

Locke Lord QuickStudy: New Economic Crime Act 2022 ?Introduced in England and ?Wales – What Does It Mean for Me??

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1. What is the new legislation?

The Economic Crime (Transparency and Enforcement) Act 2022 (“**the Act**”) introduced a new Register of Overseas Entities (“**the Register**”) at Companies House for overseas entities which own certain property registered at Land Registry in England & Wales. The Register was launched on 1 August 2022.

The Act requires all ‘overseas entities’ to be registered on the Register at Companies House by **31 January 2023** and to disclose their beneficial owners. Details must also be submitted to Companies House of any transfer, lease of more than 7 years or legal charge entered into by the entity since 28 February 2022. The introduction of the Register will affect property transactions and their registration at Land Registry.

2. What is an ‘overseas entity’?

A corporate body, partnership or other entity that is a legal person governed by a law of a country or territory outside the United Kingdom. However, overseas individuals owning property in the UK in their own name or via a UK corporate vehicle are unaffected by the new registration requirements of the Act.

3. Does the Act affect all property transactions?

No – the Act applies to freeholds, legal charges and leases for more than 7 years that are or will be registered at Land Registry in the name of an overseas entity. There is an exemption for overseas entities if they were registered as proprietor before 1 January 1999, in which case they do not have to register. Land Registry will enter a restriction on the title of all applicable property owned by an overseas entity.

4. What will the restriction do?

The restriction on title will prevent the registration of any transfer, legal charge or lease for more than 7 years unless the overseas entity is registered on the Register at the date of the transaction (and crucially, not the date of the application to Land Registry).

5. How does this affect me?

An application to register an applicable transaction made to Land Registry with effect from **5 September 2022** will be rejected if the overseas entity is not already registered on the Register. This includes registration of legal charges. This means that other applications could be made at Land Registry against the property in priority to the registration of the affected transaction.

This therefore impacts:

1. any overseas entity which currently owns or is applying to register ownership of applicable property;
2. any lender of an overseas entity;
3. any counterparty entering into a property transaction with the overseas entity, and their lender;
4. the corporate officers of the overseas entity.

6. How do I comply with the new rules?

An application to register should be made as soon as possible to Companies House by the overseas entity, by providing the prescribed information about the entity, its beneficial owners (including where a beneficial owner is a trustee, about the trust) and its officers. Note that most of the information (save for certain personal details and trusts information) will be made publicly available on the Register. There is a £100 fee to register.

Before the application is made to Companies House each beneficial owner must be served with an information notice which requires them to provide certain information – the beneficial owner has one month to respond.

A “relevant person” independent of the overseas entity and beneficial owner(s) must also verify the information being submitted to Companies House. The relevant person includes UK regulated credit and financial institutions, auditors, insolvency practitioners, accountants and tax advisors, company secretarial providers, independent legal professionals and estate agents in the UK. Locke Lord (UK) LLP are not offering the verification service currently but we can make introductions to a number of providers for this service in the market.

Once the application is accepted by Companies House an overseas ID number will be provided which will enable the overseas entity to register property transactions at Land Registry.

7. Are there ongoing obligations after initial registration?

Yes. The overseas entity must update the information on the Register annually otherwise the overseas ID number will be invalidated.

8. What happens if an overseas entity does not comply?

There are criminal sanctions for both the overseas entity and its officers, punishable by a fine of up to £2,500 per day and/or imprisonment of up to five years. The above Land Registry restrictions will also continue to apply when buying, selling, transferring, leasing or charging property in England and Wales.

Note: The Act affects the United Kingdom but these FAQs only cover the position relating to property in England and Wales.

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