

NEW UK BENEFICIAL OWNERSHIP REGISTER FOR OVERSEAS ENTITIES

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THE GOVERNMENT HAS PUBLISHED DRAFT LEGISLATION THAT WILL AFFECT OVERSEAS ENTITIES THAT OWN UK PROPERTY, BY CREATING A PUBLICLY ACCESSIBLE REGISTER OF BENEFICIAL OWNERSHIP TO BE HELD AT COMPANIES HOUSE. OVERSEAS ENTITIES THAT DO NOT COMPLY WITH THE NEW REQUIREMENTS WILL BE PREVENTED FROM LEGALLY OWNING CERTAIN UK PROPERTY. THE REQUIREMENTS WILL APPLY TO ALL FREEHOLD AND LEASEHOLD PROPERTY THAT IS REGISTRABLE AT ONE OF THE UK LAND REGISTRIES (E.G. IN ENGLAND AND WALES, LEASES WITH A TERM OF MORE THAN SEVEN YEARS).

The aim of the legislation is to identify who owns or controls overseas companies and other legal entities that hold UK property in a bid to enhance transparency and tackle corruption. This will be relevant to all entities based overseas, including low or no tax jurisdictions such as the Channel Islands, with very limited exceptions.

Although the full detail of how the legislation will operate is not yet clear, the draft legislation, Government response paper published in March 2018 and earlier consultation documents outline the main requirements. Some of the key features are summarised below.

KEY FEATURES

- **No legal ownership without compliance** – overseas entities will not be able to acquire legal ownership of certain UK property, unless they have provided information about their beneficial ownership to Companies House and have been allocated a registration. This will consequently impact upon their ability to deal with the property, e.g. transfer, grant leases and charge the property;

- **Existing UK property owners** – the legislation will also affect certain existing overseas holders of UK There will be a transitional period of 18 months from implementation of the legislation. This will allow the entities either to supply the required information on their beneficial ownership or to dispose of the property;
- **Restrictions on dealing with property following registration** – once an overseas entity is registered as legal owner of a UK property (or, in the case of an existing UK property owner, at the end of the transitional period), a note will be entered on the Land Registry register of title which will prevent certain dealings with the property, unless the entity is fully compliant with the new register's requirements;
- **Meaning of "beneficial owner"** – the definition of "beneficial owner" will align with the definition of "person with significant control" in the existing regime for UK corporate entities to keep a register of people with significant control (PSC register). Broadly, this includes individuals (or relevant legal entities) that directly or indirectly hold more than 25% of the shares or the voting rights in a company, directly or indirectly have the right to appoint or remove a majority of directors of a company, or otherwise have the right to exercise or actually exercise significant influence or control over a company. Adaptations will be made for entities that are not similar to UK companies with shares;
- **Information required** – the information to be provided in relation to beneficial owners will be the same as currently required for the PSC register regime, and will include identity details and details of the nature of There will also be ongoing obligations requiring entities to update the register on an annually (but not on an event-driven basis). Any update should include all changes in beneficial ownership since the last update;
- **Protection regime** – as with the PSC register regime, there will be a protection regime under which a beneficial owner can apply to have their information suppressed from the register in certain limited circumstances (e.g. if they are at risk of violence or intimidation as a result of that information being made public); and
- **Sanctions** – the Government is taking compliance seriously and will underpin the regime with criminal offences for non-compliance.

TIMING AND IMPACT

It is expected that the regime will be operational in 2021. Once the final legislation is published it will be clear how the new regime will operate, who will be affected, what steps will need to be taken to prepare for it and what the consequences of non-compliance will be.

Registration requirements at the Land Registry have become increasingly onerous over the last few years and this new requirement will be another matter to comply with before legal title can be obtained by overseas entities. Ensuring the relevant information appears on the beneficial ownership register will be a key step that should be taken early on in the conveyancing process to enable the transaction to progress smoothly.

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