”
- (11) In section 97 (revocation or modification of planning permission), at the end insert—
- “(7) Subsection (1) does not permit the revocation or modification of the condition under paragraph 13 of Schedule 7A (the biodiversity gain condition), subject as follows.
- (8) The Secretary of State may by regulations make provision—
- (a) for the condition under paragraph 13 of Schedule 7A to apply in relation to the modification of planning permission under this section, subject to such modifications as may be specified in the regulations;
- (b) for planning permission modified under this section to be subject to other conditions relating to meeting the biodiversity gain objective referred to in paragraph 2 of Schedule 7A (including conditions of a kind referred to in paragraph 20(3) of that Schedule).”
- (12) In section 100ZA (restriction on power to impose planning conditions in England), in subsection (13)(c), after “limitation” insert “but do not include the condition under paragraph 13 of Schedule 7A (biodiversity gain condition)”.
- (13) In section 106 (planning obligations), in subsection (1), in the words before paragraph (a), after “106C” insert “, Schedule 7A”.
- (14) In section 106A (modification and discharge of planning obligations), after subsection (6) insert—
- “(6A) Except in such cases as may be prescribed, the authority may not under subsection (6) discharge or modify the planning obligation if the authority considers that doing so would—
- (a) prevent the biodiversity gain objective referred to in paragraph 2 of Schedule 7A from being met in relation to any development, or
- (b) give rise to a significant risk of that objective not being met in relation to any development.”
- (15) In section 333 (regulations and orders), after subsection (3A) insert—

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“(3AA) No regulations may be made under paragraph 2(4) of Schedule 7A (biodiversity gain condition) unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.”

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**Commencement Information**

- I1** Sch. 14 para. 3 not in force at Royal Assent, see [s. 147\(3\)](#)
- I2** Sch. 14 para. 3 in force at 12.2.2024 by [S.I. 2024/44](#), [reg. 2\(1\)\(e\)](#) (with [reg. 4](#))

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