



Biodiversity Net Gain: Here's what you need to know.

Outlining the upcoming changes to Biodiversity Net Gain in England, drawing upon global experience.

INTRODUCTION

The United Kingdom and Ireland are facing many challenges including climate change and rapid urbanisation which are adversely affecting biodiversity. Supporting biodiversity is imperative for healthy ecosystems, wellbeing, and nature conservation.

Biodiversity Net Gain (BNG) is the concept of enhancing biodiversity through development and leaving the natural environment in a measurably better state than it was pre-development, creating resilience for now and into the future.

This document outlines the upcoming legislation changes in England regarding BNG and considerations for the wider build environment.





New Legislation and Guidance Explained

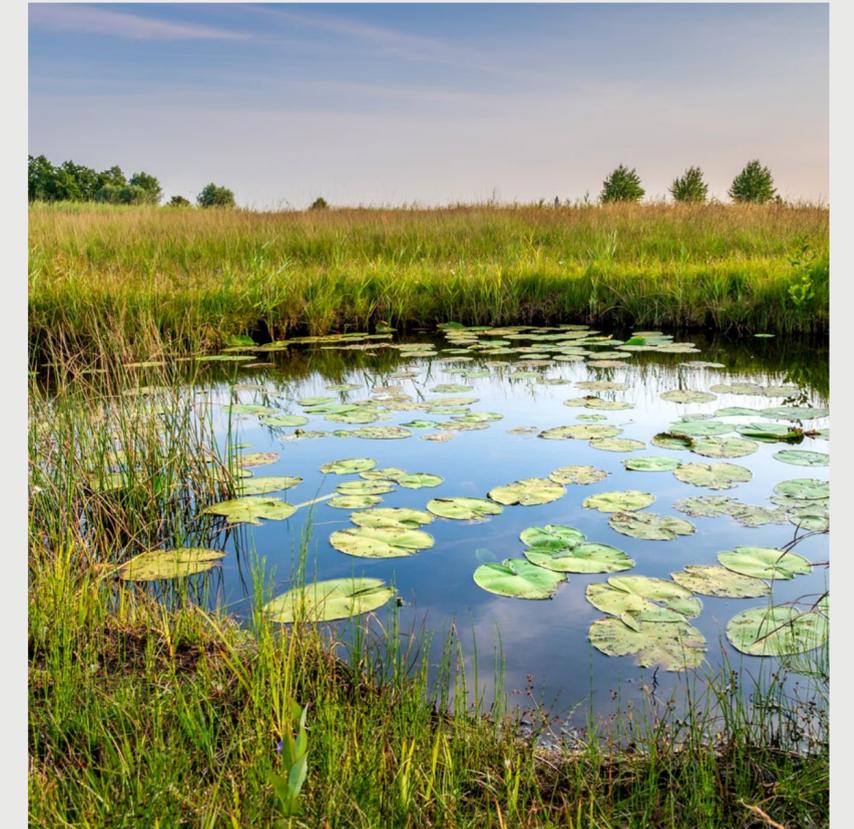
In November 2023, the UK government released long-promised new guidance and draft Regulations which will form part of the implementation of mandatory BNG in England, introduced by the Environment Act 2021.

BNG of a minimum 10% will be mandatory for all developments subject to planning permissions, except for certain specified exemptions and subject to different transitional arrangements for different types of development.

The government has advised that the mandatory measurable BNG requirement will come into effect on 12 February 2024; at first, this will apply to qualifying developments under Schedule 7A of the Town and Country Planning Act 1990; as inserted by Schedule 14 of the Environment Act 2021 and associated Statutory Instruments (Regulations). Subsequently, developers must deliver a BNG of 10%. The mandatory requirement for small-scale developments and Nationally Significant Projects (NSP) to deliver 10% BNG is currently scheduled to come into effect later in 2024 and 2025, respectively.

It is important to note that whilst the legislative mandatory requirement will come into effect on 12 February 2024, there remains a national policy requirement through the National Planning Policy Framework (NPPF). Furthermore, some Local Planning Authorities (LPAs) already have, or are developing, their own local planning policy requiring the delivery of measurable BNG through development, including some LPAs which require delivery of more than 10% BNG.

The requirement for measurable mandatory BNG will be an important consideration and potential opportunity for developers, local planning authorities and landowners or land-managers potentially wanting to sell biodiversity credits. The government has released guidance for landowners, developers and local planning authorities to accompany the new legislation; the mandatory BNG framework includes the legislation and the Defra Statutory Metric to calculate biodiversity value change.





