



JOINT OWNERSHIP OR CO-OWNERSHIP

If an individual person purchases a boat for his own use he becomes the sole legal owner of it. This is the simplest form of ownership, as beneficial ownership and legal title coincide.

If two or more persons buy a boat together (each joining in the contract with the seller) they will, by automatic operation of law, become joint legal owners of it. They have, as between each other, “unity of title” and no “distinction of interest”.

An important consequence of joint ownership is the right of survivorship. This means that if one of the joint owners dies, his legal title in the boat passes automatically to the surviving joint owner(s). This may be desirable in the case of a husband and wife team but is unlikely to be what a group of friends owning a boat together would want. In such a case the beneficiaries of the deceased’s estate would obviously be entitled to a share in the proceeds of the boat, but the legal title would need to be transferred separately to them by the surviving joint owners.

However, if one party to the agreement expressly deals with his share in his Will, this may effectively sever the Joint Ownership with the result that Co Ownership is set up in its absence.

To avoid any confusion, it is usually more appropriate for those buying a boat in partnership to become co-owners. Each then owns a distinct legal share in the boat.

Whilst there is no strict need for a complicated legal document to record the shares owned by such a group, the RYA does provide for members a draft form of agreement for the syndicate ownership of a boat. As well as providing sufficient evidence of the fact of co-ownership this also deals with the practical management aspects of syndicate ownership.

We would advise our members, when purchasing a boat with a number of other owners to use our syndicate agreement and set out the division of shares as between each owner.

If, say, two friends or an unmarried partnership buy a boat together and do not want the rule of survivorship to apply it would be sensible to make a short written declaration (preferably professionally witnessed) setting out their respective interests in the craft.

Where a boat (or any ship) is registered on the Part 1 Register, it is notionally divided into 64 shares. This has its origins in the historic merchant shipping practice of ships being owned by large syndicates. For present purposes we need only say that if two or more persons register a boat under the Part 1 procedure, the fact of such an allocation of shares in her will be sufficient evidence of the existence of co-ownership rather than joint ownership.

BENEFICIAL OWNERSHIP

Everything said so far applies only to what is known as the “legal” ownership in a boat. A person or persons who are such legal owners will appear to the outside world for the ship’s papers (and the entry on the Register, if any) as if they were the only persons with an interest in her. They will in fact be the only person(s) entitled to deal with the boat (eg. sell or mortgage it). They may however not be the persons who “own” the craft in the colloquial sense. Thus, for example, a large syndicate of perhaps several hundred people may have contributed informal shares towards the purchase and running of a large boat and have appointed a single person to hold formal title on behalf of all of them; or several friends may have all contributed towards the boat but are content for her to be registered in one name only; or perhaps the members of a yacht club may decide to purchase a Boat for club use and will place her in the name of the Trustees appointed under the club’s constitution (in the case of an unincorporated club they must do this, as such a club’s property can only effectively be held by Trustees). In all these examples the group of people who have in actuality the benefit of the use of the boat are the beneficial owners and the persons who hold formal title to her are the legal owners. Legal and beneficial ownership can, and in most cases do, coincide. Thus a person who buys a boat for himself for his own use is likely to be both the legal and the beneficial owner of her.

For more information kindly contact the RYA Legal Team on 023 8060 4223 or legal@rya.org.uk

RYA Responsibility Statement:

The RYA Legal Team provides generic legal advice for RYA members, affiliated clubs and Recognised Training Centres. The information contained in this Guidance represents the RYA’s interpretation of the law as at the date of this edition. The RYA takes all reasonable care to ensure that the information contained in this Guidance is accurate and that any opinions, interpretations and guidance expressed have been carefully considered in the context in which they are expressed. However, before taking any action based on the contents of this Guidance, readers are advised to confirm the up to date position and to take appropriate professional advice specific to their individual circumstances.