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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations bring into force provisions of the Environment Act 2021 (c. 30) (“the Act”). These are the eighth commencement regulations made by the Secretary of State under the Act. These Regulations also make transitional provision in connection with the coming into force of certain provisions brought into force by these Regulations.

Regulation 2 brings into force on 12th February 2024 specified sections of the Act.

Section 98 of, and paragraphs 1 and 2 of Schedule 14 to, the Act insert Schedule 7A into the Town and Country Planning Act 1990 (c. 8) (“the 1990 Act”) (together with section 90A, which introduces it). Schedule 7A to the 1990 Act makes provision for a statutory condition to apply to all planning permissions granted in England, subject to a power to grant exceptions. The condition is intended to ensure the biodiversity gain objective is met. The provisions in Schedule 7A to the 1990 Act are commenced so far as they relate to planning permissions granted on application made under Part 3 of the 1990 Act, other than planning permissions relating to development to which section 73A of the 1990 Act (planning permission for development already carried out) applies.

Section 100 of the Act, which is already partially commenced, makes provision for a public register to record off-site biodiversity gain sites and the allocation of any habitat enhancement from that site to any development.

Section 101 of the Act provides for the creation of a system to sell a supply of statutory biodiversity credits to the habitat compensation market.

Paragraph 3 of Schedule 14 to the Act makes consequential amendments to the 1990 Act.

Regulations 3 and 4 make transitional provision in respect of the biodiversity gain requirement brought into force by these Regulations. The transitional provision in regulation 3 provides that the biodiversity gain planning condition does not apply to planning permissions where the application for planning permission was made before 12th February 2024. The transitional provision in regulation 4 provides that where the application for planning permission was made, or planning permission was granted, for a development before 12th February 2024 the biodiversity gain planning condition also does not apply to any subsequent planning permission for that development granted on an application made under section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached).

An impact assessment has not been published for these Regulations as they have no impact on cost to business, the public or voluntary sectors independent of the provisions these Regulations bring into force. A full impact assessment has been published in relation to the Act and copies can be obtained from the website of the Department for Environment, Food and Rural Affairs at [www.gov.uk/defra](http://www.gov.uk/defra) or from the Department for Environment, Food and Rural Affairs at 2 Marsham Steet, London, SW1P 4DF, United Kingdom.