2024 No. 44

ENVIRONMENTAL PROTECTION

The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024

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Made *17th January 2024*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 147(3) and (10) and 148(1) of the Environment Act 2021.

Extent

Preamble: United Kingdom

Law In Force

1.— Citation and interpretation

(1) These Regulations may be cited as the Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

(2) In these Regulations—

"the Act" means the Environment Act 2021;

"the 1990 Act" means the Town and Country Planning Act 1990;

"biodiversity gain planning condition" means the condition referred to in paragraph 13 (general condition of planning permission) of Schedule 7A to the 1990 Act.

Commencement

reg. 1(1)-(2) definition of "biodiversity gain planning condition": January 17, 2024

Extent

reg. 1(1)-(2) definition of "biodiversity gain planning condition": United Kingdom

Law In Force

2.— Provisions coming into force on 12th February 2024

(1) The following provisions of the Act come into force on 12th February 2024—

(a) section 98 (biodiversity gain as condition of planning permission) in so far as it relates to the provisions commenced by sub-paragraph (d) of this paragraph;

(b) section 100 (biodiversity gain site register), for all remaining purposes;

(c) section 101 (biodiversity credits);

(d) paragraphs 1 and 2 of Schedule 14 (biodiversity gain as condition of planning permission) in so far as they insert the following provisions of Schedule 7A into the 1990 Act, for the purposes mentioned in paragraph (2) of this regulation—

(i) paragraphs 1 and 2;

(ii) paragraphs 5 to 11;

(iii) paragraph 12(1), except paragraph (a) in the definition of "planning authority";

(iv) paragraph 12(3);

(v) paragraphs 13 to 21;

(e) paragraph 3 of Schedule 14 (biodiversity gain as condition of planning permission: consequential amendments).

(2) The purposes referred to in paragraph (1)(d) of this regulation relate to planning permission granted on an application made under Part 3 of the 1990 Act, other than planning permission relating to development to which section 73A of the 1990 Act (planning permission for development already carried out)[1] applies.

Notes

[1] Section 73A was inserted by paragraph 16(1) of Schedule 7 of the Planning and Compensation Act 1991 (c. 34).

Commencement

reg. 2(1)-(2): January 17, 2024

Extent

reg. 2(1)-(2): United Kingdom

Law In Force

3. Transitional provision: planning permission applied for before 12th February 2024

The biodiversity gain planning condition does not apply in relation to a planning permission within the scope of regulation 2(2) of these Regulations, where the application for planning permission was made before 12th February 2024.

Commencement

reg. 3: January 17, 2024

Extent

reg. 3: United Kingdom

Law In Force

4.— Transitional provision: section 73 planning permissions

(1) The biodiversity gain planning condition does not apply in relation to a section 73 planning permission where—

(a) the original planning permission to which the section 73 planning permission relates was granted before 12th February 2024; or

(b) the application for the original planning permission to which the section 73 planning permission relates was made before 12th February 2024.

(2) For the purposes of this regulation—

(a) "section 73 planning permission" means a planning permission granted on an application made under section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached);

(b) "the original planning permission to which the section 73 planning permission relates" means a planning permission which is the first in a sequence of two or more planning permissions, where the second and any subsequent planning permissions are section 73 planning permissions.

Commencement

reg. 4(1)-(2)(b): January 17, 2024

Extent

reg. 4(1)-(2)(b): United Kingdom

Law In Force

Rebecca Pow
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs

17th January 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

Law In Force

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 or from the Department for Environment, Food and Rural Affairs at 2 Marsham Steet, London, SW1P 4DF, United Kingdom.

Commencement

para. 1: January 17, 2024

Extent

para. 1: United Kingdom

NOTE AS TO EARLIER COMMENCEMENT REGULATIONS

The following provisions of the Environment Act 2021 (c. 30) have been brought into force by commencement regulations and orders made before the date of these Regulations:

Provision	***Date of Commencement***	***S.I. No.***
Sections 1 to 7	24th January 2022	S.I. 2022/48 (C. 2)
Sections 8 to 15	24th January 2022	S.I. 2022/48 (C. 2)
Section 16	24th January 2022	S.I. 2022/48 (C. 2)
Sections 17 and 18	10th May 2022	S.I. 2022/518 (C. 21)
Section 19	10th May 2022 (partially)	S.I. 2022/518 (C. 21)
	1st November 2023 (for all remaining purposes)	S.I. 2023/381 (C. 18)
Section 20	10th May 2022	S.I. 2022/518 (C. 21)
Section 21	1st April 2022	S.I. 2022/48 (C. 2)
Sections 22 to 24	17th November 2021	S.I. 2021/1274 (C. 72)
Section 25	24th January 2022	S.I. 2022/48 (C. 2)
Section 26	17th November 2021	S.I. 2021/1274 (C. 72)
Section 27	24th January 2022	S.I. 2022/48 (C. 2)
Sections 28 to 30	24th January 2022	S.I. 2022/48 (C. 2)
Sections 31 to 41	24th January 2022	S.I. 2022/48 (C. 2)
Sections 42 and 43	24th January 2022	S.I. 2022/48 (C. 2)
Sections 44 to 47	17th November 2021	S.I. 2021/1274 (C. 72)
Section 48	25th July 2022	S.R. 2022 No. 54 (C. 5)
Section 49	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 50	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	28th February 2022 (partially)	S.R. 2022 No.54 (C. 5)
	7th March 2022 (partially)	S.I. 2022/223 (W. 71) (C. 10)
	9th November 2022 (for all remaining purposes)	S.S.I. 2022/305 (C. 18)
Section 51	28th February 2022 (for all remaining purposes	S.R. 2022 No. 54 (C. 5)
Section 52	28th February 2022 (for all remaining purposes	S.R. 2022 No. 54 (C. 5)
Section 53	28th February 2022 (for all remaining purposes	S.R. 2022 No. 54 (C. 5)
Section 54	28th February 2022 (for all remaining purposes	S.R. 2022 No. 54 (C. 5)
Section 55	28th February 2022 (for all remaining purposes	S.R. 2022 No. 54 (C. 5)
Section 56	28th February 2022 (for all remaining purposes	S.R. 2022 No. 54 (C. 5)
Section 59	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 60	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	7th March 2022 (for all remaining purposes)	S.I. 2022 No. 223 (W. 71) (C. 10)

