

EXPLANATORY MEMORANDUM TO
THE REGISTER OF OVERSEAS ENTITIES (VERIFICATION AND PROVISION
OF INFORMATION) REGULATIONS 2022

2022 No. 725

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 To implement aspects of the new Register of Overseas Entities (please see section 6 for more context). This instrument will:
- Require certain information about beneficial owners and managing officers to be “verified”.
 - Require “unregistered overseas entities” to deliver certain information to the registrar during the transitional period, relating to relevant dispositions of land between 28 February 2022 and the end of the transitional period.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the whole of the United Kingdom.
- 4.2 The territorial application of this instrument is the whole of the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 These regulations are laid before Parliament under sections 16(1) and 43(2) of the Economic Crime (Transparency and Enforcement) Act 2022 ("the Act").
- 6.2 The new Register of Overseas Entities (the Register) will be created by the Act, which was expedited through Parliament in response to the Russian invasion of Ukraine. The Register will require overseas entities owning or buying property in the United Kingdom to provide information to the Registrar of Companies, including about their “beneficial owners”. The Act contains various regulation-making powers which allow the Secretary of State to prescribe further technical details of the requirements and operation of the Register. These regulations are one of a series of essential regulations

to be made under the Act and other statutory legislation such as the Companies Act 2006, to implement the Register.

7. Policy background

What is being done and why?

- 7.1 In 2016 the UK implemented a register of beneficial ownership of UK companies, called the ‘people with significant control’ (PSC) register. The UK became one of the first countries to introduce a central, publicly accessible register requiring all companies incorporated in the UK to give information to Companies House about who held significant control of the company.
- 7.2 In 2016 the UK committed to collecting and making publicly accessible the beneficial ownership information of overseas entities owning or buying property in the UK, which would level the playing field with UK companies.
- 7.3 The UK is an open economy and one of the major destinations for foreign direct investment. The overwhelming majority of companies that invest in the UK do so productively and within the law. However, there is concern around illegal activity taking place through overseas companies investing in UK property. The concerns focus in particular on the potential for criminals to use offshore corporate vehicles to obscure their identity when hiding illicit funds or laundering criminal proceeds through investments in UK property.
- 7.4 The Register will enhance transparency around the owners and controllers of overseas entities that own or buy UK property. The Register is designed to:
- deter and disrupt crime, by making it more difficult to use corporate vehicles in the pursuit of crime;
 - deter criminals from money laundering in the UK;
 - preserve the integrity of the financial system;
 - increase the efficiency of law enforcement investigations, particularly in relation to identifying and tracing the proceeds of crime; and require the same transparency of overseas entities holding land as required from UK companies.
- 7.5 Further information can be found in the Explanatory Notes and Impact Assessment for the Act: <https://bills.parliament.uk/bills/3120/publications>.
- 7.6 This statutory instrument is one of several regulations to implement the Register, by enabling:
- **Verification:** Part 2 of these regulations requires the verification of certain information about registrable beneficial owners and managing officers. Regulation 3 sets out who is a “relevant person” for the purposes of these regulations – who can verify information. Regulation 4 sets out the meaning of a “relevant activity” – an activity undertaken by an overseas entity which means information must be verified. Regulation 5 sets out the “relevant information” – the information that must be verified. Regulation 6 sets out further detail, such as when verification should occur and regarding the statement the verifier must provide. Regulation 7 sets out that where a relevant person seeks to verify information relating to an individual, the relevant person must not be a family member or known close associate of the individual, or be the same individual, i.e., an individual can’t verify their own information. Regulation 8 sets out details on the retention of verification information.

- **Provision of Information:** Part 3 of these regulations details the provision of information by “unregistered overseas entities” during the transitional period. These entities must provide details of any relevant disposals of land between 28 February 2022 and the end of the transitional period, as well as statements and information regarding who their beneficial owners and/or managing officers were immediately before the disposals. Regulation 9 sets out that the information must be provided by email, unless information has been “protected” such that it is not to be publicly displayed. Regulation 10 provides that information provided must be publicly displayed for at least two years before being transferred to the Public Records Office. This does not apply to “material unavailable for public inspection”, such as usual residential addresses and required information about trusts. Regulations 11 to 13 outlines how certain provisions from the Act about the registrar’s annotation, administrative and court ordered removal of information apply in respect to this information.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 This Statutory Instrument does not amend another Statutory Instrument, so consolidation is not needed.

10. Consultation outcome

- 10.1 Extensive consultation was carried out prior to the Act receiving Royal Assent. A Call for Evidence was undertaken in 2017 and consultation carried out in 2018, alongside the publication of a draft Registration of Overseas Entities Bill (the Bill). Stakeholder responses to both showed strong support for the proposals. Stakeholder suggestions were taken into account during the drafting of the Bill, and afterwards following publication of the draft Bill.
- 10.2 The draft Bill underwent pre-legislative scrutiny by an ad-hoc Joint-Committee in 2019 and many of the Committee’s recommendations were added to the Bill. The Committee raised concerns about the lack of a mechanism for information submitted to Companies House to be verified, so this was added to the draft Bill. During passage of the Act, there was concern that overseas entities could dispose of interests in property before the end of the transitional period, so Government amendments were added to address this concern. To meet the expedited timetable for the Act and laying of regulations, informal consultation has been carried out with delivery partners Companies House, HMRC and the three UK land registries, as well as wider stakeholders, on the measures in this Statutory Instrument. A draft of the Statutory Instrument was also shared with the Insolvency Service, HM Treasury, the Office for Professional Body Anti-Money Laundering Supervision, the Law Society of England and Wales, the Law Society of Scotland and the Law Society of Northern Ireland.

11. Guidance

- 11.1 Guidance will be made available for overseas entities, professional service providers and any interested parties. The guidance will explain who is required to register, how and when they should register, information to be provided and verified and how to

update the information on the Register. Overseas entities who own property after certain dates will have a six-month transitional period to comply with the requirements of the Register.

- 11.2 Communications plans to raise awareness about the Register of Overseas Entities, include highlighting the new requirement to overseas entities via British overseas embassies. This will target overseas entities who may be required to register, as well as professional organisations who work on property transactions and advise overseas entities.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument. The Impact Assessment published alongside the primary legislation quantified the impacts and had a net annual direct cost to business below the de minimis threshold of £5 million. The net annual direct cost to business did not change significantly during the Bill's passage or the development of secondary legislation such that the measure remains below the de minimis threshold.

13. Regulating small business

- 13.1 The legislation does apply to activities that are undertaken by small overseas businesses, but no specific action is proposed to minimise the regulatory burdens on them.

14. Monitoring & review

- 14.1 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Lords Parliamentary Under Secretary of State, Minister for Business, Energy, and Corporate Responsibility has made the following statement: A statutory review clause is not included in the instrument since the additional requirements are not extensive and are considered to meet the Government's 'de minimis' regulatory impact criteria, meaning no impact assessment is required (in particular, because the impacts are below £5m, do not impact on small business and create no open-ended new powers in legislation).

15. Contact

- 15.1 Trevor Smith at the Department for Business, Energy and Industrial Strategy
Telephone: 07917955883 or email: trevor.smith@beis.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Matthew Ray, Deputy Director for Company Law & Transparency at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Lords Parliamentary Under Secretary of State, Minister for Business, Energy, and Corporate Responsibility at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.