Out with the Old, in with the New?

The mitigation hierarchy is a long-established principle that guides planners and designers towards limiting as far as possible the negative impacts on biodiversity from development projects. It follows the best-practice approach of avoiding and minimising negative impacts as far as possible, and then restoring land where there are opportunities to provide ecological enhancement, before finally considering offsetting residual impacts.

Under the framework of the mandatory requirement for 10% BNG, there is the facility to deliver the BNG through: habitat creation and enhancement within the site; habitat creation and enhancement outside the site (delivered by the developer, or through off-site biodiversity unit purchase); or through the purchase of Government Biodiversity Credits.

There are several features within the system that encourage the application of the mitigation hierarchy and discourage defaulting to the purchase of Credits:

- The functionality in the Statutory Biodiversity Metric encourages the retention and enhancement of higher distinctiveness habitats, along with the enhancement of lower distinctiveness habitats, to achieve on-site BNG.
- Where on-site BNG cannot be achieved, biodiversity delivery off-site within the local area is encouraged and habitat "Trading Rules" have to be demonstrated through Metric functionality.
- In order to access statutory Biodiversity Credits, a developer would need to demonstrate that they considered all other mitigation options ("Biodiversity Gain Hierarchy"). Furthermore, the Statutory Credits are priced deliberately high to encourage developers to seek other options.



Why do we need Biodiversity?

Biodiversity ensures the resilience and stability of ecosystems. It directly correlates to a vast array of essential resources such as food and medicine. Diverse ecosystems offer natural services including pollination, soil fertility, and air purification, benefitting agriculture and environmental health. Additionally, biodiversity contributes to scientific research, offering potential solutions for various challenges faced across the globe including climate change.

This legislation is a new framework for mandatory BNG and is a step-change in the industry in terms of biodiversity delivery requirements that has the potential to also combat climate, environmental and social challenges.



Challenges and Opportunities

THESE ARE EXCITING TIMES WE LIVE IN BUT CHANGE OFTEN COMES WITH CHALLENGES TO OVERCOME. THE IMMEDIATE POTENTIAL ISSUES WE CAN ENVISAGE WILL REQUIRE IRONING OUT IN THE SYSTEM ARE:

- **LPA Readiness - LPAs are responsible for reviewing and approving the delivery of BNG through development via the review of planning applications and documents delivered to discharge the BNG Condition requirement. They are also responsible for enforcement of the planning requirements. LPA readiness will inevitably vary across the country depending on the level of resource and relevant expertise within each LPA.**
- **Differential Application of BNG information requirements (pre- and post- planning application) across LPAs.**
- **Availability of Biodiversity Unit market providers across different geographic regions.**
- **Availability of Biodiversity Unit providers for different habitats, especially those of higher distinctiveness (to meet Trading Rules)**
- **Requirement to secure 30-year management and monitoring of BNG delivery; new agreements to explore for delivery (e.g., Conservation Covenants).**

These potential issues can be risk-managed through early consideration of ecological value, as well as engagement with key consultees and project designers, ideally as part of scheme feasibility. Early consideration of the habitats and their condition within the site also allows identification of those habitats which have the potential to change baseline value prior to development (increase or decrease) in the absence of appropriate management. The application of mitigation hierarchy and working BNG considerations into a scheme design will minimise/avoid impacts on higher value habitats and build biodiversity into development. This in turn would mean the need for off-sets is limited and, ideally, BNG is delivered on-site with its associated other environmental benefits.

There are also opportunities for landowners and land managers presented by the new legislation. There is the opportunity for landowners and managers to become custodians of biodiversity and to seek opportunities to create value from habitat creation and management of habitats within their land which they can realise through selling of BNG units. Creating a “habitat bank” in this way in order to sell BNG units would require securing delivery of the BNG Units through a legal agreement (planning obligation or conservation covenant). The delivery of the BNG would also need to be demonstrated within a Biodiversity Gain Plan, implemented over 30 years and the site would need to be registered on the national Biodiversity Gain Site register. Landowners also can explore the possibility of further maximising the value of land through the stacking of ecosystem service delivery, where this is allowed.



Stacking = delivery of ecosystem services within the same area of land. For example, current government guidance allows the delivery of nutrient neutrality and BNG units within the same land area.



What's next and **Top Tips**

The government have published a series of draft Guidance Notes and a new Statutory Metric version, in anticipation of commencement of the requirement for mandatory BNG from 12 February 2024.