Provision	*Date of Commencement*	*S.I. No.*
Section 61	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 62	24th January 2022	S.I. 2022/48 (C. 2)
Section 64	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	7th March 2022 (partially)	S.I. 2022 No. 223 (W. 71) (C. 10)
	9th November 2022 (partially)	S.S.I. 2022/305 (C. 18)
Section 65	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 67	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 68	1st April 2023 (partially)	S.I. 2023/381 (C. 18)
Section 69	1st April 2023 (partially)	S.I. 2023/381 (C. 18)
Section 71	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 72	1st May 2022	S.I. 2022/48 (C. 2)
Section 73	1st May 2022 (partially)	S.I. 2022/48 (C. 2)
Section 82	3rd November 2023 (partially)	S.I. 2023/1170 (C. 77)
Section 85	10th May 2022 (partially)	S.I. 2022/518 (C. 21)
Section 86	24th January 2022	S.I. 2022/48 (C. 2)
Section 87	10th May 2022 (partially)	S.I. 2022/518 (C. 21)
Section 89	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Section 91	28th February 2022	S.R. 2022 No. 54 (C. 5)
Section 94	29th September 2022	S.I. 2022/988 (C. 75)
Section 96	29th September 2022 (partially)	S.I. 2022/988 (C. 75)
Section 98	3rd November 2023 (partially)	S.I. 2023/1170 (C. 77)
Section 100	3rd November 2023 (partially)	S.I. 2023/1170 (C. 77)
Sections 102 and 103	1st January 2023	S.I. 2022/1266 (C. 100)
Sections 104 to 108	24th January 2022	S.I. 2022/48 (C. 2)
Section 109	30th September 2022	S.I. 2022/518 (C. 21)
Section 110	24th January 2022	S.I. 2022/48 (C. 2)
Section 111	30th September 2022	S.I. 2022/518 (C. 21)
Sections 112 and 113	24th January 2022	S.I. 2022/48 (C. 2)
Section 114	1st January 2023	S.I. 2022/1266 (C. 100)
Section 115	30th November 2023	S.I. 2023/1170 (C. 77)
Section 116	30th September 2022 (partially)	S.I. 2022/518 (C. 21)
Part 7	30th September 2022	S.I. 2022/48 (C. 2)
Section 140	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 1	17th November 2021	S.I. 2021/1274 (C. 72)
Schedule 2	25th July 2022 (partially)	S.R. 2022 No. 54 (C. 5)
Schedule 3	28th February 2022	S.R. 2022 No. 54 (C. 5)
Schedule 4	24th January 2022 (partially)	S.I. 2022/48 (C. 2)
	28th February 2022 (partially)	S.R. 2022 No. 54 (C. 5)
	7th March 2022 (partially)	S.I. 2022 No. 223 (W. 71) (C. 10)

Provision	*Date of Commencement*	*S.I. No.*
	9th November 2022 (for all remaining purposes)	S.S.I. 2022/305 (C. 18)
Schedule 5	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 6	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 7	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 8	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 9	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)
Schedule 11	1st May 2022	S.I. 2022/48 (C. 2)
Schedule 12, Part 1	1st May 2022	S.I. 2022/48 (C. 2)
Schedule 12, Part 3	1st May 2022	S.I. 2022/48 (C. 2)
Schedule 13	24th January 2022	S.I. 2022/48 (C. 2)
Schedule 14	3rd November 2023 (partially)	S.I. 2023/1170 (C. 77)
Schedule 16	1st January 2023	S.I. 2022/1266 (C. 100)
Schedule 17	30th September 2022 (partially)	S.I. 2022/518 (C. 21)
Schedule 18	30th September 2022	S.I. 2022/48 (C. 2)
Schedule 19	30th September 2022	S.I. 2022/48 (C. 2)
Schedule 20	30th September 2022	S.I. 2022/48 (C. 2)
Schedule 21	28th February 2022 (for all remaining purposes)	S.R. 2022 No. 54 (C. 5)

Commencement

Note: January 17, 2024

Extent

Note: United Kingdom

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