

CERTIFICATE OF IDENTIFICATION

Name.....

I HEREBY CERTIFY that the above namedappeared before me on the.....day of.....20.....and being identified by* (or being known to me) acknowledged the above signature or mark to be his/theirs and that he/they had freely and voluntarily executed this instrument and understood its contents.

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Signature and designation of the person certifying

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*NOTE: Please ensure that the appropriate insertions and/or deletions are made so that the method of identification is clear.

The information provided in this guide is not intended to amount to legal advice. Professional assistance may be required to determine the most appropriate action. Lands Registry accepts no responsibility where parties print this guide and seek to rely on information that is out of date.

BACKGROUND

The right of survivorship continues as a significant characteristic of a joint tenancy relationship. Briefly, it may be defined as: "on the death of one joint tenant, his interest in the land passes to the other joint tenants by the right of survivorship (jus accrescendi), and this process continues until there is but one survivor, who then holds the land as sole owner."

The Registered Land Act recognizes this right of survivorship and to effect a transfer of the deceased joint tenant's interest the registration of a Deletion of Death, Form36, accompanied by proof of death is required.

REGISTRATION PROCEDURE

Where any person registered with another as a joint tenant dies, the surviving joint tenant(s) must apply to be registered as the surviving proprietor(s) on the Register.

Although the interest of a joint tenant ceases immediately on death and the surviving joint tenant's interest is immediately enlarged, the legal estate does not change until the required application is made and the Register amended.

In support of a Deletion on Death the following must be produced:

- Evidence of death; and
- Land Register (where applicable; and
- Affidavit of Identity (where applicable).

Evidence of Death – usually the original or copy death certificate issued by the Registrar Births, Deaths and Marriages or an equivalent official authority in a foreign jurisdiction. An original grant of probate or letters of administration of the deceased issued by the Grand Court is also acceptable evidence.

Where the evidence is printed in a foreign language, the original evidence (or certified copy that is certified by the issuing authority only) must be translated, and a translated version plus the original/certified version will need to be produced.

If providing the original evidence to Land Registry, we can return the evidence by making a copy and the copy will be noted as "seen by Land Registry". The original/certified evidence will be returned to the lodging party and the "original seen" copy and the official translated version of the evidence is then lodged with the document/s.

Land Certificate - The Land Certificate (where applicable).

Deletion of Death Form – Form 36 completed by the surviving joint tenant(s) or his or her personal representative or by one or more of the surviving joint tenants if more than one. This Form should:

- identify the surviving joint tenant (s); and
- identify the land being dealt with by Registration Section and Block and Parcel Number, and where a mortgage, charge or lease of land is being dealt with, the number of that instrument; and
- identify the deceased joint tenant as being one and the same as the person shown on the certified copy of the death certificate, or other evidence of death produced.
- The full name of the deceased as shown on the Land Register must be stated. A suitable clause may read "The person shown as (full name) on the Land Register is one and the same as (deceased full name) described on the death certificate." It is not necessary to amend the name of the deceased where there is a discrepancy between the evidence of death and certificate of title.

WHO MAY APPLY

The following persons may apply to be registered as proprietor by survivorship:

- all the surviving joint tenants
 - the sole surviving joint tenant
 - where all joint tenants are deceased the executor or administrator of the last surviving joint tenant on behalf of that joint tenant
 - the surviving executor/administrator/trustee when registered as proprietor with a deceased co-executor/co-administrator/co-trustee
- and
- a corporation when registered as joint tenant with a person who has died.
 - If the joint tenant is a corporation which has ceased to exist please refer to Guidance Notes on Corporations.

The survivorship application form for the third scenario set out above is completed as shown in xxx. This form of survivorship must be followed by a transmission application of the estate of the last surviving joint tenant.

The surviving joint tenant may appoint anyone under a Power of Attorney to execute the deletion of death form on behalf of the donor of the power of attorney, and may (in the attorney's name) complete the application.

DEATH OF MULTIPLE JOINT TENANTS

Where more than one joint tenant has died, the surviving joint tenant(s) can make one application and list all of the deceased co-proprietors in the deceased proprietor panel.

DEATH OF A LIFE TENANT

Where a Life Tenant dies, the remaining registered owner should complete a Deletion of Death Form.

DEATH OF A JOINT ENCUMBRANCE HOLDER

Where an encumbrance holder of a Charge or Lease dies and where they hold the interest jointly, a Deletion of Death form should be used.

The effect of the application is to remove the deceased encumbrance holder, leaving the surviving interest holder to hold the interest solely. The debt or interest can then be discharged or surrendered by the surviving interest holder, or as the case may be. The evidence requirements are the same as on the death of a joint registered owner.

Simultaneous Death of Joint Tenants

The Succession Act (section 36) states that if joint tenants die at the same time or if it cannot be determined who died first, it is presumed to have occurred in order of seniority, and accordingly the younger shall be deemed to have survived the elder. Accordingly, the Land Registry would accept for registration a Deletion on Death Form for the older joint tenant and an Application for Transmission by the personal representatives for the younger joint tenant.