



Law Reform (Married Women and Tortfeasors) Act 1935

1935 CHAPTER 30

PART I

CAPACITY, PROPERTY, AND LIABILITIES OF MARRIED WOMEN; AND LIABILITIES OF HUSBANDS

1 Capacity of married women.

Subject to the provisions of this Part of this Act, and subject, as respects actions in tort between husband and wife, to the provisions of section twelve of the Married Women's Property Act, 1882, a married woman shall—

- (a) be capable of acquiring, holding, and disposing of, any property; and
- (b) be capable of rendering herself, and being rendered, liable in respect of any tort, contract, debt, or obligation; and
- (c) be capable of suing and being sued, either in tort or in contract or otherwise; and
- (d) be subject to the law relating to bankruptcy and to the enforcement of judgments and orders,

in all respects as if she were a feme sole.

2 Property of married women.

(1) Subject to the provisions of this Part of this Act all property which—

- (a) immediately before the passing of this Act was the separate property of a married woman or held for her separate use in equity; or
- (b) belongs at the time of her marriage to a woman married after the passing of this Act; or
- (c) after the passing of this Act is acquired by or devolves upon a married woman, shall belong to her in all respects as if she were a feme sole and may be disposed of accordingly :

Provided that nothing in this subsection shall interfere with or render inoperative any restriction upon anticipation or alienation attached to the enjoyment of any property by virtue of any provision attaching such a restriction, contained in any Act passed before the passing of this Act, or in any instrument executed before the first day of January nineteen hundred and thirty-six.

- (2) Any instrument executed on or after the first day of January, nineteen hundred and thirty-six, shall, in so far as it purports to attach to the enjoyment of any property by a woman any restriction upon anticipation or alienation which could not have been attached to the enjoyment of that property by a man, be void.
- (3) For the purposes of the provisions of this section relating to restrictions upon anticipation or alienation—
 - (a) an instrument attaching such a restriction as aforesaid executed on or after the first day of January, nineteen hundred and thirty-six, in pursuance of an obligation imposed before that date to attach such a restriction shall be deemed to have been executed before the said first day of January;
 - (b) a provision contained in an instrument made in exercise of a special power of appointment shall be deemed to be contained in that instrument only and not in the instrument by which the power was created; and
 - (c) the will of any testator who dies after the thirty-first day of December, nineteen hundred and forty-five, shall (notwithstanding the actual date of the execution thereof) be deemed to have been executed after the first day of January, nineteen hundred and thirty-six.

3 Abolition of husband's liability for wife's torts and ante-nuptial contracts, debts and obligations.

Subject to the provisions of this Part of this Act, the husband of a married woman shall not, by reason only of his being her husband, be liable—

- (a) in respect of any tort committed by her whether before or after the marriage, or in respect of any contract entered into, or debt or obligation incurred, by her before the marriage; or
- (b) to be sued, or made a party to any legal proceeding brought, in respect of any such tort, contract, debt, or obligation.

4 Savings.

- (1) Nothing in this Part of this Act shall—
 - (a) during coverture which began before the first day of January eighteen hundred and eighty-three, affect any property to which the title (whether vested or contingent, and whether in possession, reversion, or remainder) of a married woman accrued before that date, except property held for her separate use in equity;
 - (b) affect any legal proceeding in respect of any tort if proceedings had been instituted in respect thereof before the passing of this Act;
 - (c) enable any judgment or order against a married woman in respect of a contract entered into, or debt or obligation incurred, before the passing of this Act, to be enforced in bankruptcy or to be enforced otherwise than against her property.
- (2) For the avoidance of doubt it is hereby declared that nothing in this Part of this Act—

Status: This is the original version (as it was originally enacted).

- (a) renders the husband of a married woman liable in respect of any contract entered into, or debt or obligation incurred, by her after the marriage in respect of which he would not have been liable if this Act had not been passed;
- (b) exempts the husband of a married woman from liability in respect of any contract entered into, or debt or obligation (not being a debt or obligation arising out of the commission of a tort) incurred, by her after the marriage in respect of which he would have been liable if this Act had not been passed;
- (c) prevents a husband and wife from acquiring, holding, and disposing of, any property jointly or as tenants in common, or from rendering themselves, or being rendered, jointly liable in respect of any tort, contract, debt or obligation, and of suing and being sued either in tort or in contract or otherwise, in like manner as if they were not married;
- (d) prevents the exercise of any joint power given to a husband and wife.

5 Consequential amendments and repeals.

- (1) The enactments mentioned in the first column of the First Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule.
- (2) The enactments mentioned in the Second Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.