

**The Married Women's Property Act, 1874**

**(Act No. 3 of, 1874)**

**[24th February 1874]**

An Act to explain and amend the law relating to certain married women, for other purposes.

Preamble:-Whereas it is expedient to make such provision as hereinafter appears for the enjoyment of wages and earnings by women married before the first day of January, 1866, and for insurances on lives by persons married before or after that day:

And whereas by the Indian Succession Act, 1865, (10 of 1865) 1 Sec. 4 it is enacted that no person shall by marriage acquire any interest in the property the person whom he or she marries, nor become incapable of doing any act in respect of his or her won property, which he or she could have done, if unmarried:

And whereas by force of the said Act all women to whose marriages it applies are absolute owners of all property vested in, or acquired by them, and their husbands do not by their marriage, acquire any interest in such property, but the said Act does not protect such husbands from liabilities on account of the debts of their wives contracted before marriage, and does not expressly provide for the enforcement of claims by or against such wives;

It is hereby enacted as follows:-

The relevant provision of the Indian Succession Act, 1925 (39 of 1925)

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## **2. Extent and application.**

But nothing herein contained applies to any married woman who at the time of her marriage professed the Hindu, Muhammadan Buddhist, Sikh or Jain religion, or whose husband, at the time of such marriage, professed any of those religions.

And the [State Government] may from time to time, by order, either retro-actively from the passing of this Act or prospectively, exempt from the operation of all or any of the provisions of this Act the members of any race, sect or tribe or part of a race, sect or tribe, to whom it may consider it impossible or inexpedient to apply such provisions.

The [State Government] may also revoke any such order, but not so that the revocation shall have any retrospective effect.

All orders and revocations under this section shall be published in the official Gazette.

[\* \* \* \*]

**Subs. by the Married Women's Property (Extension) Act, 1959 (61 of 1959), Sec. 2 (w.e.f. 1st March, 1960).**

**2. The original words "G.G. in C" have successively been amended by Act 38 of 1920 the A.O. 1937, and the A.O. 1950 to read as above.**

**3. The last paragraph rep. by Act 39 of 1925, Sec. 392 and Sch. IX.**

## **3. Commencement**

Rep. by the Repelling Act, 1876 (12 of 1876), Sec. 1 and Sch.

## **4. Married women's earnings to be their separate property.**

The wages and earnings of any married woman acquired or gained by her after the passing of this Act, in any employment, occupation or trade carried on by her and not by husband, And also any money or other property so acquired by her through the exercise of any literary, artistic or scientific skill, And all savings from and investments of such wages, earnings and property, shall be deemed to be her separate property, and her receipts alone shall be good discharges for such wages, earnings and property.

## **5. Married woman may effect policy of Insurance.**

Any married woman may effect a policy of insurance on her own behalf and independently of her husband; and the same and all benefit, thereof, if expressed on the face of it to be so effected, shall ensure as her separate property, and the contract evidenced by such policy shall be as valid as R made

## **6. Insurance by husband for benefit of wife.**

A policy of insurance effected by any married man on his own life, and expressed on the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall ensure and be deemed to be a trust for the benefit of his wife, or of his wife and children, or any of them,

according to the interest so expressed, and shall not, so long any object of the trust remains, be subject to the control of the husband, or to his creditors, or form part of his estate.

When the sum secured by the policy becomes payable, it shall, unless special, trustees are duly appointed to receive and hold the same, be, paid to the Official Trustee of the [State] in which the office at which the insurance was effected is situate, and shall be received and held by him upon the trusts expressed in the policy, or such of them as are then existing. And in reference to such sum he shall stand in the same position in all respects as if he had been duly appointed trustee thereof by a High Court, under Act No. XVII of 1864 [to constitute an Office of Official Trustee], Sec. 10.

Nothing herein contained shall operate to destroy or impede the right of any creditor to be paid out of the proceeds of any policy of assurance, which may have been effected with intent to defraud creditors.

(2) Notwithstanding anything contained in Sec. 2, the provisions of Sub-section (1) shall apply in the case of any policy of insurance such as in referred to there in which effected,-

(a) By any Hindu, Muhammadan, Sikh or Jain-

(i) In Madras, after the thirty-first day of December, 1913, or

(ii) In any other territory to which this Act extended immediately before the commencement of the Married Women's Property (Extension) Act, 1959, after the first day of April, 1923, or

(iii) In any territory of which this Act extends on and from the commencement of the Married Women's Property (Extension) Act, 1959, on or after such commencement;

(b) By a Buddhist in any territory to which this Act extends, on or after the commencement of the Married Women's Property (Extension) Act, 1959:

Provided that nothing herein contained shall affect any right or liability which has accrued or been insured under any decree of a competent court passed-

(i) Before the first day of April, 1923, in any case to which Sub-clause (i) or sub-clause (ii) of Cl. (a) applies; or

(ii) Before the commencement of the Married Women's Property (Extension) Act, 1959, in any case to which sub-clause (iii) of Cl. (a) or Cl. (b) applies.]

