

What's billed for real estate in 2023?



Economic shocks combined with a shifting legislative landscape, rapid technological advancement and a deepening focus on ESG have made it an “interesting” year for the UK real estate industry.

We started the year with the National Security and Investment Act 2021 coming into force on 4 January 2022. This Act introduced a new, more extensive national security regime. We are concluding the year with the Economic Crime and Corporate Transparency Bill simmering away in Parliament. There appears to be a common thread to the legislative agenda....

In this article, we look ahead to some of the key changes to real estate law and practice billed for next year.

Overseas entities regime

The immediate focus in the New Year will be on Economic Crime (Transparency and Enforcement) Act 2022 compliance. With the 31 January 2023 deadline looming, overseas entities that own, or wish to acquire, a UK ‘Qualifying Estate’ (meaning a freehold estate or a lease granted for a term of more than 7 years from the date of grant) acquired on or after 1 January 1999, need to register with Companies House. The tight timescales and administrative burdens of implementation not only on overseas entities but also on Companies House and the Land Registry, are likely to present significant challenges in the coming months.

This new regime is already having a major impact on UK real estate transactions and any overseas entities that own affected UK real estate and have not yet registered their beneficial owners at Companies House must take urgent steps to do so.

We can also expect a suite of wider-ranging reforms to tackle economic crime and improve corporate



transparency over corporate entities when the Economic Crime and Corporate Transparency Bill is progressed through Parliament early in the New Year.

Building safety

Many of the provisions of the lengthy and complex Building Safety Act 2022 came into force in April 2022 and the real estate industry is just starting to get to grips with the detail. This legislation represents a wholesale revision of the planning and construction approval process for developments with a residential angle, as well as introducing a more rigorous and stringent safety regime which takes effect once a building is occupied. It is arguably the most significant piece of legislation to affect the UK's built environment for decades however it is perhaps the change to the liability landscape that will have the most significant impact on stakeholders in the construction industry.

The Government is currently seeking further views on the technical details of the design and implementation of the building safety levy. Whilst all are keen to see how this levy will operate in practice, the Government wants to take into account the responses to this consultation which closes on 7 February 2023 before finalising the technical and practical details.

The Levelling-Up and Regeneration Bill

It has been a tumultuous year for the Government's planning agenda but with Gove now back in the driving seat, it seems likely that the Levelling Up and Regeneration Bill, with its ever-widening range of reforms, could receive Royal Assent by the Spring 2023.

This Bill is intended to achieve regeneration by introducing a number of reforms to the planning system. The reforms are based on five key principles including delivering high quality and beautiful buildings, restoring a sense of community and pride in place and fostering better environmental outcomes. We will however have to wait and see to what extent the Bill once enacted achieves meaningful reform.

MEES

The Government remains committed to net zero and to leading international and domestic action to tackle climate change. The first thing on the agenda for next year is the tightening of the MEES regime. From 1 April 2023, not only will landlords granting a new lease of commercial premises need to hold an EPC with a rating of E or above (or register a valid exemption) but it will also be unlawful for a landlord to "continue to let" a sub-standard property (i.e., a property with an EPC rating of below an E).

Whilst the 1 April 2023 deadline looms large on the horizon, there's more to come. It seems likely that the minimum standard will be raised to a C or higher by 2027, followed by a B or higher in 2030. If implemented, this means that from April 2023, landlords will have 7 years to raise energy ratings in all commercial buildings from an E to a B rating (or make sure an appropriate exemption is registered).

The MEES regime is however just one part of a larger picture for owners and occupiers of commercial property, and we expect the widespread focus on and commitment to ESG to continue in 2023, with all stakeholders collaborating to reduce the carbon footprint of the UK real estate stock.

Environment Act 2021

The Environment Act became law in 2021 and acts as the UK's new framework of environmental protection. This is not "new" news as some provisions are already in force. However the Act embodies the principle of mandatory



biodiversity net gain – the requirement that all development should achieve a net increase in biodiversity of at least 10%, maintained over at least 30 years. It is expected that this requirement will come into force from November 2023 for town and country development with the effect of requiring all planning permissions to be subject to a new pre-commencement biodiversity net gain plan condition. Whilst we are still awaiting secondary legislation to bring these measures into effect, biodiversity net gain is likely to be a hot topic in the planning and development world in 2023.

Business rates

It has been 6 years since the last revaluation. The new rates will come into effect on 1 April 2023 and are based on rateable values from 1 April 2021. Prices are of course rising around the world, made worse by Putin's war in Ukraine, and all businesses are facing these costs head on. In light of this the Government confirmed in its Autumn Statement that it will be taking a number of steps to help rate payers. A targeted package of support worth £13.6 billion was announced. This exceeded expectations from stakeholders although when rates increases are combined with rising inflation, increased taxes and soaring energy costs there is serious concern that those already fighting to survive in this tough economic climate are not going to be able to absorb this rates hike without further support.

SDLT

On 23 September 2022, the Government increased the nil-rate threshold of SDLT from £125,000 to £250,000 for all purchasers of residential property in England and Northern Ireland with immediate effect. There were also significant changes for first time-buyers where the nil-rate threshold was increased from £300,000 to £425,000 and the maximum purchase price, for which First Time Buyers' Relief can be claimed, was increased from £500,000 to £625,000. The Chancellor confirmed that the SDLT cuts announced by his predecessor in the mini-budget will remain. However, the cuts will now only be temporary rather than permanent remaining in place until 31 March 2025.

HM Land Registry

HM Land Registry became 'digital by default' on 30 November 2022. Applications submitted to HM Land Registry will now be digital by default, whether they're submitted using the Digital Registration Service on the HM Land Registry customer portal, or using legal software connected to HM Land Registry using their Business Gateway application programming interfaces. It is hoped that this will enable HM Land Registry to automate more applications.

Electronic signatures

The Law Society and City of London Law Society have recently published updated guidance on the execution of documents using electronic signatures acknowledging the more generalised use of e-signature services and platforms.

Last but not least...

2022 has seen some significant court decisions and 2023 will likely follow suit. We have reported on a number of key decisions on the Thinking section of our website. This month we provided some analysis on the case of [Guest and another v Guest \[2022\] UKSC 27](#) in which the Supreme Court handed down its long-awaited judgment as to the proper approach in granting remedies in cases of proprietary estoppel. We also discussed the implications of the [Hillside Parks Ltd v Snowdonia National Park Authority \[2022\] UKSC 30](#) case on the long established practice of using "drop-in" applications.



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