

Ireland Update: New Obligations for Irish Entities on UK Land Ownership

The UK Economic Crime (Transparency and Enforcement) Act 2022 (the "Act") created a UK Register of Overseas Entities (the "Register") from 1 August 2022 maintained by Companies House. It requires overseas entities that own, recently disposed of or are intending to acquire UK property to register its beneficial owners or managing officers with Companies House.

Objectives

The Act aims to:

- Prevent and combat the use of land in the UK for money laundering purposes;
- Reform the UK's unexplained wealth order regime to enable law enforcement to investigate the origin of ownership of property and recover the proceeds of crime;
- Amend financial sanctions legislation, including the monetary penalty legal test and information sharing powers to help deter and prevent breaches of financial sanctions; and
- Amend sanctions legislation to enable ministers to impose sanctions quicker and in concert with other sanction authorities.

Overseas Entity and Qualifying Estate

An "overseas entity" means a legal entity that is governed by the law outside the UK.

Accordingly, any Irish company, partnership or other type of legal entity falls within scope.

The Act applies to any overseas entity who holds a "qualifying estate" in UK property. The criteria requiring registration vary slightly where the property is in England and Wales, Scotland or Northern Ireland.

A "qualifying estate" means a freehold or a leasehold estate in land granted for a term of more than seven years from the date of grant.

Overseas entities need to register land interests in England and Wales acquired on or after 1 January 1999, land interests in Scotland acquired on or after 8 December 2014, and land interests in Northern Ireland acquired on or after 1 August 2022.

Timelines and Sanctions

These new obligations apply retrospectively. Any overseas entity that holds a qualifying estate or that has disposed of a qualifying estate since 28 February 2022 is required to register with Companies House by 31 January 2023.

An "overseas entity" is a legal entity that is governed by the law of a country or territory outside the UK and includes Irish companies and bodies corporate (such as ICAVs).

Registration Process

Prior to registration, the overseas entity must take reasonable steps¹ to identify its registerable beneficial owners². An application for registration must then be delivered to the registrar at Companies House and contain one of the following statements:

- That the overseas entity has identified any registrable beneficial owners and provided the required information;
- That the entity has no reasonable cause to believe that it has any registrable beneficial owners; or
- That the overseas entity believes that it has at least one registrable beneficial owner but cannot provide the required information.

If an application includes information that a registerable beneficial owner is a trustee, then it must also include the required information about the trust and a statement as to whether the entity has any reasonable cause to believe that there is required information about the trust that it has not been able to obtain.

After registration, the overseas entity will receive an overseas entity ID in order to register UK land dealings with HM Land Registry.

The overseas entity also has a duty to update the register annually if the information recorded in respect of it has changed.

Companies House has issued guidance³ on these new obligations.

¹ This includes the requirement for the entity to circulate notices to any person that it knows, or has reasonable cause to believe is a beneficial owner.

² A person is deemed a beneficial owner if one of the following conditions applies: The person: (a) holds (directly or indirectly) more than 25% of the shares or voting rights in the entity;

Publication of Information

Certain information from the Register is expected to be publicly available online. In particular, the names of an overseas entities' beneficial owners and managing officers. However, an individual who is a beneficial owner or managing officer can apply to have information withheld from publication, if publication would put them at serious risk of being subjected to violence or intimidation.

Conclusion

The Act is important for all Irish entities holding recently disposing of, or intending to hold UK land interests, and their officers and beneficial owners should take steps now to register these interests. Furthermore, legal transactions involving any such entities will have additional diligence checks to ensure compliance with registration obligations pursuant to the provisions of the Act. Where these entities carry out transactions resulting in a change in beneficial ownership, additional post completion obligations will be required to ensure such changes are updated on the Register.

How the Maples Group Can Help

For further information or assistance in undertaking any of the actions advised above, please reach out to your usual Maples Group contact or any of the persons listed below.

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(b) holds (directly or indirectly) the right to appoint or remove a majority of the board of directors of the entity; or
(c) has the right (directly or indirectly) to exercise significant control or influence over the entity.

³ <https://www.gov.uk/government/publications/overseas-companies-in-the-uk-registration-filing-and-disclosure-obligations>

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