



Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

PART I

GENERAL PRINCIPLES AS TO LEGAL ESTATES, EQUITABLE INTERESTS AND POWERS

Undivided Shares and Joint Ownership

36 Joint tenancies.

- (1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, the same shall be held [^{F1}in trust], in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.
- (2) No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other joint tenants, or the right to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants:

Provided that, where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon [^{F2}the land shall be held in trust on terms] which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

[^{F3}Nothing in this Act affects the right of a survivor of joint tenants, who is solely and beneficially interested, to deal with his legal estate as if it were not held [^{F2}in trust].]

- (3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible.

Status: Point in time view as at 01/10/2011.

Changes to legislation: Law of Property Act 1925, Section 36 is up to date with all changes known to be in force on or before 12 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Words in s. 36(1) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 4(2)(4)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F2** Words in s. 36(2) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 4(3)(a)(b)(4)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F3** Words added by **Law of Property (Amendment) Act 1926 (c. 11), Sch.**

Modifications etc. (not altering text)

- C1** S. 36 applied by **Leasehold Reform Act 1967 (c. 88), s. 6(1)**
- C2** S. 36(2) extended retrospectively by **Law of Property (Joint Tenants) Act 1964 (c. 63), ss. 1, 2**

Status:

Point in time view as at 01/10/2011.

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