

CONSOLIDATED TO 30 JUNE 2012

LAWS OF SEYCHELLES

CHAPTER 231

STATUS OF MARRIED WOMEN ACT

[3rd May, 1948]

Act 9 of 1948
Act 30 of 1948
Act 3 of 1959
Act 3 of 1964
Act 13 of 1975

ARRANGEMENT OF SECTIONS

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1. This Act may be cited as the Status of Married Women Act.
 2. This Act shall be read without prejudice to the generality of Article 215 of the Civil Code of Seychelles.

3. In this Act, unless the context otherwise requires -

"contract" includes 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;

"immovable property" includes land, and anything which is immovable property according to the Civil Code of Seychelles;

"movable property" means property of every description, except immovable property, and includes a thing in action.

4. (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 movable or immovable property, in the same manner as if she were a feme sole, without the intervention of any trustee or the consent of her husband.

(2) A married woman shall be capable of entering into, and rendering herself and being rendered liable in respect of and to the extent of her separate property on any tort, contract, debt or obligation, and of suing and being sued either in contract or in tort or otherwise, in all respects as if she were a feme 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; nor shall he be liable merely on the ground that he is her husband, in respect of any tort committed by 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 such action or proceeding shall be payable out of her separate property and not otherwise.

(3) 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; and
- (c) shall also be enforceable by process of law against all property which she may thereafter while discover to be possessed of or entitled to.

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

5. Every married woman whether married before or whether she 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 movable and immovable 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 profession, literary, artistic or scientific skill.

6. Any money or other property 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 insolvency under reservation of the wife's claim to a dividend as a creditor for the amount or value of such money or other property 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.

7. 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.

8. Every woman married before the commencement of this Act shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property all movable and immovable 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.

9. (1) All sums secured in favour of a married woman by any mortgages mortgage deed executed before the commencement of this Act shall be deemed, unless or until the contrary be shown, to be the separate property of such married woman, and any such mortgage deed shall be sufficient prima facie evidence she is beneficially entitled to the amount thereby expended to be secured in her favour for her separate use, so as to authorise and empower her to receive or otherwise deal with the same, and to receive the interest and profits thereof, without the concurrence of her husband, and to indemnify any person liable to pay the sum secured by any such mortgage as aforesaid, in respect thereof.

(2) The provisions of this section shall apply to the right, title, and interests of any such married woman in respect of any sums secured by any such mortgage to which she is a party jointly with any person or persons whomsoever.

(3) If any investment in any such mortgage shall have been made by a married woman by means of money of her husband, without his consent, the Supreme Court may, upon an application under section 21, order such investment and the interest thereon, or any part thereof, to be transferred and paid respectively to the husband.

10. All deposits in any savings bank or in any other bank, all annuities granted by any persons, and all sums forming part of the public stocks or funds, which at the commencement of this Act are standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial or otherwise, or of or in any industrial, provident, friendly, benefit, building or loan society, which at the commencement of this Act are standing in her name, shall be deemed unless and until the contrary be shown, to be the separate property of such married woman; and the fact that any such deposit, annuity, sum forming part of the public stocks or funds, share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient prima facie evidence that she is beneficially entitled thereto for her separate use, so as to authorise and empower her to receive or transfer the same, and to receive the dividends, interest and profits thereof without the concurrence of her husband, and to indemnify all directors, managers and trustees of every such bank, corporation, company, public body, or society as aforesaid in respect thereof.

11. All sums forming part of the public stocks or funds, and all such deposits and annuities respectively as are mentioned in the last preceding section, and all shares, stocks, debentures, debenture stock, and other interest of or in any such corporation, company, public body or society as aforesaid, which after the commencement of this Act shall be allotted to, or placed, registered or transferred in or into, or made to stand in the sole name of a married woman, shall be deemed, unless and until the contrary be shown, to be her separate property in respect of which, so far as liability may by incident thereto, her separate estate shall alone be liable, whether the same shall

be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded, or not:

Provided always that nothing in this Act shall require or authorise any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein in which any liability may be incident, contrary to the provisions of any Act of the Imperial Parliament, or other enactment, charter, bye-law, articles of association, or deed of settlement regulating such corporation or company.

