



**Tailte
Éireann**

Clárúchán, Luacháil,
Suirbhéireacht
Registration, Valuation,
Surveying

Form 68 checklist containing the most common errors with an application

Practitioners must ensure that they consult the Practice Directions, all relevant Legal Office Notices, Land Registry Rules, Forms and Registration Mapping Guides available on our website www.tailte.ie to ensure their applications are in order before lodgement.

Previously rejected applications:

1. If a full set of rulings issued on a previously rejected application these rulings must be addressed in full on re-lodgement of the application. If not the re-lodged application will be rejected.

Fees

2. The correct fees for the application must be submitted. Please consult our Fees Order on our website www.tailte.ie.

Personal Applicants

3. Personal Applicant's Identification Form (available on our website www.tailte.ie) must be fully completed.

Form 17

4. Form 17 must be signed by an individual solicitor (or, if no solicitor acting, by all the applicants)
5. Form 17 must be fully completed and dated.

Mapping

6. An application map that meets the requirements set out in the Registration Mapping Guides delineating the full extent of the right claimed must be lodged.
7. The application map must comply with the requirements as set out in Tailte Éireann's [Registration Mapping Guide](#) (QR code below) which are available on our website.
8. A dominant tenement is the land benefited by the easement and the servient tenement is that over which the easement exists.

Registered Land vs Unregistered Land

9. The way in which an application is processed will depend on whether some or all of the land comprises registered or unregistered land.

- (i) *Where both the dominant and servient lands comprise registered lands:* The title to both dominant and servient lands is registered and the dominant registered owner applies for the entry of an appurtenant right based on the acquisition of the easement or *profit à prendre* by prescription and a burden to be registered on the servient land. The claim is to be substantiated by affidavit in Form 68 and the proofs fully set out therein, together with all known details for notice on the servient registered owner (if the registered owner's address differs from the address shown on the register). Notice will be issued on the registered owner of the servient tenement in Form 69.

- (ii) *Where the dominant land is registered and the servient land is unregistered:* The identity of the servient owner is to be shown as far as possible. If, for example, the owner is unknown, enquiries are to be made locally and Valuation Office searches may be required, to show who is the stated owner/occupier and/or to identify the stated owner of any superior interest. It is particularly important to make sufficient enquiries if the dominant tenement is held under a lease.
- (iii) *Where the dominant land is unregistered:* An application for first registration must be made at the same time in the appropriate form. (See our Practice Direction – *First Registration and Other Examiners cases*). It is not possible to register the interest in the absence of a first registration application as Section 49A (2) clearly states that the dominant land must either be already registered land or the subject of an application for first registration.

Leasehold Property

10. It is possible for an applicant holding under a lease to acquire an easement or profit by prescription. A Section 49A application can be made by a registered dominant leaseholder for the registration of a right over the servient property whether leasehold or freehold.

Affidavit in Form 68 of LR Rules 2012

11. The Form 68 affidavit must comply with the prescribed Form 68 of the Schedule of Forms to Land Registration Rules 2021.
12. The affidavit must be less than 1 year old.
13. The affidavit must be sworn by the Applicant or in the case of a Company by the Secretary or Local Authority by the Law Agent. If sworn by a Director then he/she must state they are authorised to make the affidavit and that they have the requisite means of knowledge.
14. The application must be made by the registered owner of the dominant tenement.
 - (i) If the applicant is applying as a personal representative of the present registered owner this should be stated in the affidavit and the application should be accompanied by the original or an office copy of the grant or letters of administration.
15. The prescribed Form 68 should be strictly adhered to with the appropriate paragraphs suitably adapted to establish the applicants' claim
16. The applicant must establish the right was enjoyed continuously and openly without permission by them or their predecessor(s) in the title for the requisite user period.
17. The applicant must expressly ground the claim i.e. show how and against whom the relevant user period has been acquired. Full details must be provided in paragraph 2 of the Form 68 affidavit in order to meet the required proofs.
18. The applicant must confirm the following in paragraph 2:
 - (i) There was at all material times a capable grantor and grantee.
 - (ii) The right was capable of forming the subject matter of a grant.
 - (iii) The right claimed was acquired by prescription.
 - (iv) The right claimed is not a public right of way, customary right, franchise, licence, easement of necessity or other implied right.
 - (v) The right claimed was not acquired by express grant or reservation.
 - (vi) The exercise of the right has been without force, without secrecy and without permission.
 - (vii) The grant of the right would not have been illegal.
19. The First Schedule should contain a description of the easement or profit á prendre.
20. The Second Schedule should contain a description of the dominant land owned by the applicant.

21. The Third Schedule should contain a description of the servient land and the names and addresses of the owners
22. The jurat must be in order (has been signed, witnessed, dated, if third party identification then they must also sign the form etc.,)
23. Affidavits and Statutory Declarations for use in proceedings in the Registry in compliance with Rule 168(2) of the Land Registration Rules 2012, and Order 40, Rule 7, of the Rules of the Superior Courts may be taken in any foreign country or place:
 - Before any Irish diplomatic or consular representative or agent exercising his functions in that country or place, or
 - When there is no such representative or agent as at (a) above or no such representative or agent conveniently near to the deponent in such country or place before any notary public lawfully authorised to administer oaths in that country or place, or
 - Where such country or place is a part of the British Commonwealth of Nations or a British possession before any judge, court, notary public, or person authorised to administer oaths in such part or possession.
 - The seal or signature, as the case may be, of any such diplomatic or consular representative or agent, judge, court, notary public, or other person attached, appended or subscribed to any such affidavit or declaration may be accepted on its face without further authentication or proof.

See Practice Direction on *Easements and Profits à Prendre acquired by Prescription* under Section 49A of the Registration of Title Act 1964.

Note: The procedure under Section 49A is intended for cases where there is no dispute between the parties.

Mapping Guides QR Code