Stantec's Ecology Team are ready and able to support clients with their mandatory BNG requirements and work with Stantec's multidisciplinary environmental team to maximise the wider benefits which can be achieved through effective biodiversity delivery. Stantec's collaborative approach enables us to effectively support clients with addressing any challenges which might need to be overcome within this new legislative framework. As part of the iterative design process

it would be beneficial for both ecology and landscape to be brought into the design of any potential scheme at the earliest opportunity. Where ecologists and landscapers work together early in the development of a scheme (e.g. at feasibility stage or early-stage Masterplanning) they can determine current habitat baseline values and identify habitats which should be retained and those which provide enhancement opportunities as a holistic part of the place-making process. The approach has the potential to create beautiful and functional places that are not solely driven by the Metric numbers alone.

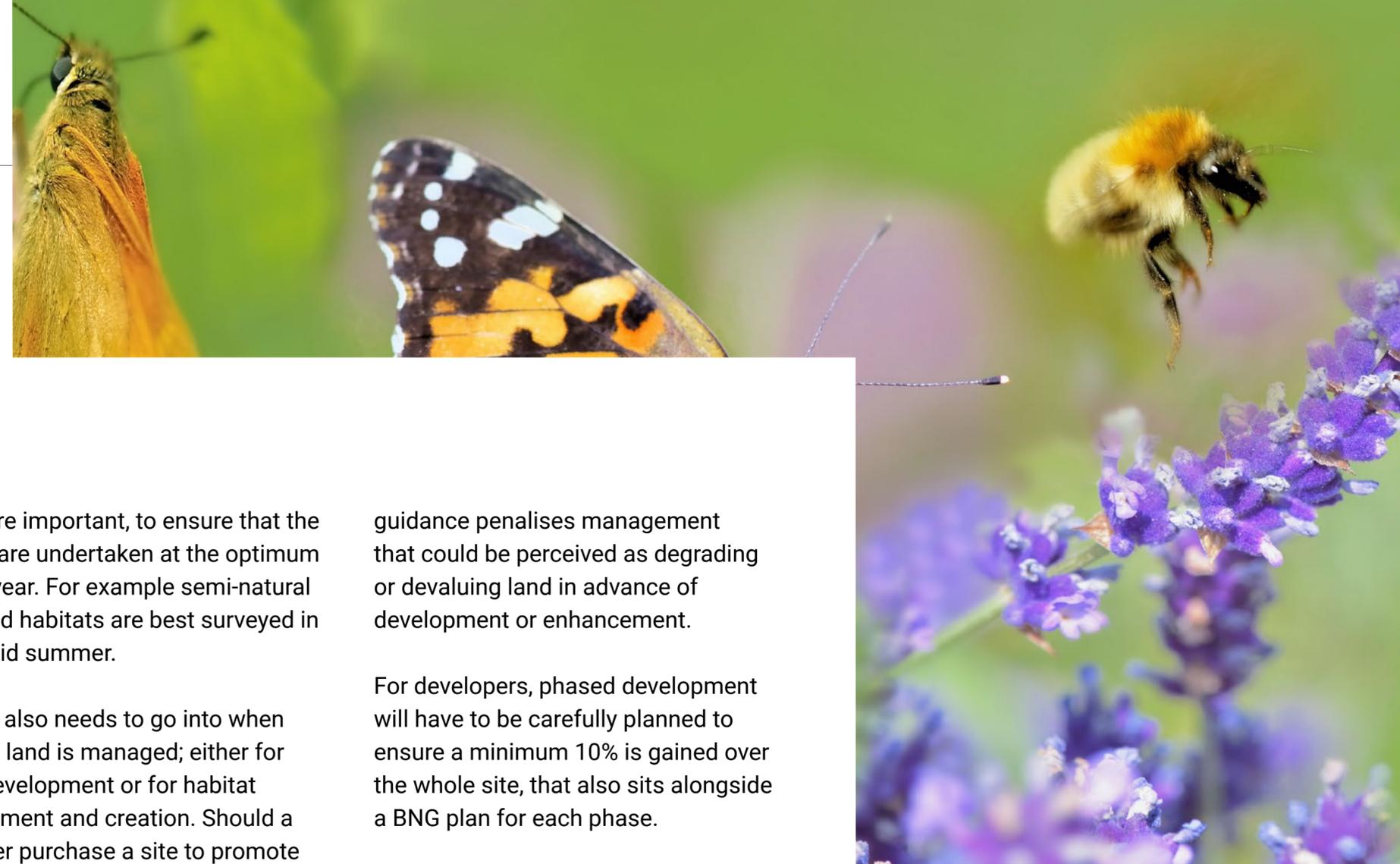
Consideration of the appropriate timing for habitat surveys to inform the BNG

Metric are important, to ensure that the surveys are undertaken at the optimum time of year. For example semi-natural grassland habitats are best surveyed in early—mid summer.

