

# New beneficial ownership register for overseas owners of UK real estate

The much anticipated Economic Crime (Transparency and Enforcement) Act 2022 was passed on 15 March 2022. It was rushed through Parliament in just over two weeks in response to the war in Ukraine and pressure to crack down on Russian oligarchs and (amongst other measures) introduces (1) a new Register of Overseas Entities to be set up and operated by Companies House and (2) an obligation on “overseas entities” who currently own or wish to buy UK real estate to disclose details of their beneficial owners.

An Overseas Entity is defined as a legal entity that is governed by the law of a country or territory outside of the UK (this would therefore include entities formed in the Channel Islands).

The Act imposes an obligation on overseas entities that acquired a freehold or leasehold interest of over 7 years in land in England and Wales after 1 January 1999 or that acquire it in the future to be registered on the Register of Overseas Entities (there are corresponding provisions in Scotland and Northern Ireland). Once the regime comes into force, no overseas entity can be registered at the UK Land Registry as the proprietor of a legal estate in UK land unless it has first been registered on the new beneficial ownership register at Companies House or is exempt from registration. It will therefore be critical to ensure that all registration formalities have been complied with before committing to completion of a purchase or lease.

Overseas entities who are already owners of UK land will have a restriction put on their Land Registry title. This will prevent them from dealing (buying, charging or granting a lease of seven years or longer) unless they are registered on the beneficial ownership register at Companies House or are exempt from registration.

Anyone purchasing land or taking a lease for seven years or longer from an overseas entity will need to ensure that the seller/landlord’s beneficial ownership registration is up-to-date before they commit to a purchase or lease. If not, the purchaser or tenant will be unable to register their own interest due to the restriction on the overseas owner’s title prohibiting dealings.



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Moorcrofts commercial property team provides legal advice to owners and occupiers of commercial property. We specialise in tenant representation and have extensive experience advising corporate occupiers on all aspects of leasehold acquisitions and disposals.

Our highly skilled team offers both professional and practical expertise allowing our clients to have confidence in the advice provided.

If you would like to discuss the options available to you in relation to your lease, please contact our head of commercial property – **Julia Ferguson**.

## Our commercial property team have put together a summary of the main points of the legislation relating to the overseas register:

### 1. New register for overseas entities

The “register of overseas entities” will apply to any non-UK legal entity (as opposed to an individual or a UK entity) who owns or wishes to acquire UK property which is required to be registered at HM Land Registry (ie freehold titles or leasehold titles of longer than seven years in England and Wales). For these purposes a ‘legal entity’ includes any entity which is a legal person under the law by which it is governed and is not therefore limited to non-UK incorporated companies but would include, for example, LLPs; foreign foundations and non-UK partnerships with a legal personality.

(Slightly different rules will apply in Scotland and Northern Ireland.)

### 2. Effective date

The government has yet to set an implementation date, however once this has been confirmed existing overseas entities who own land in the UK will have six months to make their registration application. They will need to disclose details of all dealings (sales of UK real estate, charges and the grant of leases with a term of seven years or more) since 28 February 2022.

### 3. Applies to (most) existing landowners as well as new purchasers

The requirement to register will apply to any overseas entity which holds UK real estate i.e. both those making new acquisitions and those with existing holdings, unless the land was acquired pre-1 January 1999 in England and Wales (NB different dates will apply in Scotland and Northern Ireland).

### 4. What details have to be disclosed

Overseas entities will need to disclose the name and address of their beneficial owners. They will also need to state the date on which the person became a beneficial owner and the nature of the person’s ownership. The question of who is a beneficial owner will depend on the legal entity in question but will broadly follow the definition used in the PSC regime, which is derived from international anti-money laundering definitions.

Entities unable to provide their beneficial ownership information will have to provide information on their managing officers instead and where the registered beneficial owner is a trustee, information about the trust must also be filed.

### 5. Public Register

The registered information will be publicly available (except for the date of birth and residential addresses of individuals; information about trusts which will only be disclosable to HMRC and to other relevant bodies and a limited protected disclosure regime which will be set out in separate regulations).

### 6. Ongoing Obligation

Registered overseas entities will have to update their beneficial ownership information at least every 12 months.

Once a registered overseas entity stops being a registered proprietor of land, it can apply to be removed from the register.

### 7. Failure to comply

Failure to comply will result in criminal sanctions, ranging from fines of £2,500 a day (for example, for failure to update the register) to unlimited fines (for example, for making materially false statements) and prison sentences of up to 5 years.

Without a current Overseas Entity ID, entities will not be able to make certain dispositions of their UK property (including sales, mortgages and leases of more than 7 years) because these dispositions will be incapable of registration at HM Land Registry.

If an overseas entity does not have a current Overseas Entity ID, then it cannot be registered as the legal owner of the property at HM Land Registry, thereby preventing it from acquiring new property in the UK.