

LAW REFORM (MARRIED PERSONS) ACT.**Act No. 17, 1964.**

Elizabeth II, An Act to make further provisions with respect to
No. 17, 1964 actions by one spouse against the other; to abolish the liability of a husband for his wife's torts and ante-nuptial contracts, debts and obligations; to confer certain tenancy rights in the matrimonial home on a wife separated from or deserted by her husband; for these and other purposes to amend the Married Women's Property Act, 1901, the Motor Vehicles (Third Party Insurance) Act, 1942, the Landlord and Tenant Act of 1899, and certain other Acts; and for purposes connected therewith. [Assented to, 30th April, 1964.]

BE

BE it enacted by the Queen's Most Excellent Majesty, by **No. 17, 1964**
 and with the advice and consent of the Legislative
 Council and Legislative Assembly of New South Wales in
 Parliament assembled, and by the authority of the same, as
 follows :—

1. (1) This Act may be cited as the "Law Reform (Married Persons) Act, 1964". Short title and citation.

(2) The Married Women's Property Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Married Persons (Property and Torts) Act, 1901-1964.

(3) The Motor Vehicles (Third Party Insurance) Act, 1942, as amended by subsequent Acts and by this Act, may be cited as the Motor Vehicles (Third Party Insurance) Act, 1942-1964.

(4) The Landlord and Tenant Act of 1899, as amended by subsequent Acts and by this Act, may be cited as the Landlord and Tenant Act of 1899-1964.

2. The Married Women's Property Act, 1901, as amended by subsequent Acts, is amended— Amendment of Act No. 45, 1901.

(a) by omitting section sixteen and by inserting in lieu thereof the following sections :— Subst. sec. 16 and new secs. 16A, 16B.

16. Notwithstanding the provisions of section three of this Act, no husband or wife shall be entitled to sue the other for a tort except as provided in section 16A or 16B of this Act. Actions in tort by one spouse against the other.

16A. (1) A husband or wife shall have against the other the same civil remedies and remedies and redress by way of criminal proceedings for the protection and security of his or her property as if they were both unmarried. Remedies of one spouse against the other for protection and security of property.

No. 17, 1964

A wife shall continue to have the same civil remedies and remedies and redress by way of criminal proceedings against persons other than her husband as she had before the commencement of the Law Reform (Married Persons) Act, 1964.

(2) In any proceedings under this section it shall be sufficient to allege that the property is the property of the husband or wife, as the case may be.

(3) No criminal proceedings shall be taken by any husband or wife against the other by virtue of this Act while they are living together as to or concerning any property claimed by him or her, nor while they are living apart, as to or concerning any act done while they were living together concerning property claimed by him or her, unless such property has been wrongfully taken by the husband or wife when leaving or deserting or about to leave or desert the other.

(4) For the purposes of this section, where the conduct of a spouse constitutes just cause or excuse for the other party to the marriage to live separately or apart, and occasions that other party to live separately or apart, that other party shall be deemed to have been deserted by his or her spouse, notwithstanding that such spouse may not in fact have intended the conduct to occasion that other party to live separately or apart.

(5) This section applies to proceedings by a husband against his wife only where the cause of action arose after the commencement of the Law Reform (Married Persons) Act, 1964.

Actions by one spouse against the other for negligent use of motor vehicle.

16B. (1) An action for damages against any person may be commenced and maintained and judgment may be obtained and enforced in respect of bodily injury to, or the death of, any other person caused by or arising out of the use of a registered motor vehicle, notwithstanding that at the date of the bodily injury or of the injury resulting in the death or at any later date such persons were husband and wife.

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In this subsection, "registered motor vehicle" means a motor vehicle registered or required to be registered under the Motor Traffic Act, 1909, as amended by subsequent Acts, or the Transport Act, 1930, as amended by subsequent Acts and includes a motor vehicle to which is affixed a special number plate (known as a trader's plate) issued to a manufacturer or repairer of or dealer in motor vehicles in accordance with the regulations under the Motor Traffic Act, 1909, as amended by subsequent Acts.

No. 17, 1964

(2) This section applies only where the cause of action arose after the commencement of the Law Reform (Married Persons) Act, 1964.

(b) by omitting section eighteen and by inserting in lieu thereof the following section :—

Subst. sec. 18.

18. (1) The husband of a married woman shall not, by reason only of his being her husband, be liable—

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

- (a) in respect of a tort committed by her, whether before or after the marriage, or in respect of a contract entered into, or debt or obligation incurred, by her before the marriage; or
(b) to be sued, or made a party to a legal proceeding brought, in respect of any such tort, contract, debt or obligation.

(2) Subsection one of this section does not affect a legal proceeding instituted before the commencement of the Law Reform (Married Persons) Act, 1964.

(c) by omitting section nineteen;

Sec. 19. (Suits for ante-nuptial liabilities.)

(d) by omitting section twenty.

Sec. 20. (Act of wife liable to criminal proceedings.)

Milk (Amendment) Act.

- No. 17, 1964** **3.** The Motor Vehicles (Third Party Insurance) Act, 1942, as amended by subsequent Acts, is amended by inserting in subsection one of section thirty after the words "cannot be found" the words "or is the spouse of the person whose death or to whom bodily injury has been caused".
- Amendment of Act No. 15, 1942. Sec. 30.**
(Claims in respect of uninsured and un-identified motor vehicles.)
- Amendment of Act No. 18, 1899. New sec. 2B.** **4.** The Landlord and Tenant Act of 1899, as amended by subsequent Acts, is amended by inserting next after section 2A the following new section :—

Wife's tenancy rights on separation or desertion.

2B. Where the tenant of any dwelling-house separates from or deserts his wife, leaving the wife in possession of the dwelling-house, the provisions of this Act, and the provisions of any other enactment relating to the recovery of possession of tenements or to the control of rents and applicable to such dwelling-house, shall, in respect of the period during which such separation or desertion continues, apply as if the wife were the sole tenant of the dwelling-house.

This section applies where the tenant separated from or deserted his wife before or after the commencement of the Law Reform (Married Persons) Act, 1964, but does not apply where the tenant separated from or deserted his wife before such commencement unless the wife was in possession of the premises at such commencement.
