

CAYMAN ISLANDS



**THE MARRIED WOMEN'S LAW
CHAPTER 94**

(Price \$1.60)

Married woman to be liable for the maintenance of her children.

21. A married woman having property shall be subject to all such liability for the maintenance of her children and grandchildren as the husband is now by law subject to for the maintenance of her children and grandchildren:

Provided always that nothing in this Law shall relieve her husband from any liability imposed upon him by law to maintain her children or grandchildren.

Legal representative of married woman.

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

CHAPTER 94

THE MARRIED WOMEN'S PROPERTY LAW

ARRANGEMENT OF SECTIONS

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21. Married woman to be liable for the maintenance of her children.
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property subject to any trust, may sue or be sued, and may transfer or join in transferring any such annuity or deposit as aforesaid, or any sum forming part of the public stocks or funds of Great Britain or of the Islands, or of any other stocks or funds transferable as aforesaid, or any debentures issued under any Law of the Islands 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, in that character, without her husband, as if she were a *feme sole*.

18. Nothing in this Law 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 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 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.

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

19. In any action or proceeding from and after the twenty-first day of June, 1895, 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 appointment of a receiver and the sale of the property or otherwise as may be just.

Costs may be ordered to be paid out of property subject to restraint on anticipation.

20. Section 19 of the Wills Law, which provides that a will shall take effect as if it were executed immediately before the death of the testator, shall apply to the will of a married woman whether she is or is not possessed of, or entitled to, any 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.

Will of married woman. Cap. 186.

Acts of wife
liable to
criminal
proceedings.

15. (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 Law shall, in like manner, be liable to criminal proceedings by her husband.

(2) In any such criminal proceeding against a husband or a wife as is authorized by this Law, the husband and wife respectively shall be competent and admissible witnesses, and, except when defendant, compellable to give evidence.

Questions
between
husband and
wife as to
property to
be decided in
summary
way.

16. In any question between husband and wife as to the title to 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 are standing, may apply by summons or otherwise in a summary way to the Judge of the Grand Court or (at the option of the applicant irrespectively of the value of the property in dispute) to the Magistrate; and the Judge of the Grand Court or the Magistrate, as the case may be, may make such order with respect to the property in dispute, and as to the costs of and consequent on the application, as he thinks fit, or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit:

Provided always that any order of the Judge of the Grand Court to be made under the provisions of this section shall be subject to appeal in the same way as an order made by the same Judge in a suit pending, or on an equitable proceeding in the said Court, would be; and any order of the Magistrate under the provisions of this section shall be subject to appeal in the same way as any other order made by the Magistrate would be:

Provided also that the Judge of the Grand Court or the Magistrate, if either party so require, may hear any such application in Chambers:

Provided also that any such bank, corporation, company, public body, or society as aforesaid shall, in the matter of any such application, for the purposes of costs or otherwise be treated as a stakeholder only.

Married
woman as an
executrix or
trustee.

17. A married woman who is an executrix or 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

CHAPTER 94 Jamaica
Cap. 239.

THE MARRIED WOMEN'S PROPERTY LAW

[1st January, 1887]

1. This Law may be cited as the Married Women's Property Law. Short title.

2. Subject to the provisions of this Law, and subject, as respects actions in tort between husband and wife, to the provisions of section 13, a married woman shall— Capacity of married women.

- (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*.

3. (1) Subject to the provisions of this Law all property which— Property of married women.

- (a) immediately before the 1st day of June, 1941, 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 on or after the 1st day of June, 1941; or
- (c) on or after the 1st day of June, 1941, 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 Law passed before the 1st day of June, 1941, or in any instrument executed before the 1st day of September, 1941.

(2) Any instrument executed on or after the 1st day of September, 1941, 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 1st day of September, 1941, in pursuance of an obligation imposed before that date to attach such a restriction shall be deemed to have been executed before the said 1st day of September, 1941;
- (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 31st day of December, 1945, shall (notwithstanding the actual date of the execution thereof) be deemed to have been executed after the 1st day of September, 1941.

4. Subject to the provisions of this Law, 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.

5. Nothing in this Law shall—

- (a) during coverture which began before the 1st day of January, 1887, 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 1st day of June, 1941;

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.

13. Every woman, whether married before or after the first day of January, 1887, 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 property, as if she were a *feme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort.

Remedies of married woman for protection and security of her property.

If any indictment 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 statute or rule of law to the contrary notwithstanding:

Provided always, that no criminal proceeding shall be taken by any wife against her husband by virtue of this Law 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 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.

