



De-cloaking Foreign Owned UK Property – New Economic Crime Legislation

AUTHOR / KEY CONTACT



Gerard Chalkly-Maber
Senior Associate

✉ Gerard.Chalkly-Maber@LA-Law.com
☎ 01202 597798

On 15 March 2022, The Economic Crime (Transparency and Enforcement) Act 2022 (the [ECTEA](#)) received Royal Assent. [Corporate and Commercial Solicitor Gerard Chalkly-Maber](#) explains one of its key purposes and the effect on foreign owned companies that hold property in the UK.

One of the main aims of the Economic crime Act (ECTEA) is to clamp down on the proceeds of crime being used to purchase UK property or land by identifying the ultimate beneficial owners. It will do this by way of a new register for overseas entities (the **ROE**), whereby an overseas entity that has a “relevant interest” in UK property or land will be obliged to register its beneficial owners who meet certain criteria. Failure to register and comply would not only be a criminal offence, but may also result in HM Land Registry preventing the registration of a property disposal, including the granting of a charge.

Whilst not addressed in this article, it is also worth noting that the ECTEA has brought in additional provisions around unexplained wealth orders and the breaching of sanctions laws.

What is a “Relevant Interest”?

In England and Wales, an overseas entity will hold a “relevant interest” in land where they hold:

1. the freehold title to the land; or
2. a lease of more than 7 years in duration.

Beneficial Ownership Registration Criteria

A beneficial owner of an overseas entity must register on the ROE if they:

1. hold, directly or indirectly, more than 25% of the shares in the overseas entity; or

2. hold, directly or indirectly, more than 25% of the voting rights in the overseas entity; or
3. hold the right, directly or indirectly, to appoint or remove a majority of the board of directors of the overseas entity; or
4. have the right to exercise, or actually exercise, significant influence or control over the overseas entity.

In the case of land owned by a trust, a partnership, unincorporated association or other entity that is not a legal person under the law in which it is governed, the individual who has the right to exercise, or who actually exercises, significant influence or control over the activities of the trust, partnership, unincorporated association or other entity must register on the ROE.

The ROE

The ROE will be held at and managed by Companies House, and any overseas entity registering will be given an “overseas entity ID”. According to a blog by Companies House, the ROE should be launched on 1 August 2022 and will require current qualifying overseas entities to register within 6 months.

For land already belonging to overseas entities, the registration requirement will apply retrospectively to land bought on or after 1 January 1999 in England and Wales.

Offences for Non-Compliance

In addition to HM Land Registry refusing to register an overseas entity as a legal owner or the disposal of a relevant title, non-compliance with the ECTEA also carries criminal sanctions, e.g. for each officer of the overseas entity, fines of up to £2,500 and prison sentences of up to 5 years for the most serious non-compliance.

What does this mean for you?

If you:

1. are a beneficial owner of an overseas entity that owns UK property (or intends to purchase UK property); or
2. advise or represent an overseas entity that owns UK property (or intends to purchase UK property); or
3. are a lender that intends to make a loan to an overseas entity and the loan is to be secured by a charge over UK property, then you must ensure the overseas entity complies with the ROE requirements and

register when it becomes possible to do so.

Contact

If you would like to discuss any questions regarding the ECTEA, please do get in touch with [Gerard Chalkly-Maber](#) or any other member of our [Corporate & Commercial Team](#) by calling 01202 786183 or by emailing Online.Enquiries@LA-Law.com.