

SCHEDULES

SCHEDULE 3

Section 33(1)

LAND OWNERSHIP AND TRANSACTIONS: ENGLAND AND WALES

PART 1

AMENDMENTS TO LAND REGISTRATION ACT 2002

- 1 The Land Registration Act 2002 is amended as follows.
- 2 After section 85 insert—

“Overseas entities

85A Overseas entities

Schedule 4A is about the ownership of registered land by overseas entities and about registrable dispositions made by them.”

- 3 After Schedule 4 insert—

“SCHEDULE
4A

Section 85A

OVERSEAS ENTITIES

Meaning of “qualifying estate”

- 1 In this Schedule “qualifying estate” means—
 - (a) a freehold estate in land, or
 - (b) a leasehold estate in land granted for a term of more than seven years from the date of grant.

Registration

- 2 No application may be made to register an overseas entity as the proprietor of a qualifying estate unless, at the time of the application, the entity—
 - (a) is a registered overseas entity, or
 - (b) is an exempt overseas entity.

Restrictions on disposal

- 3 (1) The registrar must enter a restriction in the register in relation to a qualifying estate if satisfied that—
 - (a) an overseas entity is registered as the proprietor of the estate, and

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- (b) the entity became registered as the proprietor in pursuance of an application made on or after 1 January 1999.
- (2) The restriction must prohibit the registration of any disposition within section 27(2)(a), (b)(i) or (f) unless—
- (a) the entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition,
 - (b) the disposition is made in pursuance of a statutory obligation or court order, or occurs by operation of law,
 - (c) the disposition is made in pursuance of a contract made before the restriction is entered in the register,
 - (d) the disposition is made in the exercise of a power of sale or leasing conferred on the proprietor of a registered charge or a receiver appointed by such a proprietor,
 - (e) the Secretary of State gives consent under paragraph 5 to the registration of the disposition, or
 - (f) the disposition is made by a specified insolvency practitioner in specified circumstances.

- (3) In sub-paragraph (2), in paragraph (f)—

“specified circumstances” means circumstances specified in regulations made by the Secretary of State for the purposes of that paragraph;

“specified insolvency practitioner” means an insolvency practitioner of a description specified in regulations made by the Secretary of State for the purposes of that paragraph.

Registrable dispositions by overseas entity entitled to be registered (but not registered)

- 4 (1) This paragraph applies where—
- (a) an overseas entity is entitled to be registered as the proprietor of a qualifying estate,
 - (b) the overseas entity became entitled to be registered as the proprietor of that estate on or after the day on which this paragraph comes into force, and
 - (c) the entity makes a registrable disposition within section 27(2)(a), (b)(i) or (f).
- (2) The disposition must not be registered unless—
- (a) the entity is a registered overseas entity, or is an exempt overseas entity, at the time of the disposition,
 - (b) the disposition is made in pursuance of a statutory obligation or court order, or occurs by operation of law,
 - (c) the disposition is made in pursuance of a contract made before the overseas entity became entitled to be registered,
 - (d) the disposition is made in the exercise of a power of sale or leasing conferred on the proprietor of a registered charge or a receiver appointed by such a proprietor,
 - (e) the Secretary of State gives consent under paragraph 5 to the registration of the disposition, or

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- (f) the disposition is made by a specified insolvency practitioner in specified circumstances.
- (3) In sub-paragraph (2)(f) “specified circumstances” and “specified insolvency practitioner” have the meanings given by paragraph 3(3).

Consent to registration of dispositions that cannot otherwise be registered

- 5
- (1) The Secretary of State may consent to the registration of a disposition that would otherwise be prohibited by a restriction entered under paragraph 3, or by paragraph 4, if satisfied—
 - (a) that at the time of the disposition the person to whom it was made did not know, and could not reasonably have been expected to know, of the prohibition, and
 - (b) that in all the circumstances it would be unjust for the disposition not to be registered.
 - (2) The Secretary of State may by regulations make provision in connection with applications for consent, and the giving of consent, under sub-paragraph (1).
 - (3) The regulations may, for example, make provision about—
 - (a) who may apply;
 - (b) evidence;
 - (c) time limits.

