

The Age of Openness Dawns

The Economic Crime (Transparency and Enforcement) Act 2022 and its impact on property ownership

The United Kingdom Government has brought a new law into affect so that beneficial owners of non-UK companies that own UK property will be included on a publicly accessible register under provisions included in the Economic Crime (Transparency and Enforcement) Act 2022 (The “Act”). This was fast-tracked through Parliament and received Royal Assent on 15 March 2022.

The register of overseas entities is the UK’s latest tool in the worldwide drive towards transparency, in order to prevent money laundering, terrorist-financing and tax evasion.

In brief, the Act introduces a new register held at Companies House.

Any entity which is governed by the law of a country or territory outside the UK (which includes the Channel Islands) and which purchases property in the UK will need to enter onto this register.

The register will also have a retrospective effect. It will apply to overseas entities which have purchased properties in the UK since 1 January 1999.

The register will need to detail all individual beneficial owners who have significant influence or control over the entity. The qualifying beneficial owner includes those holding more than 25% of the shares or voting rights (similar to the Persons of Significant Control register for UK companies). Individuals who do not have over 25% of the voting rights or shares but who exercise significant control over the entity (or have the right to do so) are also caught, as are those with the right to remove or appoint a majority of the board of directors.

The register will be available for the public to view free of charge. It must also be updated annually and serious criminal penalties are proposed for those who fail to comply, including custodial sentences. Failure to register is a fine of £2,500 per day.

In practical terms, the Land Registry will not register overseas entities as owners of UK property unless they have registered the beneficial ownership at Companies House and received the associated ID number. Overseas entities will also be prevented from selling, mortgaging or granting long leases of their properties unless they have complied with the Companies House requirements. Significantly, non UK Trusts are not within the scope of the new legislation. Please contact me if you need further advice on this.

Therefore, to summarise:

1. within 6 months of the Register going live, owners will need to apply for registration of their beneficial ownership on the new register at Companies House;
2. upon valid registration, Companies House will issue the relevant Notice;
3. the relevant Notice also has to be registered at the Land Registry. Without it, the property cannot be mortgaged, sold or there be any dealings with the title.

I am advising my clients to take this opportunity to begin or accelerate to de-envelope their UK properties and transfer it into their individual names or a UK company or UK Trust which dovetails with point (1). Any transfers and/or re organisation of the title is subject to tax advice.

I for one, am pleased about this new legislation. I believe in openness, transparency and honesty in all aspects of our lives. This legalisation is a welcome first step to the end of secrecy and the Age of Openness.

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