12. All provisions hereinbefore contained as to deposits in any savings bank, or in any other bank, annuities, sums forming part of the public stocks or funds, shares, stock, debentures, debenture stock, or other interests of or in any such corporation, company, public body or society as aforesaid respectively, which at the commencement of this Act shall be standing in the sole name of a married woman, or which after that time shall be allotted to or placed, registered, or transferred to or into, or made to stand in the sole name of a married woman, shall respectively extend and apply, so far as relates to the right, title, or interest of the married woman, to any of the particulars aforesaid, which at the commencement of this Act, or at any time afterwards, shall be standing in, or shall be allotted to, placed, registered, or transferred to or into, or made to stand in the name of any married woman jointly with any person or persons other than her husband.

13. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such annuity, or deposit as aforesaid, or any sum forming part of the public stocks or funds, or any share, stock, debenture, debenture stock, or other benefit, right, claim or other interest of or in any such corporation, company, public body or society as aforesaid, which is now or shall at any time hereafter be standing in the sole name of any married woman, or in the joint names of such married woman and any other person or persons not being her husband.

14. If any investment in any such deposit or annuity as aforesaid, or in any of the public stocks or funds, or in any share, stock, debenture, or debenture stock of any corporation, company or public body, municipal, commercial, or otherwise, or in any share, debenture, benefit, right or claim whatsoever in, to, or upon funds of any industrial provident, friendly, benefit, building or loan society shall have been made by a married woman by means of moneys of her husband, without his consent, the court may, upon an application under section 21, order such investment and the dividends thereof, or any part thereof, to be transferred and paid respectively to the husband: and nothing in this Act contained shall give validity, as against creditors of the husband, to any gift, by a husband to his wife, of any property which after such gift shall continue to be in the order and disposition or reputed ownership of the husband, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any money so deposited or invested may be followed as if this Act had not been passed.

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

(2) 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 that trust remains unperformed, form part of the estate of the assured, 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 assured, they shall be entitled to receive out of the moneys payable under the policy a sum equal to the premiums so paid:

Provided further that notwithstanding anything herein contained, any money received under any such policy shall be subject to the payment of estate and death duties under the Mortgage and Registration Act upon the whole amount of such money where such policy is wholly kept up by the husband or wife, as the case may be, or upon a part of such amount in proportion to the amount of the premiums paid by him or her, where the policy is partially kept by such husband or wife as aforesaid.

(3) The assured 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 such policy.

(4) In default of any such appointment of a trustee, such policy, immediately on its being effected, shall vest in the assured and his or her executor or administrator or heirs, in trust for the purposes aforesaid.

(5) If, at the time of the death of the assured or at any time afterwards, there shall be no trustee, or it shall be expedient to appoint a new trustee or new trustees, a trustee or trustees or a new trustee or new trustees may be appointed by the Supreme Court.

(6) The receipt of a trustee or trustees duly appointed, or in default of any such appointment or in default of notice to the assurance office, the receipt of the executor or administrator of the assured shall be a discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

16. (1) Every married woman, whether married before or whether she marries 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 hereinafter contained) 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 feme sole but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort.

(2) In any proceedings under this section it shall be sufficient to allege such property to be her property.

(3) In any proceedings under this section, a husband or wife shall be competent and, except when he or she is the accused, compellable to give evidence against each other, any enactment or rule of law to the contrary notwithstanding.

(4) Provided always that no criminal proceedings shall be taken by any wife against her husband by virtue of this Act while they are living together, as to or concerning any property claimed by her, nor while they are living apart as to or concerning any act done by the husband while they were living together, concerning any property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting, or about to leave or desert his wife.

