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# Conveyancing Act 1919 No 6

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Part 4 ▶ Division 6 ▶ Section 66G

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## 66G Statutory trusts for sale or partition of property held in co-ownership

- (1) Where any property (other than chattels) is held in co-ownership the court may, on the application of any one or more of the co-owners, appoint trustees of the property and vest the same in such trustees, subject to incumbrances affecting the entirety, but free from incumbrances affecting any undivided shares, to be held by them on the statutory trust for sale or on the statutory trust for partition.
- (1A) Subject to this section, on the death of a co-owner, any proceedings by or against the co-owner under subsection (1) (whether instituted before or after the commencement of this subsection) survive against or for the benefit of the estate of the deceased co-owner despite, in the case of a joint tenancy, the rule of survivorship.
- (2) Where the entirety of the property is vested in trustees or personal representatives, those trustees or personal representatives shall, unless the court otherwise determines, be appointed trustees on either of such statutory trusts, but subject, in the case of personal representatives, to their rights and powers for the purposes of administration.
- (3)
  - (a) Where the entirety of the property is vested at law in co-owners the court may appoint a trust corporation either alone or with one or two individuals (whether or not being co-owners), or two or more individuals, not exceeding four (whether or not including one or more of the co-owners), to be trustees of the property on either of such statutory trusts.
  - (b) On such appointment the property shall, subject to the provisions of section 78 of the *Trustee Act 1925*, vest in the trustees.
- (4) If, on an application for the appointment of trustees on the statutory trust for sale, any of the co-owners satisfies the court that partition of the property would be more beneficial for the co-owners interested to the extent of upwards of a moiety in value than sale, the court may, with the consent of the incumbrancers of the entirety (if any), appoint trustees of the property on the statutory trust for partition, or as to part of the property on the statutory trust for sale, and as to part on the statutory trust for partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given.
- (5)
  - (a) When such trustees for partition have prepared a scheme of partition they shall serve notice in writing thereof on all the co-owners of the age of eighteen years or upwards, and any of such co-owners dissatisfied with the scheme may, within one month after service upon him or her of such notice, apply to the court for a variation of the same.
  - (b) Where any of the co-owners is a person under mental disability, the notice shall be served on the person charged by law with the management and care of the property of the person under mental disability or, if there is no person so charged, on such officer of the court as may be prescribed by rules of court.

- (c) Where any of the co-owners is a minor or a person who cannot be found or ascertained, or as to whom it is uncertain whether the co-owner is living or dead, the trustees may act on behalf of the minor or person, and retain land or other property to represent the co-owner's share.
- (6) In relation to the sale or partition of property held in co-ownership, the court may alter such statutory trusts, and the trust so altered shall be deemed to be the statutory trust in relation to that property.
- (7) Where property becomes subject to such statutory trust for sale:
  - (a) in the case of joint tenancy, a sale under the trust shall not of itself effect a severance of that tenancy,
  - (b) in any case land shall be deemed to be converted upon the appointment of trustees for sale unless the court otherwise directs.
- (8) This section applies to property held in co-ownership at the commencement of the *Conveyancing (Amendment) Act 1930* and to property which becomes so held after such commencement.
- (9) This section does not apply to property in respect of which a subsisting contract for sale (whether made under an order in a suit for partition, or by or on behalf of all the co-owners) is in force at the commencement of the *Conveyancing (Amendment) Act 1930* if the contract is completed in due course, nor to land in respect of which a suit for partition is pending at such commencement if a decree for a partition or sale is subsequently made in such suit.