FORM 5

*Application for registration where title is based on possession (Rule 17)*

**LAND REGISTRY**

**County                                                         Folio**

I, A.B., of                                                                                              make oath and say—

1. I, (*and my predecessors in title*) have been in sole and exclusive beneficial occupation of the property described in the first schedule hereto, hereinafter called the property, for upwards of        years last past, and/or in sole receipt of the rents and profits thereof and no acknowledgment has been given by me (us) in favour of any person in respect of same or any part thereof. I confirm that the map attached correctly shows the boundaries of the property under my possession and the subject matter of this application.
2. My (*or my predecessors*) possession commenced in (year) (*Describe how the occupation began and set out such facts as are relied upon in support of the applicant's claim to have established his/her title, e.g., deliberate squatting with intention to acquire the property; taking possession as one of the next-of-kin of a deceased owner against the personal representative of such owner, other next-of-kin, etc., departures or dispossessions, relevant deaths; next-of-kin, addresses for service of notices, etc.*).  *(Where relevant, a sketch of the family tree may be exhibited) (Evidence of deaths on title, deeds etc. should be exhibited)*
3. The title to the property is freehold *(or a fee farm grantees interest held under a fee farm grant, or leasehold, or other as the case may be)*. (*The title against which adverse possession is claimed* *should be set out, and any evidence of same should be lodged. If a fee farm grant or leasehold full details in the applicants possession or procurement should be set out. If the title is unknown the efforts made to establish the title should be fully set out).*
4. The uses to which the property has been put since occupation began are *(describe the uses to which the property has been put, and show how the uses amount to adverse possession having regard to the current law on adverse possession).* No other person has had use of the property since occupation commenced *(other than (describe the use of any other persons in the property, and show how that use does not amount to possession)).*
5. I (*and my predecessors*) have never paid any rent in respect of the property *(or rent was paid under a lease/tenancy/tenancy in writing – provide details of the nature of the lease/tenancy and show when and how the lease/tenancy determined).*
6. The property is securely bounded *(describe the age and nature of the boundaries, e.g. mature hedge, wall, wire fence, or as the case may be. Where appropriate, a map indicating the nature of the boundaries at different locations may be included for clarity).*  The boundaries are maintained by *(name).*

OR

The property has been fully incorporated into other property owned by me, and I am the owner of all adjoining property.

OR

The property is not fully bounded but possession is exclusive as shown by *(provide evidence to show that the possession of the property amounts to exclusive possession notwithstanding the lack of boundaries, and lodge any supplementary evidence that can support this).*

OR

*(as the case may be)*

1. The property has *(or has not)* been used in conjunction with other property *(describe the title to the property. If the title to this property is leasehold, please see Note 7)*
2. The name(*s)* and current address(*es*) of the dispossessed owner(*s*) and/or his/ her personal representative and/or successors for service of notice are provided in the Second Schedule Part 1.
3. The names and current addresses of all adjoining owners for service of notice are provided in the Second Schedule Part 2.
4. I exhibit herewith the certificate of discharge from Capital Acquisitions Tax as required by 62(2) of the Capital Acquisitions Tax Consolidation Act 2003 *(or, if appropriate, a solicitor’s certificate in the form prescribed by section 62(7) of the Capital Acquisitions Tax Consolidation Act 2003).*
5. I exhibit herewith Registry of Deeds searches in respect of all parties on title and/or in possession covering their period of possession from the commencement of occupation *(or 30 years, if the occupation commenced over 30 years ago). (See Note 8)*
6. I exhibit herewith Judgment Office searches in respect of all parties on title and/or in possession covering their period on title/ in possession within the last 5 years*.(See Note 8)*
7. I am entitled for my own benefit to the fee simple interest in the property (*or, otherwise as the case may be*) and I am not aware of any contract or agreement for sale, or of any mortgage, charge, lease, agreement for lease, restrictive covenant, or incumbrance (*or*, except as stated in the Third Schedule hereto) affecting the property, or any part thereof, and I declare that there is no person in possession or occupation of the property or any part thereof adversely to my estate or interest therein.
8. I am not aware of any question or doubt affecting the title to the property, or any part thereof, or of any matter or thing whereby the title is, or may be impeached, affected, or called in question in any manner whatsoever.
9. There is not to my knowledge any person interested in the proceedings on the said application who is under the age of 18 years, or is of unsound mind, (except - *give name and address of any person interested who is a minor or of unsound mind and of his/her guardian or committee, or trustees under Section* 57 *of the Succession Act*, 1965, *if any*) and no proceedings are pending in any court relating to the said property (except - *give particulars of any pending action or suit*).
10. The contracts, abstracts, legal opinions, requisitions, replies, wills and other documents referred to or lodged with said application and produced in the proceedings thereunder are all the documents in my possession or under my control (*or, in the possession of or under his/ her control*) relating to the said property.
11. I apply to be registered as owner with absolute title *(or, as the case may be)* of the property set out in the First Schedule hereto.

**FIRST SCHEDULE**

The part of the property situate in the Townland of \_\_\_\_\_, Barony of \_\_\_\_\_\_\_\_\_\_ and County of \_\_\_\_ shown edged \_\_\_ on the map attached hereto.

**SECOND SCHEDULE**

**PART 1 – Dispossessed owner or successor**

*Provide names and current addresses – do not merely rely on the registered addresses on folios.  Information from the applicants knowledge or procurement should be provided.*

*Where it is claimed that successive barring has occurred (e.g. where the applicant claims to have barred persons who themselves may have acquired title under the Statute of Limitations), the names and addresses of all persons barred (or their successors) should be provided.*

**SECOND SCHEDULE**

**PART 2 – Adjoining Owners**

*Provide names and current addresses – do not merely rely on the registered addresses on folios.  Information from the applicants knowledge or procurement should be provided. Where there are a number of properties, the location of the notice parties may be indicated on a map.*

**THIRD SCHEDULE** (where necessary)

*Details of any mortgage, charge, lease, agreement for lease, restrictive covenant, lien incumbrance or trust affecting the property, or any part thereof.*

|  |  |
| --- | --- |
| Signature of deponent.  I.  X.Y., hereby certify that I know the deponent.    Signature | Sworn this the        day of             , 20  ,  at                 in the county of                                                 before me a Commissioner for Oaths (*or other qualified person*) and I know the deponent  (*or*, I know X.Y., who certifies his/her knowledge of the deponent).  Signature |

NOTES

Note (1) - Where the application is based on possession of registered land, Form 6 should be used and not this form.

Note (2) - This form can be used where the applicant has no documents of title in his/her possession or control *(see Rule 17).*

Note (3) - Please note that an interest vesting in a minor creates a trust in land by virtue of Part 4 of the Land and Conveyancing Law Reform Act 2009. The guardians of a minor do not necessarily have capacity to act as trustees on his/her behalf *(see Section 19 of the 2009 Act)*.

Note (4) - The relevant averments of Form 16 are included in Form 5.

Note (5) - If the application is made on behalf of a corporate body it may be made by the Secretary or Law Agent or it may be made by a person duly authorised by that body if it is averred that the person is duly authorised and has the necessary means of knowledge.

Note (6) - If there is more than one applicant, the form should be amended accordingly. All applicants should apply.

Note (7) – Where the property has been used in conjunction with leasehold property owned by the applicant, the presumption of encroachment may apply.

Note (8) – Any acts appearing on searches should be certified by a solicitor holding a current practicing certificate to be on title or not. If any acts appear to be on title, the deed the act relates to should be lodged. Where appropriate, for example if the applicant is a Local Authority, a Certificate of No Acts may be lodged in lieu of searches, in respect of its period of occupation.