17. 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 law relating to joint stock companies, and she may be sued for any such debt and for any liability in damages or otherwise in 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 and costs recovered in respect thereof;

Provided always 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 sections of the Civil Code hereby repealed or otherwise, if this Act had not been passed.

18. 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 law 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 sum for which judgment 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 ascertain or 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 always 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.

19. (1) A husband and wife may be jointly sued in respect of any such debt or other liability (whether by contract or for any tort) contracted or incurred by the wife before the marriage as aforesaid, if the plaintiff in the action shall seek to establish his claim either wholly or in part against both of them.

(2) 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.

(3) In any such action against husband and wife jointly, or 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.

20. (1) A wife doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Act, shall in like manner be liable to criminal proceedings by her husband.

(2) In any proceedings under this section a husband and wife shall be competent and, except when he or she is the accused, compellable to give evidence against each other, any enactment or rule of law to the contrary notwithstanding.

21. (1) In any question between husband and wife as to the title or possession of property, either party, or any such bank, corporation, company, public body or society, as aforesaid, in whose books any stocks, funds, or shares of either party may be standing, may apply by petition in a summary way to a Judge.

(2) The Judge may make such order, direct or make such inquiry, and award such costs as he shall think fit.

(3) The Judge may, if either party so require, hear the application in chambers.

(4) Any order so made shall be subject to appeal in the same manner and on the same grounds as any other civil case.

(5) Any such bank, corporation, company, public body or society as aforesaid shall, in the matter of such application, for the purposes of costs or otherwise, be treated as stakeholder only.

(6) The Chief Justice may make rules for the carrying out of the provisions of this section.

22. A married woman, who is a trustee, solely or jointly with any other person or persons, of property subject to any trust, or who is an executrix or administratrix solely and jointly as aforesaid of the estate of any deceased person, may sue or be sued, and may, without her husband, dispose of or join in disposing of any movable property held by her as such trustee, executrix or administratrix, as if she were a feme sole.

23. Without prejudice to the provisions of article 212 of the Civil Code of Seychelles, when a married woman having sufficient separate property neglects or refuses to maintain her husband who through illness or otherwise is unable to maintain himself, any court having jurisdiction may, upon application of the husband, make and enforce such order against her for the maintenance of her husband out of such separate property as by any enactment it may now make and enforce against a husband for the maintenance of his wife.

24. For the purposes of this Act the executor, administrator or heirs 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.

25. (1) The community of property between husband and wife married in community before the commencement of this Act, in respect of either movable or immovable property, is dissolved as from the twentieth day of April one thousand nine hundred and forty-eight, and any property belonging to the community aforesaid shall as from that date and until partition be deemed to be held as undivided property of the husband and the wife.

(2) If the spouses are not married under the system of community of property, the wife shall be entitled to the settlement of all the claims ÅF(reprises) which she would have had against her husband if the marriage had been dissolved.

(3) The partition or settlement may be carried out according to the provisions of section 21.

26. Without prejudice to and in addition to the provisions of any other enactment, any part of the salary, wages or other income of a person who does not fulfil his obligations under article 214 of the Civil Code of Seychelles may on application by his spouse be attached and ordered to be paid to the said spouse.

Application may be by complaint before a court of summary jurisdiction.

27. Any instrument executed before, on or after the twentieth day of April one thousand nine hundred and forty-eight shall, in so far as it purports to attach to the enjoyment of any property whatsoever by a woman any restrictions upon anticipation or alienation which could not have been attached to the enjoyment of that property by a man, be void.

28. Nothing in this Act shall -

- (a) affect any legal proceeding in respect of any tort if proceedings had been instituted before the passing of this Act;
- (b) 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 otherwise than against her property.

29. A woman may remarry immediately after the dissolution of a previous marriage.

NO SUBSIDIARY LEGISLATION
