
STATUTORY INSTRUMENTS

2024 No. 45

The Biodiversity Gain Site Register Regulations 2024

PART 4

**Recording allocation of habitat enhancement
to a development after registration of the land**

Applications to record allocation of habitat enhancement to a development after registration of the land

12.—(1) This regulation applies where—

- (a) after land has been registered in an entry in the biodiversity gain site register under regulation 11 in relation to a particular conservation covenant or section 106 agreement, any habitat enhancement to be achieved by the works required to be carried out on the land for the purpose of habitat enhancement under the covenant or under a planning obligation in the section 106 agreement (“the required enhancement works”) is allocated, in accordance with the terms of the covenant or obligation, to a development for which planning permission has been granted,
- (b) the biodiversity gain site register does not already record that allocated habitat enhancement as having been allocated to a development, and
- (c) the information recorded in the entry in question about the projected type, size and condition of habitats on the land as a result of works required to be carried out on the land includes the projected type, size and condition, as a result of the required enhancement works, of each habitat to which that allocated habitat enhancement relates.

(2) An application may be made to the register operator to record the allocation of the habitat enhancement to the development in the entry in question.

(3) An application referred to in paragraph (2) may only be made by—

- (a) a relevant person, or
- (b) a person who has the consent of every relevant person to make the application.

(4) In this Part a “relevant person”, in relation to an application to record the allocation of habitat enhancement to a development in an entry in the biodiversity gain site register, means—

- (a) where land is registered in the entry in relation to a conservation covenant—
 - (i) a person who is required under the covenant to carry out works on the land to achieve any of the allocated habitat enhancement,
 - (ii) a person who is required under the covenant to maintain any of the allocated habitat enhancement, or
 - (iii) a person by whom a requirement referred to in paragraph (i) or (ii) is enforceable, but not the responsible body under the covenant;
- (b) where land is registered in the entry in relation to a section 106 agreement, a person who is required under a planning obligation in the section 106 agreement—

- (i) to carry out works on the land to achieve any of the allocated habitat enhancement, or
- (ii) to maintain any of the allocated habitat enhancement.

(5) An application referred to in paragraph (2) may be withdrawn by the applicant, but the withdrawal of an application is effective only if the register operator receives a written notification of the withdrawal from the applicant before deciding whether to accept or reject the application.

(6) In paragraph (1)(c), the references to the “type”, “size” and “condition” of any habitat are to be construed in accordance with regulation 8(5).

Required content of applications to record allocation of habitat enhancement

13.—(1) An application referred to in regulation 12(2) (made to record, in an entry in the biodiversity gain site register, the allocation of habitat enhancement to a development for which planning permission has been granted) must include the following—

- (a) the name of the applicant;
- (b) evidence that the applicant is entitled under regulation 12 to make the application;
- (c) an address to which notices under these Regulations in connection with the application may be sent by post to the applicant;
- (d) an email address to which such notices may be sent to the applicant;
- (e) the registration number assigned to the entry in question under regulation 11(2)(b);
- (f) information identifying the development;
- (g) in relation to each habitat to which the allocated habitat enhancement relates, its projected type, size and condition as a result of the works required to be carried out to achieve the allocated habitat enhancement under—
 - (i) where the land is registered in the entry in question in relation to a conservation covenant, the conservation covenant, or
 - (ii) where the land is registered in the entry in question in relation to a section 106 agreement, the planning obligations in the section 106 agreement.
- (h) the biodiversity value (for the purposes of Schedule 7A to the Town and Country Planning Act 1990) of the allocated habitat enhancement in relation to the development.

(2) In paragraph (1)(g), the references to a habitat’s “type”, “size” and “condition” are to be construed in accordance with regulation 8(5).

Determination of application to record allocation of habitat enhancement

14.—(1) This regulation applies where the register operator has received an application referred to in regulation 12(2) (made to record the allocation of any habitat enhancement in an entry in the biodiversity gain site register).

(2) If the register operator does not receive payment of a fee for the application in accordance with the Biodiversity Gain Site Register (Financial Penalties and Fees) Regulations 2024, the register operator must reject the application.

(3) The following provisions of this regulation apply where the register operator has received payment of a fee for the application in accordance with those Regulations.

(4) Subject to paragraph (12), the register operator must consider the application and must, in accordance with the following provisions of this regulation, either accept or reject it.

(5) Subject to the following provisions of this regulation, the application must be accepted if—

- (a) it appears to the register operator that the application includes the evidence and other information required by regulation 13(1), and
 - (b) the register operator is satisfied that—
 - (i) the conditions in regulation 12(1) are met, and
 - (ii) the applicant is entitled under regulation 12 to make the application.
- (6) The register operator may, by giving notice to the applicant, request any information it needs in order to determine whether it is required by paragraph (5) to accept the application.
- (7) Where, having given notice under paragraph (6) requesting information from the applicant, the register operator is satisfied that it has received all of the information requested by that notice, the register operator must as soon as practicable give notice to the applicant informing the applicant that it is so satisfied.
- (8) The application must be rejected—
- (a) if—
 - (i) it does not appear to the register operator as mentioned in paragraph (5)(a), or
 - (ii) the register operator is not satisfied as mentioned in paragraph (5)(b),and the register operator has decided not to make a request (or a further request) for information under paragraph (6), or
 - (b) if the register operator considers that false or misleading information has been supplied to it in connection with the application.
- (9) Where the register operator decides that it is necessary, for the purposes of considering the application, to investigate whether any information supplied to it in connection with the application is false or misleading, it must—
- (a) give notice to the applicant as soon as practicable informing the applicant that it has so decided, and
 - (b) as soon as practicable after concluding the investigation, give notice to the applicant that it has concluded the investigation,
- and a notice under this paragraph must state the date on which the decision was made or the investigation was concluded (as the case may be).
- (10) The register operator may reject the application if—
- (a) it has given notice requesting information from the applicant under paragraph (6),
 - (b) a period of three months beginning with the day on which the notice was given has expired, and
 - (c) it has not been provided with the requested information.
- (11) A notice under paragraph (6) must explain the effect of paragraph (10).
- (12) Paragraph (4) ceases to apply in relation to the application if the application is withdrawn (see regulation 12(5)).

Register operator to give notice of the outcome of an application to record allocation of habitat enhancement

15.—(1) Where the register operator accepts an application referred to in regulation 12(2) (made to record the allocation of any habitat enhancement in an entry in the biodiversity gain site register) it must give notice to the applicant that the application has been accepted.

(2) Where the register operator rejects such an application, it must give notice to the applicant that the application has been rejected.

- (3) A notice under paragraph (2) must—
 - (a) give reasons for the register operator’s decision to reject the application, and
 - (b) contain information about the right of appeal under regulation 30(2).

Information to be recorded in the register when application to record allocation of habitat enhancement is accepted

16. Where the register operator accepts an application referred to in regulation 12(2) (made to record the allocation of any habitat enhancement in an entry in the biodiversity gain site register) it must, as soon as practicable—

- (a) record the allocation of the habitat enhancement in the entry in question, and
- (b) record in that entry, in relation to that allocation, the information included in the application under regulation 13(1)(f) to (h).