

Prior to the coming into force of the LRA 2002, a squatter could acquire the right to be registered as proprietor of a registered estate if they had been in adverse possession of the land for a minimum of 12 years. However, the doctrine of adverse possession did not fit easily with the concept of indefeasibility of title that underlies the system of land registration. Nor could it be justified by the uncertainties as to ownership which can arise where land is unregistered; the legal estate is vested in the registered proprietor and they are identified in the register.

The LRA 2002 has created a new regime that applies only to registered land. This new regime is set out in Schedule 6 to the Act. It makes it more likely that a registered proprietor will be able to prevent an application for adverse possession of their land being completed. The following paragraphs provide a brief overview of the new regime; the remaining sections of this guide discuss it in more detail.

- Adverse possession of registered land for 12 years of itself will no longer affect the registered proprietor's title.
- After 10 years' adverse possession, the squatter will be entitled to apply to be registered as proprietor in place of the registered proprietor of the land.
- On such an application being made the registered proprietor (and certain other persons interested in the land) will be notified and given the opportunity to oppose the application.
- If the application is not opposed¹, the squatter will be registered as proprietor in place of the registered proprietor of the land.
- If the application is opposed, it will be rejected unless either:
 - it would be unconscionable because of an equity by estoppel for the registered proprietor to seek to dispossess the squatter and the squatter ought in the circumstances to be registered as proprietor
 - the squatter is for some other reason entitled to be registered as proprietor, or
 - the squatter has been in adverse possession of land adjacent to their own under the mistaken but reasonable belief that they are the owner of it, the exact line of the boundary with this adjacent land has not been determined and the estate to which the application relates was registered more than a year prior to the date of the application.
- In the event that the application is rejected but the squatter remains in adverse possession for a further two years, they will then be able, subject to certain exceptions, to reapply to be registered as proprietor and this time will be so registered whether or not anyone opposes the application.

¹ By 'opposed' we mean that a counter notice is served; see section 8 *Giving counter notice to the registrar in response to notice*. Instead, or at the same time, the registered proprietor may object to the application on the ground that there has not been the necessary 10 years' adverse possession; see section 7 *Objecting to the squatter's application* for the implications of such an objection.

Attachments