
CHAPTER 129**MARRIED WOMEN'S PROPERTY****ARRANGEMENT OF SECTIONS**

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CHAPTER 129

MARRIED WOMEN'S PROPERTY

An Act relating to the property of married women.

22 of 1884

16 of 1895

26 of 1998

[Commencement 14th May, 1884]

1. This Act may be cited as the Married Women's Property Act.

Short title.

2. (1) A married woman shall, in accordance with the provisions of this Act, be capable of acquiring, holding and disposing by will or otherwise, of any real or personal property as her separate property, in the same manner as if she were a *femme sole*, without the intervention of any trustee.

Married woman to be capable of holding property and of contracting as a *femme sole*.

(2) A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, either in contract or in tort, or otherwise in all respects as if she were a *femme sole*, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any action or proceeding shall be payable out of her separate property, and not otherwise.

(3) Every married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the bankruptcy laws in the same way as if she were a *femme sole*.

3. Every woman who marries after the commencement of this Act shall be entitled to have and to hold as her separate property and to dispose of in manner aforesaid all real and personal property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage, including any wages, earnings, money, and property gained or acquired by her in any employment, trade or occupation, in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic or scientific skill.

Property of woman married after the Act to be held by her as a *femme sole*.

Loans by wife to husband.

4. Any money or other estate of the wife lent or entrusted by her to her husband for the purpose of any trade or business carried on by him, or otherwise, shall be treated as assets of her husband's estate in case of his bankruptcy, under reservation of the wife's claim to a dividend as a creditor for the amount or value of such money or other estate after, but not before, all claims of the other creditors of the husband for valuable consideration in money or money's worth have been satisfied.

Execution of general power.

5. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Act.

Property acquired after the Act by a woman married before the Act to be held by her as a *femme sole*.

6. Every woman married before the commencement of this Act shall be entitled to have and hold and to dispose of in manner aforesaid as her separate property all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue after the commencement of this Act, including any wages, earnings, money and property, so gained or acquired by her as aforesaid.

Moneys payable under policy of assurance not to form part of estate of the husband.

7. A married woman may, by virtue of the power of making contracts hereinbefore contained, effect a policy upon her own life or the life of her husband for her separate use; and the same and all benefit thereof shall enure accordingly.

A policy of assurance effected by any man on his own life, and expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them, or by any woman on her own life, and expressed to be for the benefit of her husband, or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects therein named, and the moneys payable under any such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts:

Provided that if it shall be proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid. The insured may by the policy, or

by any memorandum under his or her hand, appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy. In default of any such appointment of a trustee, such policy, immediately on its being effected, shall vest in the insured and his or her legal personal representatives, in trust for the purposes aforesaid. If, at the time of the death of the insured, or at any time afterwards, there shall be no trustee, or it shall be expedient to appoint a new trustee, or new trustees, a new trustee, or new trustees may be appointed by any court having jurisdiction to make such appointment. The receipt of a trustee or trustees duly appointed, or, in default of any such appointment, or in default of notice to the insurance office, the receipt of the legal personal representative of the insured shall be a discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

8. Every woman, whether married before or after this Act, shall have in her own name against all persons whomsoever, including her husband, the same civil remedies, and also (subject, as regards her husband, to the proviso contained in section 95 of the Penal Code) the same remedies and redress by way of criminal proceedings, for the protection and security of her own separate property, as if such property belonged to her as a *femme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any information or other proceeding under this section it shall be sufficient to allege such property to be her property; and in any proceeding under this section a husband or wife shall be competent to give evidence against each other, any Act or rule of law to the contrary notwithstanding.

Remedies of married woman for protection and security of separate property.
Ch. 84.

9. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property, for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage, including any sums for which she may be liable as a contributory, either before or after she has been placed on the list of contributories, under and by virtue of the Acts relating to joint stock companies; and she may be sued for any such

Wife's ante-nuptial debts and liabilities.

debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts or wrongs, and for all damages or costs recovered in respect thereof:

Provided that nothing in this Act shall operate to increase or diminish the liability of any woman married before the commencement of this Act for any such debt, contract or wrong, as aforesaid, except as to any separate property to which she may become entitled by virtue of this Act, and to which she would not have been entitled for her separate use under the Acts hereby repealed or otherwise, if this Act had not passed.

Husband to be liable for his wife's debts contracted before marriage to a certain extent.

10. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, including any liabilities to which she may be so subject under the Acts relating to joint stock companies as aforesaid, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgments may have been *bona fide* recovered against him in any proceeding at law, in respect of any such debts, contracts or wrongs for or in respect of which his wife was liable before her marriage as aforesaid; but he shall not be liable for the same any further or otherwise; and any court in which a husband shall be sued for any such debt shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount or value of such property:

Provided that nothing in this Act contained shall operate to increase or diminish the liability of any husband married before the commencement of this Act for or in respect of any such debt or other liability of his wife, as aforesaid.

Suits for antenuptial liabilities.

11. A husband and wife may be jointly sued in respect of any such debt or other liability (whether by contract or for any wrong) contracted or incurred by the wife before

marriage as aforesaid, if the plaintiff in the action shall seek to establish his claim, either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly, if it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only.

12. A married woman who is an executrix or an administratrix alone, or jointly with any other person or persons, of the estate of any deceased person, or a trustee alone or jointly, as aforesaid, of property subject to any trust, may sue or be sued, and may transfer, or join in transferring, any sum invested in public debentures, or any share, stock, debenture or other benefit, right, claim or other interest of, or in any such corporation, company, public body or society in that character, without her husband, as if she were a *femme sole*.

Married woman as an executrix or trustee.

13. (1) A married woman is able, without her husband, to dispose of, or join in disposing of, real or personal property held by her solely or jointly with any other person as trustee or personal representative in like manner as if she were a *femme sole*.

Dispositions of trust estates by married women. 26 of 1998, s. 2.

(2) This section operates to render valid and confirm all such dispositions made after the thirteenth day of May one thousand eight hundred and eighty-four, whether before or after the commencement of this section, but, where any title or right has been acquired through or with the concurrence of the husband before the commencement of this section that title or right shall prevail over any title or right which would otherwise be rendered valid by this section.

Saving of existing settlement and the power to make future settlements.

14. Nothing in this Act contained shall interfere with, or affect any settlement, or agreement for a settlement, made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with, or render inoperative any restriction against anticipation at present attached, or to be hereafter attached, to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement, of a woman's own property, to be made or entered into by herself, shall have any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement shall have any greater force or validity against the creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors.

Legal representative of married woman.

15. For the purposes of this Act the legal personal representative of any married woman shall in respect of her separate estate have the same rights and liabilities and be subject to the same jurisdiction as she would be if she were living alone.

Contracts entered into by married woman to bind her separate property.

16 of 1895, s. 1.

16. Every contract hereafter entered into by a married woman, otherwise than as agent —

- (a) shall be deemed to be a contract entered into by her with respect to and to bind her separate property whether she is or is not in fact possessed of or entitled to any separate property at the time when she enters into such contract;
- (b) shall bind all separate property which she may at that time or thereafter be possessed of or entitled to;
- (c) shall also be enforceable by process of law against all property which she may thereafter while discoverd be possessed of or entitled to:

Provided that nothing in this section contained shall render available to satisfy any liability or obligation arising out of such contract any separate property which at that time or thereafter she is restrained from anticipating.

Payment of costs
6 of 1895, s. 5.

17. In any action or proceeding now or hereafter instituted by a woman or by a next friend on her behalf the court before which such action or proceeding is pending

shall have jurisdiction by judgment or order from time to time to order payment of the costs of the opposite party out of property which is subject to a restraint on anticipation, and may enforce such payment by the sale of the property by execution or otherwise as may be just.

18. Section 24 of the Act of the Imperial Parliament entitled the Wills Act, 1837, declared in force in The Bahamas by the Act, fourth Victoria, Chapter twenty-three, shall apply to the will of a married woman made during coverture, whether she is or is not possessed of or entitled to any separate property at the time of making it, and such will shall not require to be re-executed or republished after the death of her husband.

Section 24 of the Wills Act to apply to will of married woman. *16 of 1895, s. 3.* Ch. 115.

19. A married woman may convey any real estate possessed by her as her separate property to her husband, and a husband may convey any real estate to his wife, alone or jointly with another person.

Wife may convey real estate to husband, or husband may convey real estate to wife. *16 of 1895, s. 5.* Interpretation.

20. The word “contract” in this Act shall include the acceptance of any trust, or of the office of executrix or administratrix, and the provisions of this Act as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or *devastavit* committed by any married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust or administration. The word “property” in this Act includes a thing in action.