1. Renumbered as sub-section (1) of that section by Act 13 of 1923, Sec. 2.

2. The word 'Presidency' has been successively amended by the A.O. 1937 the A.O. 1950 and the Adaptation of Laws (No. 2) Order, 1956.

3. The relevant provisions of the Official Trustees Ad, 1913 (2 of 1913).

4. Subs by the Married Women's Property (Extension) Act, 1959 (61 of 1959), Sec. 3 (w.e.f. 1st March, 1960). [(2) Notwithstanding anything contained in Sec. 2, the provisions of sub-section (1) shall apply in the case of any policy of insurance such as referred to therein which effected,-

## STATE AMENDMENTS

Andhra Pradesh.- In its application to the State of Andhra Pradesh, in sub-section (2), for 'Madras' substitute "the State of Andhra as it existed immediately before the 1 st November 1956 or Madras". [Vide Andhra ALO, 1954 and Andhra Pradesh ALO, 1957.]

**Dadra and Nagar Haveli-** In its application to the Union Territory of Dadra and Nagar Haveli-

- (i) In Cl. (a) of sub-section (2) the following shall be added at the end or (iv) In the Union Territory of Dadra and Nagar Haveli on or after the commencement of the Dadra and Nagar Haveli (Laws) Regulation, 1963;"
- (ii) In Cl. (b) after the words "any territory" the words "other than the Union Territory of Dadra and Nagar Haveli" shall be inserted.
- (iii) After Cl. (b) the following shall be inserted. (c) By a Buddhist in the Union Territory of Dadra and Nagar Haveli, on or after the commencement of Dadra and Nagar Haveli (Laws) Regulation, 1963;
- (iv) In the proviso the following shall be added at the end "or (iii) Before the commencement of the Dadra and Nagar Haveli (Laws) Regulation, 1963, in any case to which sub-clause (iv) of Cl. (a) or Cl. applies.

[Vide Regulation VI of 1963, Sec. 2 and Sch. I,]

**Tamil Nadu.-** (a) In its application to the State of Tamil Nadu in Sub-section (2) for "Madras" the words "Tamil Nadu" shall be substituted [Vide Tamil Nadu, A. L.O. 1970.]

(b) Affect the liability of a husband for debts contracted by his wife's agency expressed or implied.)

## 7. Married women may take legal proceedings.

A married woman may maintain a suit in her own name for the recovery of property of any description which, by force of the said Indian Successions Act, 1865 (10 of 1866) or of this Act, is her separate property; and she shall have, in her own name, the same remedies, both civil and criminal, against all persons, for the protection and security of such property, as if she were unmarried, and she shall be liable to such suits, processes and orders in respect of such property as she would be liable to if she were unmarried.

## 8. Wife's liability for postnuptial debts.

If a married woman (whether married before or after the first day of January, 1866) possesses separate property, and if any person enters into a contract with her with reference to such property, or on the faith that her obligation arising out of such contract will be satisfied out of her separate property, such person shall be entitled to sue her, and to the extent to her separate property, to recover against her whatever he might have recovered in such suit had she been unmarried at the date of the contract and continued unmarried at the execution of the decree:

[Provided that nothing herein contained shall-

- (a) Enter such person to recover anything by attachment and sale or otherwise out of any property which has been transferred to a woman or for her benefit on condition that she shall have no power during her marriage to transfer or charge the same or her beneficial interest therein, or
- (b) Affect the liability of a husband for debts contracted by his wife's agency expressed or implied.]

## 1. Subs. by Act 21 of 1929, Sec. 2, for the original proviso.

**9. Husband not liable for wife's antenuptial debts.**

A husband married after the thirty first day of December, 1865 shall not by reason only of such marriage be liable to the debts of his wife contracted before marriage, but the wife shall liable to be used, for, and shall, to the extent of her separate property, be liable to satisfy such debts as d he had continued unmarried

Provided that nothing contained in this section shall [\* \* \*] invalidate any contract into which a husband may, before the passing of this Act, have entered in consideration of his wife's antenuptial debts.

**1. The words "affect any suit instituted before the passing of this Act, not" rep by Act 12 of 1891, Sec. 2 and Sch. I**

10. Extent of husband's liability for wife's breach of trust or devastation

**1. Ins. by Act 18 of 1927 Sec. 3.**

**10. Extent of husband's liability for wife's breach of trust or devastation**

Where a woman is a trustee, or administratrix, either before or after marriage, her husband shall not, unless he acts or intermeddles in the trust or administration, be liable for any breach of trust committed by her, or for any misapplication, loss or damage to the estate of the deceased caused or made by her, or for any loss to such estate arising from her neglect to get in any part of the property of the deceased.