MAPLES GROUP

UPDATE

HM Land Registry Practice Guide 78: Strike Off, Dissolution and Restoration of BVI Companies Holding English Property

HM Land Registry Practice Guide 78: Why BVI Good Standing Matters for Land in England and Wales

A missed British Virgin Islands ("BVI") annual fee can, in the worst case, cost an entity its title to property in England and Wales. HM Land Registry's recent update to Practice guide 78: overseas entities - GOV.UK highlights why BVI entities holding property in England and Wales must remain in good standing at all times. This means meeting their ongoing annual fee and filing obligations. Failure to pay annual fees or file required documents can lead to the entity being struck off the BVI register of companies or limited partnerships and dissolved, often without the owners realising until a transaction is under way.

The Land Registry's updated guidance explains what happens when an overseas entity that owns land in England and Wales is dissolved. Once the overseas entity ceases to exist, it can no longer be the registered owner of land in England and Wales. Where the overseas entity was the sole registered proprietor, the consequences can be severe: leaseholds may pass to the Crown as bona vacantia and, in some cases, the registered title to the land may come to an end altogether (for freehold land, through a process known as escheat).

A dissolved BVI entity may be restored by the BVI Registrar of Corporate Affairs or by the BVI High Court, depending on the circumstances. Although under BVI law a restored entity is deemed never to have been struck off and dissolved, restoration in the BVI does not of itself restore title to land in England and Wales. A separate application to the English court, for example for a vesting order, may be needed, which adds cost and delay.

The Land Registry now requires a legal opinion from overseas counsel confirming that the overseas entity has existed continuously from the date it was first registered as proprietor until the date of the disposition to be registered. In practice, a BVI opinion will be needed for dispositions by BVI proprietors, and transactions that do not plan for it risk delay.

Practical Steps to be Taken when BVI Entities hold Property in England and Wales

Owners: keep the relationship with your BVI registered agent up to date, pay fees promptly, provide compliance documentation on request, and file annual economic substance declarations and annual financial returns by the due date.

Buyers, lenders and other counterparties: confirm that the registered proprietor is in good standing, check whether it has ever been dissolved, and instruct BVI counsel early to provide the opinion the Land Registry requires. Where an entity has previously been dissolved and restored, take English and BVI legal advice as a priority.

Lenders may also consider:

- good-standing undertakings from obligors in the finance documents;
- repeating representations and annual directors' confirmations;
- annual health checks, including updated certificates of good standing and searches at the BVI Registry of Corporate Affairs; and
- an agreed plan with BVI counsel for prompt restoration if an obligor is struck off and dissolved.

How Maples can Assist with BVI Company Restoration and HM Land Registry Requirements

BVI practitioners in Maples' London and international offices can assist in reviewing transaction documents, conducting annual health checks, and providing BVI legal opinions to the Land Registry and other counterparties.

If an entity has been struck off and dissolved, our team can guide clients through both administrative and court-ordered restoration processes, with the aim of restoring the entity, recovering assets and minimising disruption.

Further Assistance

For more information on these services, please contact your usual Maples Group contact or any of the persons listed below.

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