Thought also needs to go into when and how land is managed; either for future development or for habitat enhancement and creation. Should a developer purchase a site to promote through the local plan, this land could sit dormant for 5 years during which time the ecological value could change without a suitable management plan in place which later down the line could prejudice the quantum of development. Developers and land managers should also be wary of avoiding over-management of land as the BNG

guidance penalises management that could be perceived as degrading or devaluing land in advance of development or enhancement.

For developers, phased development will have to be carefully planned to ensure a minimum 10% is gained over the whole site, that also sits alongside a BNG plan for each phase.





Key contacts



Helen Evriviades
Technical Director: Ecology
helen.evriviades@stantec.com



Andrew Johns
Technical Director: Nature
Based Solutions
andrew.johns@stantec.com



Kerry Elliott
Senior Associate Ecologist
kerry.elliott@stantec.com

As a Global multi-disciplinary consultancy, Stantec has long-standing experience of delivering Ecosystem Restoration and Nature-based Solutions that secure benefits for biodiversity along with other ecosystem services which support local communities. This approach is central to Stantec's values of putting people first, better together, doing what is right, and being driven to achieve.

Explore some of the innovative and sustainable projects that we have worked on here:

[Ecosystem Restoration Page](#)

[Nature-based Solutions Page](#)

[UK Ecological Consultancy capability page](#)

Stantec's team, comprises Ecological Consultants, Data Scientists, Planners, Landscape Architects and other Environmental Specialists, who are ready and able to support our clients in this new legislative environment. We have the capability to manage the process for both developers and landowners in their interactions with BNG requirements.

Further guidance and advice will be provided by Stantec's team in due course, but we would be delighted to talk to clients about their specific situations to determine implications for their specific projects or plans.



Key links and resources

There are many resources available from the latest government release. Stantec has put together the following documentation list to support clients in these four core groups to navigate their way through the information. Alternatively, one of our friendly Team would be pleased to talk through your specific situation with you.

For Developers:

- Draft BNG Planning Practice Guidance, published by DLUHC which describes how the BNG requirements and deliverables fit within the planning system, and at what planning stage each are required: [Draft BNG planning practice guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/draft-bng-planning-practice-guidance.pdf)
- Developments exempt from the statutory BNG requirements: [BNG: exempt developments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/bng-exempt-developments.pdf)
- Guidance to developers looking to create and enhance habitat on-site to deliver BNG (BNG) (or contribute to BNG delivery): [Make on-site biodiversity gains as a developer - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/make-on-site-biodiversity-gains-as-a-developer.pdf)
- Guidance to developers looking to buy off-site biodiversity units to achieve BNG (BNG): steps and obligations: [Make off-site biodiversity gains as a developer - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/make-off-site-biodiversity-gains-as-a-developer.pdf)
- Where on-site 10% BNG is not possible and developer can prove that suitable off-site BNG cannot be secured privately or through a broker, statutory biodiversity credits will be available to purchase. The price per unit is shown here (NB a developer must purchase 2 x statutory credits for every 1 biodiversity unit needed to compensate for): [Statutory biodiversity credit prices - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/statutory-biodiversity-credit-prices.pdf)

- Guidance on requirements for their Biodiversity Gain Plan (this is a post-planning document required prior to commencement of development which confirms how the development achieves the required BNG standard); the guidance provides links to different templates for major developments and small sites and phased developments. The Biodiversity Gain Plan will also need to include a Habitat Management and Monitoring Plan for off-site or significant on-site gains (see below): [Submit a biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/submit-a-biodiversity-gain-plan.pdf)
- The Habitat Management and Monitoring Plan template is a tool to help structure management and monitoring plans to demonstrate how habitat creation, enhancement, management and monitoring will be undertaken over the 30 year period required for BNG delivery. The guidance issued states that HMMP is required for off-site BNG delivery and/or for "significant on-site enhancements" (as yet the latter is not defined). [Creating a habitat management and monitoring plan for BNG - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/creating-a-habitat-management-and-monitoring-plan-for-bng.pdf)
- The Habitat Management and Monitoring Plan template has been published by Natural England: [Habitat Management and Monitoring Plan Template - JP055 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk/our-work/land-use-and-planning/habitat-management-and-monitoring-plan-template), along with a blog on its use: [Natural England's habitat management and monitoring plan templates - Guest Natural England Blog \(Mike Burke, Head of Sustainable Development\) - Land use: policies and framework](https://www.naturalengland.org.uk/blog/2023/04/natural-englands-habitat-management-and-monitoring-plan-templates)

