Institute welcomes closure of nominees loophole

Briefings



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The government has plugged a gap in the Register of Overseas Entities originally identified by CIOT.

CIOT has praised a cross-party effort which resulted in the closure of a loophole highlighted by the Institute during the passage of last year's Economic Crime (Transparency and Enforcement) Act.

The loophole is that the original legislation for the Register of Overseas Entities holding land or property in the UK required the identification only of the beneficial owners of the entity in question, which might not be those of the land or property itself; for example, in a situation where an overseas company holds property as nominee on behalf of large numbers of different clients. This ran counter to the government's stated intention that the register would 'require anonymous foreign owners of UK property to reveal their real identities'.

During the passage of last year’s Act, Lord Clement-Jones, with cross-party support, moved an amendment drafted by CIOT to close the loophole. However, the minister Lord Callanan, in reply, said that while he could see the good intent behind the amendment, the government felt that the Bill ‘would not be the appropriate vehicle’ for this.

But during House of Lords debate on the Economic Crime and Corporate Transparency Bill, which is set to gain Royal Assent this month, the government acknowledged that there was a gap in the register’s information requirements relating to overseas entities acting as nominees. It introduced an amendment to address this by inserting a new definition of beneficial ownership into the 2022 Act.

George Crozier, CIOT Head of External Relations, and one of the drafters of last year’s amendment, commented: ‘The legislation setting up the Register of Overseas Entities was flawed and it is welcome that the government has gone back to rectify this. They deserve credit, as do the parliamentarians of all parties, and organisations such as Transparency International, who encouraged them to do so.

‘If, as the government has maintained throughout, the aim is a fully public register revealing the real identities of the ultimate beneficial owners of all UK property held by overseas entities, this amendment takes a significant step towards that – although gaps still remain, especially where the land was acquired prior to October 2020.’