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## EXPLANATORY NOTE

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

The Environment Act 2021 (c. 30) inserted section 90A and Schedule 7A into the Town and Country Planning Act 1990 (c. 8) (biodiversity gain in England). They set out that (subject to exceptions) every planning permission for the development of land in England is deemed to be granted subject to a new general condition. The condition requires a biodiversity gain plan to be submitted and approved by the planning authority before development can lawfully be begun. The biodiversity gain plan must contain an assessment of the value of natural habitats before development and after development, and ensure that at least a 10% net gain is achieved between the earlier and later values.

Part 2 of these Regulations modifies Part 2 of Schedule 7A the Town and Country Planning Act 1990. It does this for (a) the grant of outline planning permission where the reservation of matters for subsequent approval has the effect of requiring or permitting development to proceed in phases; and for (b) the grant of any kind of planning permission, where the grant is subject to conditions (whether requiring the subsequent approval of any matters or otherwise) having that same effect. Regulation 4 modifies the condition subject to which planning permission is deemed to have been granted relating to biodiversity gain (the biodiversity gain condition) so that biodiversity gain plans are required before development begins for the overall development and for each phase of development. Regulations 5 and 6 modify the meaning of the biodiversity gain plan to provide for biodiversity gain plans which are required for the overall development and for each phase of development, and to set out the matters to be specified in those plans. Regulations 7 and 8 modify the provision for approval of such plans.

Part 3 amends the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 (S.I. 2013/2140) and Part 4 amends the Town and Country Planning (Development Management Procedure) (England) Order 2015 (S.I. 2015/595). The amendments provide that relevant applications for planning permission must be accompanied by specified information relating to the biodiversity gain condition. The Orders are further amended to make provision for decision notices on the grant of permission to include information relevant to the biodiversity gain condition and for planning registers to include biodiversity gain plan information.

Regulation 19 inserts a new Part 7A into S.I. 2015/595 to provide for form, timing, additional content, determination and appeals against refusal, or non-determination, of the biodiversity gain plan.

An Explanatory Memorandum has been published alongside these Regulations on [www.legislation.gov.uk](http://www.legislation.gov.uk). A full impact assessment of the effect of Biodiversity Net Gain on the costs of business, the voluntary and the public sector was published during the passage of the Environment Act 2021 (under which this instrument has been made) and is available from the Department for Levelling Up, Housing and Communities, 2 Marsham Street, London, SW1P 4DF.