

TRANSPARENCY OVER CONTROL OF LAND: CLEARING THE WAY FOR NEW HOUSING?

The latest policy aimed at increasing the supply of new homes will require public registration of “contractual control rights” over land in England and Wales. The Government’s aim is to increase transparency and to support more efficient and fairer operation of the land market. This note briefly summarises the proposals which are to be effected by the Provision of Information (Contractual Control) (Registered Land) Regulations 2026.

Policy background

Planning Minister Matthew Pennycook has stated an ambition to reshape Britain's housing industry, which he describes as having “become overly reliant on a speculative model of development”. A particular concern is the position of small and medium-sized developers, who the Government argues are the victim of the lack of transparency, as they spend time and money looking into sites which are already under contract with larger developers.

This follows a 2023 Competition and Markets Authority study which found that large housebuilders control 658,000 plots, predominantly through options and similar arrangements. The Government consulted on the proposals earlier this year.

The Government’s rationale is that land options and similar agreements are currently opaque (including to the public and to local authorities), making it harder to understand land use patterns or identify land which is available for development. The Regulations will therefore require registration with HM Land Registry, allowing public access to key details about rights to control land.

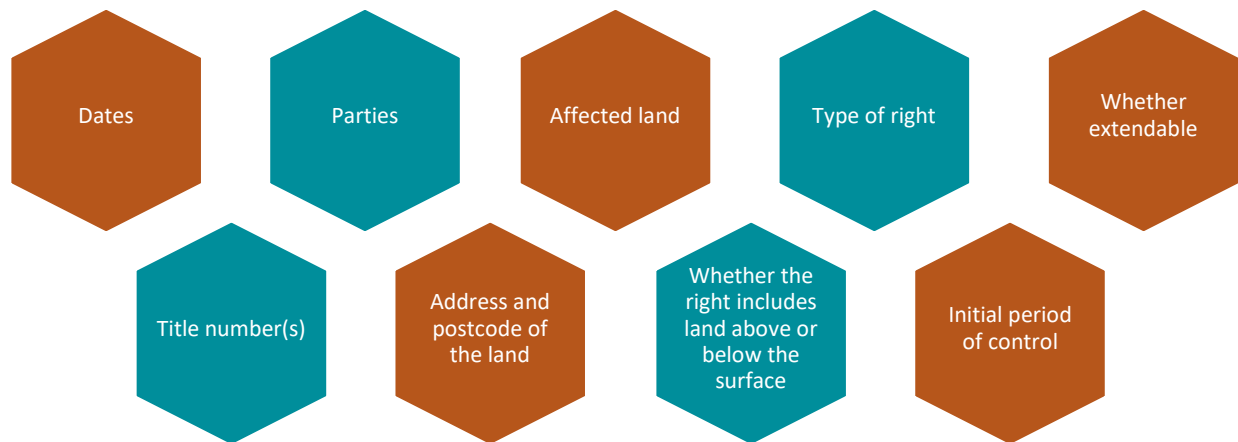
What are “contractual control rights”?

Essentially, legal agreements that allow control over how and when land is sold or leased, but which do not confer legal ownership. The Regulations apply to a prescribed list of rights which must be set out in writing and must affect registered land in England or Wales to be in scope. In many cases these rights will be conditional (for example, exercisable only subject to a planning consent being obtained). A set of exempt rights are also detailed.

Registrable	Not registrable
Option to require a disposition of land	Security arrangements (e.g. a charge securing a loan)
Conditional contracts for a disposition of land	Rights granted exclusively for purposes other than development
Pre-emption rights in relation to a disposition of land	Rights with a total period of control less than 18 months
Rights to direct or request entry into a disposition (e.g. promotion agreements)	Rights relating to leases with less than 15 years remaining
	Rights relating exclusively to the provision of infrastructure, amenities or services in connection with a grant of planning permission
	Rights in a contract made for national security or defence

What information must be provided?

The contractual control information that must be provided includes:



Who must comply and how?

The beneficiary of the contractual control right will have the obligation to register. Details must be notified to HM Land Registry by a conveyancer using a new digital service. Registration must be made within 60 days of a trigger event such as the grant of a new right, or the variation, assignment or termination of an existing right.

Although the details are registered by a conveyancer, the regulations also place a new obligation on an already stretched Land Registry. The Land Registry will only begin releasing the data as soon as possible after 6 April 2028.

What are the key dates?



What comes next?

The Regulations represent a significant change in the way the development land market operates and a further push towards transparency in land ownership on the public register. Failure to comply, or knowingly providing false or misleading information, will constitute an offence. Beneficiaries of contractual control rights will therefore need to ensure they have systems in place to monitor these trigger events and to instruct a conveyancer to make the necessary digital submission.

The Regulations do not capture rights that may be provided indirectly, such as the grant of an option over shares in a property-owning SPV. Nor do they cover contractual rights concerning the grant of easements and similar rights that are key to development projects. It remains to be seen whether more transparency over land rights results in more housing.

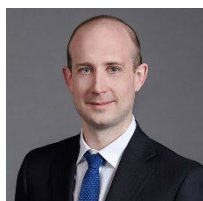
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