



Law Reform (Husband and Wife) Act 1962

1962 CHAPTER 48

An Act to amend the law with respect to civil proceedings between husband and wife. [1st August 1962]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Actions in tort between husband and wife.

- (1) Subject to the provisions of this section, each of the parties to a marriage shall have the like right of action in tort against the other as if they were not married.
- (2) Where an action in tort is brought by one of the parties to a marriage against the other during the subsistence of the marriage, the court may stay the action if it appears—
 - (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 more conveniently be disposed of on an application made under section seventeen of the Married Women's Property Act, 1882 (determination of questions between husband and wife as to the title to or possession of property);and without prejudice to paragraph (b) of this subsection the court may, in such an action, either exercise any power which could be exercised on an application under the said section seventeen, or give such directions as it thinks fit for the disposal under that section of any question arising in the proceedings.
- (3) Provision shall be made by rules of court for requiring the court to consider at an early stage of the proceedings whether the power to stay an action under subsection (2) of this section should or should not be exercised; and rules under the County Courts Act, 1959, may confer on the registrar any jurisdiction of the court under that subsection.

(4) This section does not extend to Scotland.

2 Proceedings between husband and wife in respect of delict.

(1) Subject to the provisions of this section, each of the parties to a marriage shall have the like right to bring proceedings against the other in respect of a wrongful or negligent act or omission, or for the prevention of a wrongful act, as if they were not married.

(2) Where any such proceedings are brought by one of the parties to a marriage against the other during the subsistence of the marriage, the court may dismiss the proceedings if it appears that no substantial benefit would accrue to either party from the continuation thereof; and it shall be the duty of the court to consider at an early stage of the proceedings whether the power to dismiss the proceedings under this subsection should or should not be exercised.

(3) This section extends to Scotland only.

3 Short title, repeal, interpretation, saving and extent.

(1) This Act may be cited as the Law Reform (Husband and Wife) Act, 1962.

(2) The enactments described in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The references in subsection (1) of section one and subsection (1) of section two of this Act to the parties to a marriage include references to the persons who were parties to a marriage which has been dissolved.

(4) This Act does not apply to any cause of action which arose, or would but for the subsistence of a marriage have arisen, before the commencement of this Act.

(5) This Act does not extend to Northern Ireland.

SCHEDULE

Section 3.

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
45 & 46 Vict. c. 75.	The Married Women's Property Act, 1882.	Section twelve, except so far as it relates to criminal proceedings. Section twenty-three.
25 & 26 Geo. 5. c. 30.	The Law Reform (Married Women and Tortfeasors) Act, 1935.	In section one, the words "and subject, as respects actions in tort between husband and wife, to the provisions of section twelve of the Married Women's Property Act, 1882".