Making dispositions that cannot be registered

- 6
- (1) An overseas entity must not make a registrable disposition of a qualifying estate if, disregarding the possibility of consent under paragraph 5, the registration of the disposition is prohibited by—
 - (a) a restriction entered under paragraph 3, or
 - (b) paragraph 4.
 - (2) If an overseas entity breaches sub-paragraph (1) an offence is committed by—
 - (a) the entity, and
 - (b) every officer of the entity who is in default.
 - (3) Nothing in this paragraph affects the validity of a disposition made in breach of sub-paragraph (1).
 - (4) Sections 1121 to 1123 of the Companies Act 2006 (liability of officers in default: interpretation etc.) apply for the purposes of this paragraph as they apply for the purposes of provisions of the Companies Acts.
 - (5) In those sections as applied, a reference to an officer includes a person in accordance with whose directions or instructions the board of directors or equivalent management body of an overseas entity are accustomed to act.
 - (6) A person is not to be regarded as falling within sub-paragraph (5) by reason only that the board of directors or equivalent management body acts on advice given by the person in a professional capacity.

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- (7) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or a fine (or both).
- (8) In sub-paragraph (7)(a) “the maximum summary term for either-way offences” means—
- (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
 - (b) in relation to an offence committed after that time, 12 months.
- (9) Proceedings for an offence under this may only be brought by or with the consent the Secretary of State or the Director of Public Prosecutions.

Interpretation etc.

- 7 In this Schedule—
- “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6) of the Economic Crime (Transparency and Enforcement) Act 2022;
- “overseas entity” has the meaning given by section 2 of the Economic Crime (Transparency and Enforcement) Act 2022;
- “qualifying estate” has the meaning given by paragraph 1;
- “register of overseas entities” means the register kept under section 3 of the Economic Crime (Transparency and Enforcement) Act 2022;
- “registered overseas entity” means an overseas entity that is registered in the register of overseas entities (but see paragraph 8).
- 8 (1) For the purpose of this Schedule, an overseas entity that fails to comply with the duty in section 7 of the Economic Crime (Transparency and Enforcement) Act 2022 (updating duty) is not to be treated as being a “registered overseas entity” until it remedies the failure.
- (2) For the purpose of sub-paragraph (1), an overseas entity “remedies” the failure when it delivers the statements and information mentioned in section 7(1)(a), (b) and (c) of the 2022 Act.”
- 4 In section 128 (regulations), in subsection (4)—
- (a) omit the “or” at the end of paragraph (b);
 - (b) at the end of paragraph (d) insert “, or
 - (e) regulations under paragraph 3(3) or 5(2) of Schedule 4A.”

PART 2

TRANSITION: QUALIFYING ESTATES REGISTERED PRE-COMMENCEMENT

Duty of proprietor to register as an overseas entity within transitional period

- 5 (1) An overseas entity, and every officer of the entity who is in default, commits an offence if—
- (a) at the end of the transitional period, the entity—
 - (i) is the registered proprietor of a qualifying estate, but
 - (ii) the entity is not registered as an overseas entity, has not made an application for registration as an overseas entity that is pending and is not an exempt overseas entity, and
 - (b) the entity became the registered proprietor of that qualifying estate in pursuance of an application made on or after 1 January 1999 but before the commencement date.
- (2) A person guilty of an offence under this paragraph is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the maximum summary term for either-way offences or a fine (or both);
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (3) In sub-paragraph (2)(a) “the maximum summary term for either-way offences” means—
- (a) in relation to an offence committed before the time when paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 comes into force, 6 months;
 - (b) in relation to an offence committed after that time, 12 months.
- (4) In this paragraph “exempt overseas entity” means an overseas entity of a description specified in regulations under section 34(6).
- (5) Nothing in this paragraph limits the power to give a notice under section 34 at any time.

Registrar’s duty to enter restriction in relation to qualifying estate

- 6 (1) This paragraph applies where the Chief Land Registrar is satisfied that—
- (a) an overseas entity is the registered proprietor of a qualifying estate, and
 - (b) the entity became the registered proprietor of that estate in pursuance of an application made before the commencement date.
- (2) The Chief Land Registrar must comply with the duty to enter a restriction under paragraph 3 of Schedule 4A to the Land Registration Act 2002 (inserted by Part 1 of this Schedule) in relation to the estate as soon as reasonably practicable and in any event before the end of the transitional period.
- (3) But the restriction does not take effect until the end of the transitional period.

Interpretation

- 7 In this Part of this Schedule—

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“the commencement date” means the day on which section 3(1) comes fully into force;

“registered proprietor”, in relation to a qualifying estate, means the person entered as proprietor of the estate in the register of title kept by the Chief Land Registrar;

“qualifying estate” has the meaning given by paragraph 1 of Schedule 4A to the Land Registration Act 2002;

“the transitional period” has the meaning given by section 41(10).