



STATUTORY INSTRUMENTS.

**S.I. No. 559 of 2011**



LAND REGISTRATION RULES 2011

**(Prn. A11/1978)**

## LAND REGISTRATION RULES 2011

1. (1) These Rules may be cited as the Land Registration Rules 2011.

(2) These Rules and the Land Registration Rules 1972 to 2009(2) may be cited together as the Land Registration Rules 1972 to 2011.

(3) These Rules and the Land Registration Rules 1972 to 2009(2) shall be construed together as one.

2. These Rules shall come into operation on the 2nd day of November 2011, save Rule 5 and 7 which shall come into operation on the 1st day of March 2012.

*Acquisition of Easements and Profits à Prendre by Prescription*

Easements and  
*profits à prendre*  
by prescription

3. The Land Registration Rules 1972 are amended by the insertion of Rule 46A.

“46A (1) Pursuant to section 49A of the Act, any person claiming to be entitled to an easement or *profit à prendre* on the basis that the relevant requirements set out in sections 33 to 38 of the Land and Conveyancing Law Reform Act 2009 have been complied with, may apply for the registration of such right in Form 5A with such modifications therein as the case may require, whereupon the Authority, if satisfied that there is such an entitlement to the easement or *profit à prendre* concerned and following service of such notices (if any) as it may direct, may cause, as appropriate, the claimed easement or *profit à prendre* to be

(a) where the servient land is registered land registered as a burden under section 69(1)(jj) of the Act

(b) entered in the register as an appurtenance pursuant to section 82 of the Act or, in the case of a *profit à prendre* in gross, in the register of ownership maintained under section 8(b)(i) of the Act.

(2) The notice shall be in Form 113.

(3) Where the dominant land is unregistered, the application must be accompanied by an application for first registration of the dominant land pursuant to Rules 14 to 19.

(4) Where the servient land is unregistered and satisfactory evidence of the identity of the owner of the servient land is not produced the Authority

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 8th November, 2011.*

may direct such searches, advertisements, notices and enquiries as it may deem necessary.”

4. Rule 103 of the Land Registration Rules 1972 is amended by the addition of the following after sub-rule (1)(d)(iv): Amendment of Rule 103.

“(v) An easement or *profit à prendre* registered as a burden pursuant to section 49A of the Act.”

5. The Land Registration Rules 1972 are amended by the substitution of the following for Rule 113(1) of those Rules: Amendment of Rule 113.

“113. (1) A charge for the payment of money, and a transfer and release thereof, shall be made in such one of Forms 67 to 72, 114 and 115, as may be applicable.”

6. The Schedule of Forms of the Land Registration Rules 1972 is amended by the addition of Forms 5A and 113 set out in the Schedule hereto.

7. The Schedule of Forms of the Land Registration Rules 1972 is amended by the addition of Forms 114 and 115 set out in the Schedule hereto.

## Schedule

## FORM 5A

*Application for registration of easements or profit à prendre acquired by prescription (Rule 46A and section 49A)*

## Land Registry

COUNTY

FOLIO NO.

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

- See Note (1)* 1. I, (and my predecessors in title) have enjoyed the easement/*profit à prendre* specified in the First Schedule hereto, continuously (without interruption) and openly for upwards of \_\_\_\_\_ years without permission.
- See Note (2)* 2. (Describe how and when the user period began and set out such facts as are relied upon in support of the applicant's claim to have established his right.).
- See Note (3)* 3 I am entitled for my own benefit to the property specified in the Second Schedule which enjoys the benefit of the right claimed (describe how the property so benefits). (Where the property is unregistered the application must be accompanied by an application for first registration pursuant to Rules 14 to 19).
- See Note (4)* 4 The property over which the right is exercised is set out in the Third Schedule and the name and address (if known) of the owner is supplied for notice purposes.
5. I am not aware of any question or doubt affecting the right, or any part thereof, or of any matter or thing whereby the right is, or may be impeached, affected, or called into question in any manner whatsoever.
6. There is not to my knowledge any person interested in the entitlement claimed under this application and/or the servient lands 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 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 entitlement (except—give particulars of any pending action or suit).
7. I apply that the foregoing right be—
- (a) registered as a burden within section 69(1)(jj) of the Act, (provided that the servient land is registered land),
  - (b) entered in the register as an appurtenance pursuant to section 82 of the Act or, in the case of a *profit à prendre* held in gross entered in the register of ownership maintained under section 8(b)(i) of the Act.

