



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 19 of 1972

An Act to amend the Law of Property Act, 1936-1969;
and the Wrongs Act, 1936-1959.

[Assented to 30th March, 1972]

BE IT ENACTED by the Governor of the State of South
Australia, with the advice and consent of the Parliament thereof,
as follows:

PART I

PART I

PRELIMINARY

Short title. 1. This Act may be cited as the "Statutes Amendment (Law of
Property and Wrongs) Act, 1972".

**Commence-
ment.** 2. This Act shall come into operation on a day to be fixed by
proclamation.

Arrangement. 3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—AMENDMENT OF THE LAW OF PROPERTY
ACT, 1936-1969

PART III—AMENDMENT OF THE WRONGS ACT,
1936-1959

PART II

PART II

AMENDMENT OF LAW OF PROPERTY ACT, 1936-1969

4. (1) The Law of Property Act, 1936-1969, as amended by this Act, may be cited as the "Law of Property Act, 1936-1972".

Short titles.

(2) The Law of Property Act, 1936-1969, is in this Part referred to as "the principal Act".

5. Section 92 of the principal Act is amended—

Amendment of
principal Act,
s. 92—
Status of
married women.

(a) by striking out the passage "Subject as regards actions in tort between husband and wife to the provisions of section 101, a married woman shall" and inserting in lieu thereof the passage "A married woman shall";

and

(b) by inserting after paragraph (b) the following paragraph:—

(ba) be capable of appointing an agent or attorney to act on her behalf

and.

6. Section 93 of the principal Act is amended by striking out the proviso.

Amendment of
principal Act,
s. 93—
Married
women.

7. The following section is enacted and inserted in the principal Act immediately after section 95 thereof:—

Enactment of
s. 95a of
principal Act—

95a. A husband and wife shall, for the purposes of the acquisition of any interest in property pursuant to a disposition that comes into operation after the commencement of the Statutes Amendment (Law of Property and Wrongs) Act, 1971, be treated as two persons.

Husband and
wife to be
treated as
separate
persons for
purpose of
taking
property.

8. Section 99 of the principal Act is amended by striking out the word "ensure" and inserting in lieu thereof the word "enure".

Amendment of
principal Act,
s. 99—
Married
woman may
effect policy of
insurance.

9. Section 101 of the principal Act is amended by striking out from subsection (1) the passage "but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort".

Amendment of
principal Act,
s. 101—
Married
women to have
the same civil
and criminal
redress as
feme sole.

10. The following section is enacted and inserted in the principal Act immediately after section 105 thereof:—

Enactment of
s. 105a of
principal Act—

105a. If any question arises as to the right of a husband or wife to money derived from an allowance made by the husband to the wife for the purpose of defraying domestic expenses,

Property in
domestic
allowance.

or to property acquired with such money, the money or property shall, in the absence of agreement to the contrary, be treated as belonging to the husband and wife in equal shares.

Repeal of
s. 110 of
principal Act
and enactment
of section in
its place—

Invalidity of
restraints upon
anticipations.

11. Section 110 of the principal Act is repealed and the following section is enacted and inserted in its place:—

110. Any restraint or restriction upon anticipation or alienation affecting the enjoyment of property by a woman that could not have been validly made or imposed in respect of the enjoyment of property by a man, is invalid.

PART III

PART III

AMENDMENT OF THE WRONGS ACT, 1936-1959

Short titles.

12. (1) The Wrongs Act, 1936-1959, as amended by this Act, may be cited as the "Wrongs Act, 1936-1972".

(2) The Wrongs Act, 1936-1959, is in this Part referred to as "the principal Act".

Enactment of
headings and
ss. 32-35.

13. The following headings and sections are enacted and inserted in the principal Act immediately after section 31 thereof:—

Actions in tort relating to husband and wife

Abolition of
rule as to unity
of spouses.

32. (1) Subject to this section, where any injury or damage is suffered by any person by reason of the wrongful act, neglect or default of his spouse, the spouse shall be liable in respect of that injury or damage in all respects as if the injured person and the person by reason of whose wrongful act neglect or default the injury or damage is suffered were not married.

(2) This section shall not be construed as entitling any person to maintain an action in trespass or ejection against his spouse in respect of a matrimonial home.

(3) Where proceedings are brought pursuant to this section, the court may dismiss the proceedings if it appears to the court—

(a) that no substantial benefit would accrue to either party from the continuation of the proceedings;

or

(b) that the question or questions in issue could be more conveniently disposed of on an application under section 105 of the Law of Property Act.

33. (1) Where a person causes injury to another by wrongful act, neglect or default, he shall (whether or not the injury results in death) be liable in damages to the wife of the injured person for loss or injury suffered by her as a result of the loss or impairment of the consortium of husband and wife.

Wife may claim for loss or impairment of consortium.

(2) The damages shall be assessed in the same manner as upon a claim by a husband for damages in tort in respect of loss or impairment of consortium.

34. (1) Where a husband and wife are engaged in the conduct of a business, and either of them suffers an injury as a result of which his or her participation in the conduct of the business ceases or is impaired, the other spouse shall be entitled to recover from a person whose wrongful act, neglect or default caused the injury compensation for loss that he or she has suffered or continues to suffer by reason of the fact that the participation of his or her spouse in the conduct of the business has ceased or has been impaired.

Damages where injured spouse participated in a business.

(2) In this section—

“business” includes any professional or commercial undertaking:

“injury” includes an injury that results in the death of a spouse.

Abolition of actions of seduction, enticement and harbouring

35. The following actions at common law are abolished—

- (a) the action for seduction;
- (b) the action for enticement;
- and
- (c) the action for harbouring.

Abolition of actions for enticement, seduction and harbouring.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor