

## UK Real Property Beneficial Ownership Register Progresses in England and Wales

August 8, 2022

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On 1 August, a new Register of Overseas Entities under the Economic Crime (Transparency and Enforcement) Act 2022 came into force, requiring overseas entities that currently own land in the United Kingdom to register verified information relating to their beneficial owners or managing officers at Companies House by 31 January 2023. While the Act affects the UK, this note sets out the position in England and Wales.

Once registered, Companies House will issue the overseas entity with an “overseas entity ID number,” which will be used to register with the Land Registry. Overseas entities looking to buy, sell, transfer or lease land, or create a charge against land in the UK will need to register with Companies House. Otherwise, the disposition cannot be registered at the Land Registry. Any person looking to acquire property from an overseas entity will need to check that the overseas entity has been registered and listed in the Register.

After registering, the name of the overseas entity and its beneficial owners will be publicly available. The amendment provisions to the Land Registration Act 2002 (which, in effect, prevent the Land Registry from registering an overseas entity as a proprietor unless it has an overseas entity ID) come into force on 5 September. From 5 September 2022, overseas entities will not be able to register their asset with HM Land Registry if they have not undergone the verification process with Companies House. Failing to comply could result in a criminal penalty for the entity and its officers (subject to certain exemptions), punishable by a £2,500 per day fine or a five-year prison sentence. If there are no beneficial owners, or no beneficial owners have been identified, information about the overseas entity’s managing officers will need to be provided. Managing officers include any director, manager or company secretary of the overseas entity.

### When must an overseas entity register with Companies House?

All legal forms of overseas entities which own freehold land and leasehold of more than 7 years:

- in England and Wales on or after 1 January 1999;
- in Scotland on or after 8 December 2014;

will have until 31 January 2023 to submit the required details to Companies House. This does not include trusts as they do not have a separate legal identity but details of the trustee would still need to be included if the trust is the beneficial owner of the asset. Information relating to beneficial owners (if any) and/or managing officers, similar to information provided for the People with Significant Control (PSC) register, will need to be disclosed as part of the registration process and updated annually.

The overseas entity will need to serve an information notice to each beneficial owner requiring them to state whether or not they are a beneficial owner and to confirm, correct or supplement the information about them in the notice. The overseas entity must perform this before applying to register at Companies House. The beneficial owners will have one month to respond upon receiving the notice from the overseas company. Failing to comply with this requirement is punishable by a fine of up to £2,500 per day or up to five years in prison.

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## Who can verify information for the beneficial owners or managing officers?

A “relevant person” (known as a “supervised agent” because they are supervised under Money Laundering Regulations) such as an independent lawyer (i.e., not in-house) or accountant would need to verify the information before the overseas entity can register with Companies House. This relevant person would first need to register with Companies House to obtain an agency code before they can verify the relevant information relating to the beneficial owners or officers. Certain exceptions apply that prohibit the relevant person from being a family member or known close associate of an individual beneficial owner. Overseas entities should bear in mind that the verification process could potentially be complicated and time-consuming under this new requirement thus is advisable to commence the process as soon as possible.

## Who is classified as a beneficial owner?

A person is a “registrable beneficial owner” if they are a beneficial owner and they are not exempt from registration on the Register, which is similar to the PSC regime. A person is considered a “beneficial owner” of an overseas entity if they:

- hold, directly or indirectly, more than 25 percent of the voting rights in an overseas entity;
- have the right to appoint or remove a majority of the directors; or
- have the right to exercise, or actually exercises, significant influence or control over an overseas entity.

Legal entities that are beneficial owners, not exempt, and “subject to their own disclosure requirements” are registrable beneficial owners, which is the case, for example, when they:

- have voting shares admitted to trading on a regulated market;
- are listed on the Register; or
- are governed by the law of a country outside the UK and provide trust services if the provision of trust services is regulated in that country by a supervisory authority.

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## CONTACTS

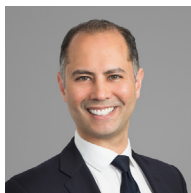
For more information, contact your Katten lawyer or any of the following:



**Oliver Williams**  
+44 (0) 7770 5212  
oliver.williams@katten.co.uk



**Gavin Vollans**  
+44 (0) 20 7776 7645  
gavin.vollans@katten.co.uk



**Edward Tran**  
+44 (0) 20 7770 5254  
edward.tran@katten.co.uk



**Omar Malek**  
+44 (0) 20 7770 5240  
omar.malek@katten.co.uk

# Katten

katten.com

Paternoster House, 65 St Paul's Churchyard • London EC4M 8AB  
+44 (0) 20 7776 7620 tel • +44 (0) 20 7776 7621 fax

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