14. A woman after her marriage shall continue to be liable 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 any Laws relating to joint stock companies, and she may be sued for any such debt, and for any liability in damages or otherwise under any such contract, or in respect of any such wrong:

Wife's ante-nuptial debts, and liabilities.

Provided always that nothing in this Law shall operate to increase or diminish the liability of any woman married before the first day of January, 1887, for any such debt, contract or wrong, as aforesaid, except as to any property to which she may become entitled by virtue of this Law, and to which she would not have been entitled if this Law had not passed.

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

Savings.

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 moneys so deposited or invested may be followed as if this Law had not passed.

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

12. (1) A married woman may effect a policy upon her own life or the life of her husband for her own benefit; 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, as 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.

(3) 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.

(4) 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.

(5) 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 trustee or trustees, or a new trustee or new trustees, may be appointed by the Grand Court. The receipt of a trustee or trustees duly appointed, or, in default of notice to the insurance office, the receipt of the legal personal

(c) enable any judgment or order against a married woman in respect of a contract entered into, or debt or obligation incurred, before the 1st day of June, 1941, to be enforced in bankruptcy or to be enforced otherwise than against her property.

6. For the avoidance of doubt it is hereby declared that nothing in this Law—

Provisions as to husband.

- (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 Law 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 Law 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 from suing or 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.

7. All deposits in the Government or other Savings Bank, or in any other bank, all annuities granted by the Commissioners for the reduction of the National Debt or by any other person, and all sums forming part of the public stocks or funds of Great Britain or of the Islands, or of any other stocks or funds transferable in the books of the Governor and Company of the Bank of England, or of any other bank, which on the first day of January, 1887, are standing in the sole name of a married woman, and all debentures issued under any Law of the Islands 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, building or loan society, which on the first day of January, 1887, are standing in her name, shall be

As to stocks, etc., to which a married woman is entitled.

deemed, unless and until the contrary be shown, to be the property of such married woman; and the fact that any such deposit, annuity, sum forming part of the public stocks or funds of Great Britain or of the Islands, or of any other stocks or funds transferable in the books of the Governor and Company of the Bank of England, or of any other bank, 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, so as to authorize 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 the Commissioners for the reduction of the National Debt, the Governor and Company of the Bank of England, the Governor and Company of the Bank of Ireland, the Treasurer of the Islands, and all directors, managers and trustees, of every such bank, corporation, company, public body or society as aforesaid, in respect thereof.

As to stock etc., to be transferred, etc., to a married woman.

8. All sums forming part of the public stocks or funds of Great Britain or of the Islands or of any other stocks or funds transferable in the books of the Bank of England or of any other bank, and all such deposits and annuities respectively as are mentioned in section 7, and all debentures issued under any Law of the Islands, and all shares, stock, debentures, debenture stock and other interests of or in any such corporation, company, public body or society as aforesaid, which from and after the first day of January, 1887, shall be allotted to, or placed, registered or transferred, in or into, or made to stand in the sole name of any married woman shall be deemed, unless and until the contrary be shown, to be her property in respect of which, so far as any liability may be incident thereto, she shall alone be liable:

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

Investments in joint names of married women and others.

9. All the provisions hereinbefore contained as to deposits in any Government or other Savings Bank, or in any other bank annuities granted by the Commissioners for the reduction of the National Debt or by any other person, sums forming part of the public stocks

or funds of Great Britain or of the Islands, or of any other stocks or funds transferable in the books of the Bank of England or of any other bank, debentures issued under any Law of the Islands, shares, stock, debentures, debenture stock or other interests, of or in any such corporation, company, public body or society, as aforesaid respectively, which on the first day of January, 1887, 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 estate, right, title or interest, of the married woman, to any of the particulars aforesaid which on the first day of January, 1887, 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.

10. 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 stock or funds of Great Britain or of the Islands, or of any other stocks or funds transferable as aforesaid, or any debentures, issued under any Law of the Islands, 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.

As to stock etc., standing in the joint names of a married woman and others.

11. If any investment in any such deposit or annuity as aforesaid, or in any of the public stocks or funds of Great Britain, or of the Islands, or in any other stocks or funds transferable as aforesaid, or in any debenture issued under any Law of the Islands, 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 the funds of any industrial, provident, friendly, 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 16, order such investment, and the dividends thereof, or any part thereof to be transferred and paid respectively to the husband, and nothing in this Law contained shall

Fraudulent investments with money of husband.