Signature of deponent.	Sworn this the            day of            20            ,
I, E.F., hereby certify that I know deponent.	at            in the county of            before me a Commissioner for Oaths (or other qualified person) and I know the deponent (or, I know E.F., who certifies his knowledge of the deponent),
Signature	Signature

### First Schedule

Description of easement or <i>profit à prendre</i> :
(To contain a full and unambiguous description of the easement or <i>profit à prendre</i> by reference to an application map suitably marked see Rules 30 and 56.)

### Second Schedule

*See Note 3*

Description of dominant land owned by applicant:
(By reference to folio number if the land is registered. If part only of the folio or if an application for first registration being made by reference to property edged red on the application map.)

### Third Schedule

Description of servient land and name and address of the owner (if known):
(By reference to folio number if the land is registered. If servient land is unregistered, by reference to property edged red on the application map.)

NOTE (1) — Up until the 30th November 2021, an application under Rule 46A of the Act, can only be established pursuant to the law on prescription prior to the Land and Conveyancing Law Reform Act 2009 (“the 2009 Act”) i.e. at common law, under the doctrine of lost modern grant or pursuant to the Prescription Act, 1832, applied in Ireland by the Prescription (Ir) Act, 1858. The transitional provisions of section 38 of the 2009 Act [as extended by section 38 of the Civil Law (Miscellaneous Provisions) Act 2011], provide for the establishment of a claim either **already acquired** prior to the 1st December 2009 **or in the process of being acquired** under the law prior to the 2009 Act, **up until 30th November 2021**. The application should clearly demonstrate that the applicant is entitled to the easement or *profit à prendre* claimed under the law applicable prior to the commencement of Chapter 1 of Part 8 of the 2009 Act immediately before the date of the application.

NOTE (2) — Paragraph 2 must establish that there was at all material times a capable grantor and grantee, that the right was capable of forming the subject matter of a grant, that the right claimed was not a public right of way, customary right, franchise or licence, that there has been the requisite period of user, that the exercise of the right has been without force, without secrecy and without permission and that the grant of the right would not have been illegal.

NOTE (3) — Paragraph 3 of Form 5A and the Second Schedule can be omitted where the application is for registration of a *profit à prendre* held in gross.

NOTE (4) Where the owner (where known) of the land in the Third Schedule is deceased, details to be provided of his/her personal representative. If there is no personal representative, details of his/her next of kin are to be provided for service of notice.

NOTE (5) — If the Authority is not satisfied that there is an entitlement to the easement or *profit à prendre* or if an objection raises doubt as to the applicant's entitlement the application may be refused. It would then be open to the applicant to make an application to the court under section 35 of the Land and Conveyancing Law Reform Act 2009.

## FORM 113

*Notice of application for registration of an easement or profit à prendre acquired by prescription (rule 46A).*

## Property Registration Authority

County

Folio (if appropriate)

Sir, (or, Madam),

An application has been made by \_\_\_\_\_ for the registration of an ease- *See Note (1)*  
ment (or *profit à prendre*) specified in the First Schedule hereto (which benefits  
the land specified in the Second Schedule hereto).

The applicant claims to be entitled to the said easement (or *profit à prendre*) on  
the basis that the relevant requirements set out in sections 33 to 38 of the Land  
and Conveyancing Law Reform Act 2009 have been complied with. The appli-  
cant claims that he/she (and his/her predecessors in title) have enjoyed the said  
easement (or *profit à prendre*) continuously (without interruption) and openly  
for upwards of \_\_\_\_\_ years without permission.

This notice is served on you as owner (or as personal representative or next of  
kin of the owner etc. as appropriate) of the land the subject of the claimed  
easement (or *profit à prendre*) set out in the Third Schedule hereto (or in case  
the application affects you in any way).

Any objection by you to the registration applied for should be on affidavit and  
should set out the grounds of your objection. Failing receipt from you,  
within \_\_\_\_\_ days from your receipt of the notice, of any sustainable objection  
the application will be proceeded with without further reference to you [and  
(where the servient land is registered) the said easement (or *profit à prendre*)  
will be registered as a burden on the folio set out in the Third Schedule hereto].

This notice will be deemed to have been received by you within \_\_\_\_\_ days from  
the date hereof.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_ .

**First Schedule**

Description of easement or <i>profit à prendre</i> :

*See Note (1)*

**Second Schedule**

Description of dominant land owned by applicant:

**Third Schedule**

Description of servient land:

To:

Signed:

Note (1)—Omit “(which benefits the land specified in the Second Schedule hereto)” and Second Schedule if application relates to a *profit à prendre* in gross.