For Land Owners and Managers:

- Guidance on the steps land managers can take towards selling biodiversity units, including finding out the habitats that you could create and the biodiversity units you could sell, checking the other environmental payments and services that can be combined with BNG [Meet your BNG requirements: steps to take for land managers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/meet-your-bng-requirements-steps-to-take-for-land-managers.pdf)
- Guidance on how to sell biodiversity units to developers making off-site gains: explore the market, register a gain site and record allocations: [Sell biodiversity units as a land manager - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/sell-biodiversity-units-as-a-land-manager.pdf)
- The Habitat Management and Monitoring Plan template is a tool to help structure management and monitoring plans to demonstrate how habitat creation, enhancement, management and monitoring will be undertaken over the 30 year period required for BNG delivery. The guidance issued states that HMMP is required for off-site BNG delivery and/or for "significant on-site enhancements" (as yet the latter is not defined). [Creating a habitat management and monitoring plan for BNG - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/creating-a-habitat-management-and-monitoring-plan-for-bng.pdf)
- The Habitat Management and Monitoring Plan template has been published by Natural England: [Habitat Management and Monitoring Plan Template - JP055 \(naturalengland.org.uk\)](https://www.naturalengland.org.uk/our-work/land-use-and-planning/habitat-management-and-monitoring-plan-template), along with a blog on its use: [Natural England's habitat management and monitoring plan templates - Guest Natural England Blog \(Mike Burke, Head of Sustainable Development\) - Land use: policies and framework](https://www.naturalengland.org.uk/blog/2023/04/natural-englands-habitat-management-and-monitoring-plan-templates)
- Defra has put together some helpful flowcharts to guide land managers through the process, and to consider the different sale options: [BNG for land managers – step by step flowcharts - Land use: policies and framework \(blog.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/bng-for-land-managers-step-by-step-flowcharts.pdf)



For Local Planning Authorities:

- Guidance explaining how local planning authorities can ensure that developers and land managers meet the requirements for BNG (BNG). [BNG: what local planning authorities should do - GOV.UK \(www.gov.uk\)](#)
- Draft BNG Planning Practice Guidance, published by DLUHC: [Draft BNG planning practice guidance - GOV.UK \(www.gov.uk\)](#)
- Developments exempt from the statutory BNG requirements: [BNG: exempt developments - GOV.UK \(www.gov.uk\)](#)

Relevant to all working with BNG:

- Overview Government Guidance Page on BNG: [Understanding BNG - GOV.UK \(www.gov.uk\)](#) and blog page: [BNG guidance – what you need to know - Land use: policies and framework \(blog.gov.uk\)](#)
- Guidance on the Statutory Instruments relating to BNG: [The BNG Statutory Instruments - explained - Land use: policies and framework \(blog.gov.uk\)](#)
- Draft Statutory Instruments - this link provides links to the draft Statutory Instruments published so far which include:

[The Biodiversity Gain \(Town and Country Planning\) \(Modifications and Amendments\) \(England\) Regulations 2024](#)

[The Biodiversity Gain Requirements \(Exemptions\) Regulations 2024](#)

[The Biodiversity Gain Requirements \(Irreplaceable Habitat\) Regulations 2024](#)

[The Biodiversity Gain Site Register Regulations 2024](#)

From <https://www.gov.uk/guidance/understanding-biodiversity-net-gain#draft-statutory-instruments>

- Guidance on when and how to measure biodiversity using the biodiversity metric tool and who should use this tool: [Calculate biodiversity using the biodiversity metric - GOV.UK \(www.gov.uk\)](#)
- Updated Statutory Metric Tool and User Guidance for measuring the biodiversity value of habitat for BNG (note use of the statutory Metric should only be undertaken by those with ecological knowledge and experience of the habitat classification and condition assessment criteria): [Statutory biodiversity metric tools and guides - GOV.UK \(www.gov.uk\)](#)
- How land managers, developers, local planning authorities and responsible bodies can legally secure land or habitat enhancements for BNG: [Legal agreements to secure your BNG - GOV.UK \(www.gov.uk\)](#)

*pages last accessed 06/02/24