
Adverse Possession against Registered Land

Department for Business, Energy & Industrial Strategy - Land Registry

RPC rating: validated

Description of proposal

The impact assessment (IA) explains that “*adverse possession occurs when a squatter has acted as the owner of someone else’s land for so long, that the original owner is barred by law from reclaiming it. Thus the squatter becomes the new owner.*”

The proposal changes the approach taken by the Land Registry to handling appeals against adverse possession applications. This change of practice is limited to situations where the adverse possession application is made against registered land, and the condition for submitting the application is that the squatter “*reasonably, but mistakenly, thought that the land fell within the boundaries of their neighbouring property*”.

Before the change, if an applicant failed to present evidence in support of that condition and the owner of the land opposed the application on that basis, LR would simply cancel it. Under the new process, an incomplete application can be progressed, and the final judgement as to whether the condition for lodging the application has been met is left to the discretion of the First-Tier Tribunal. Thus, the change does not affect the landowner’s right to oppose the application, but does save some time in the early stages of the process for the applicant.

This measure applies in England and Wales.

Impacts of proposal

Land Registry estimates the impact of the measure to be negligible as the measure will affect a very small number of applications. The average annual number of applications that would be affected by the change is estimated at around 200, so this seems reasonable.

Moreover, the impact assessment (IA) explains that no familiarisation costs will have been incurred as the change affects only Land Registry’s own practice and has not been publicised.

The RPC verifies the estimated equivalent annual net direct cost to business (EANDCB) of zero. This will be a qualifying regulatory provision that will score under the business impact target.

Quality of submission

The IA gives a clear and proportionate explanation of the measure. However, in the absence of detailed quantitative evidence the Department might have made more effective use of qualitative evidence. This particularly applies to the Department's assumptions on costs and benefits for stakeholders.

For example, the Department assumes that the change will not result in any costs or benefits for stakeholders, but in practice it may lead to some benefits for squatters – some of whom are businesses, as the Land Registry notes. Under the new rules, the evidence supporting the application for adverse possession could be provided at a later stage, when the dispute is subject to First-Tier Tribunal consideration, and when it is clear that the application has not been cancelled. This should reduce the costs of making adverse possession applications. Qualitative analysis of this kind might have been included in the IA in order to improve the quality of submission. In addition, the assessment could have discussed possible behavioural changes resulting from this regulatory change.

Departmental assessment

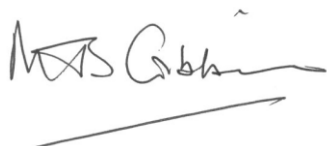
Classification	Qualifying regulatory provision (OUT)
Equivalent annual net cost to business (EANCB)	Zero
Business net present value	Zero

RPC assessment

Classification	Qualifying regulatory provision (OUT)
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Opinion: EANDCB validation
Origin: domestic
RPC reference number: RPC17-BEIS-LR-3689(1)
Date of implementation: 28 November 2016

EANCB – RPC validated ¹	Zero
Business Impact Target (BIT) Score ¹	Zero



Michael Gibbons CBE, Chairman

¹ For reporting purposes, the RPC validates EANCB and BIT score figures to the nearest £100,000.