FORM 114

*Charge for present and future advances. (rules 52, 113)*

MORTGAGE

Date:

Secured Party:

Mortgagor:

Mortgaged Property:

The property comprised in Folio \_\_\_\_\_ County

ALL THAT the property known as

(use a continuation sheet if necessary)

General Mortgage Conditions:

This Mortgage incorporates the Loan Mortgage Conditions as if they were set out in this Mortgage in full and the Mortgagor acknowledges that the Mortgagor has been given a copy of the General Mortgage Conditions and has read them and agrees to be bound by them. The term "Secured Liabilities" has the meaning given in the "General Conditions".

Mortgage:

As security for the payment and discharge of the Secured Liabilities, the Mortgagor as beneficial owner (and also in the case of registered land as registered owner or as the person entitled to be registered as registered owner) hereby charges in favour of the Secured Party the Mortgaged Property with the payment of the Secured Liabilities, and assents to the registration of this charge as a burden on the Mortgaged Property.

Signatures:

Signed and Delivered as a deed: .....	Signed and Delivered as a deed: .....
Signature of witness: .....	Signature of witness: .....
Name of witness: .....	Name of witness: .....
Address of witness: .....	Address of witness: .....
Occupation of witness: .....	Occupation of witness: .....
	(use a continuation sheet for additional signatories)

FORM 115.

*Specific charge for present and future advances arising on the creation of a commercial mortgage or debenture. (rules 52, 113)*

SPECIFIC CHARGE

Date:

Secured Party:

Mortgagor:

Mortgaged Property subject to specific charge:

The property comprised in Folio                      County

ALL THAT the property known as

(use a continuation sheet if necessary)

Mortgage Conditions:

This Mortgage incorporates the Mortgage Conditions in Mortgage/Debenture of even date, between the parties herein, as if they were set out in this Mortgage in full. The term "Secured Liabilities" has the meaning given in the Mortgage Conditions.

Specific Charge:

As security for the payment and discharge of the Secured Liabilities, the Mortgagor as beneficial owner (and also in the case of registered land as registered owner or as the person entitled to be registered as registered owner) hereby charges in favour of the Secured Party the Mortgaged Property with the payment of the Secured Liabilities, and assents to the registration of this charge as a burden on the Mortgaged Property.

The Mortgagor acknowledges that the charge hereby created forms one transaction with the security created in the aforesaid Mortgage/Debenture of even date for payment of the Secured Liabilities.

Signatures:

Signed and Delivered as a deed: .....	Present when the common seal of the mortgagor was affixed hereto: .....
Signature of witness: .....	Signature of witness: .....
Name of witness: .....	Name of witness: .....
Address of witness: .....	Address of witness: .....
Occupation of witness: .....	Occupation of witness: .....
	(use a continuation sheet for additional signatories)

We, the Registration of Deeds and Title Rules Committee, constituted pursuant to the provisions of section 74 of the Registration of Deeds and Title Act 2006 in exercise of the powers conferred on us by section 126 of the Registration of Title Act 1964, as amended by section 72 of the Registration of Deeds and Title Act 2006, with the concurrence of the Minister for Justice and Equality, do hereby make the foregoing Rules.

DATED this 11th day of October, 2011.

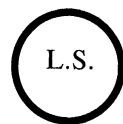
MARY LAFFOY, Judge of the High Court.

JOHN DEENEY, Acting Chief Executive of the Property Registration Authority

JAMES DWYER, Senior Counsel.

OWEN M. BINCHY, Solicitor.

I, Alan Shatter, Minister for Justice and Equality, in exercise of the powers conferred on me by section 126 of the Registration of Title Act 1964, as amended by section 72 of the Registration of Deeds and Title Act 2006, hereby concur in the making of the foregoing Rules.



GIVEN under my Official Seal,  
2 November, 2011.

ALAN SHATTER,  
Minister for Justice and Equality.

EXPLANATORY NOTE

*(This note is not part of the instrument and does not purport to be a legal interpretation.)*

These Rules, which come into effect on the 2nd day of November 2011 save Rule 5 and 7 which shall come into operation on the 1st day of March 2012, provide for the registration of easements and *profits à prendre* acquired by prescription, the amendment of Rules 103 and 113 of the Land Registration Rules 1972 and the provision of additional prescribed forms of charge.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ón  
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,  
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,  
nó tríd an bpost ó  
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,  
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,  
CONTAE MHAIGH EO,  
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)  
nó trí aon díoltóir leabhar.

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