

LAWS OF GUYANA

LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

CHAPTER 6:02

Act

21 of 1932

Amended by

45 of 1952

29 of 1961

14 of 1988

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**Note
on
Subsidiary Legislation**

This Chapter contains no subsidiary legislation.

CHAPTER 6:02

LAW REFORM (MISCELLANEOUS PROVISIONS) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.

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**CAPACITY, PROPERTY AND LIABILITIES OF MARRIED
WOMEN; AND LIABILITIES OF HUSBANDS;
ABOLITION OF PRESUMPTION OF COERCION OF WIFE BY
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CHAPTER 6:02

LAW REFORM (MISCELLANEOUS PROVISIONS)
ACT

1953 Ed.
c. 4

45 of 1952

An Act to amend the law relating to the capacity, property and liabilities of married women, and the liabilities of husbands and to abolish the presumption of coercion of a wife by a husband; to amend the law relating to proceedings against, and contribution between, tortfeasors; to amend the law relating to contributory negligence; to amend the law as to the effect of death in relation to causes of action and as to the awarding of interest in civil proceedings.

[PARTS I, III, IV and V- 7TH DECEMBER, 1952
PART II- 1ST APRIL, 1954]

Short title.

1. This Act may be cited as the Law Reform (Miscellaneous Provisions) Act.

PART I
CAPACITY, PROPERTY AND LIABILITIES OF MARRIED
WOMEN; AND LIABILITIES OF HUSBANDS;
ABOLITION OF PRESUMPTION OF COERCION OF WIFE
BY HUSBAND

Capacity of
married
women.
c. 45:04

2. Subject to this Part and subject, as respects actions in tort between husband and wife, to section 12 of the Married Persons (Property) Act, a married woman shall —

- (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 insolvency and to the enforcement of judgments and orders,

in all respects as if she were unmarried.

Property of
married
women.

3. (1) Subject to this Part, all property which —

- (a) immediately before the passing of this Act 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 after the passing of this Act; or
- (c) after the passing of this Act is

acquired by or devolves upon a married woman other than a woman married in community of property,

shall belong to her in all respects as if she were unmarried 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 Act passed before the passing of this Act, or in any instrument executed before the 1st January, 1953.

(2) Any instrument executed on or after the 1st January, 1953, 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 January, 1953, 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 January;
- (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 December, 1962, shall (notwithstanding the actual date of the execution thereof) be deemed to have been executed after 1st January, 1953.

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

4. Subject to this Part 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) be sued, or made a party to any legal proceeding brought, in respect of any such tort, contract, debt, or obligation.

Savings.

5. (1) Nothing in this Part shall—

- (a) during the coverture which began before the 20th August, 1904, 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 have been

instituted in respect thereof before the passing of this Act;

- (c) 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 in solvency or to be enforced otherwise than against her property.

(2) For the avoidance of doubt it is hereby declared that nothing in this Part—

- (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 Act 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 Act 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 of suing and 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.

Abolition of presumption of coercion of wife by husband.
[21 of 1932]

6. Any presumption of law that an offence committed by a wife in the presence of her husband is committed under the coercion of her husband is hereby abolished, but on a charge against a wife for any offence other than treason or murder it shall be a good defence to prove that the offence was committed in the presence of, and under the coercion of, the husband.

PART II PROCEEDINGS AGAINST, AND CONTRIBUTIONS BETWEEN, TORTFEASORS

Proceedings against, and contribution between joint and several tortfeasors.

7. (1) Where damage is suffered by any person as a result of a tort (whether a crime or not)—

- (a) judgment recovered against any tortfeasor liable in respect of that damage shall not be a bar to an action against any other person who would, if sued, have been liable as a joint tortfeasor in respect of the same damage;
- (b) if more than one action is brought in respect of that damage by or on behalf of the person by whom it was suffered, or for the benefit of the estate, or of the wife, husband, parent or child, of that person, against tortfeasors liable in respect of the

damage (whether as joint tortfeasors or otherwise) the sums recoverable under the judgments given in those actions by way of damages shall not in the aggregate exceed the amount of the damages awarded by the judgment first given; and in any of those actions, other than that in which judgment is first given, the plaintiff shall not be entitled to costs unless the court is of the opinion that there was reasonable ground for bringing the action;

- (c) any tortfeasor liable in respect of that damage may recover contribution from any other tortfeasor who is, or would if sued have been liable in respect of the same damage, whether as a joint tortfeasor or otherwise, so, however, that no person shall be entitled to recover contribution under this section from any person entitled to be indemnified by him in respect of the liability in respect of which the contribution is sought.

(2) In any proceedings for contribution under this section the amount of contribution recoverable from any person shall be such as may be found by the court to be just and equitable having regard to the extent of that person's responsibility for the damage; and the court shall have power to exempt any person from liability to make contribution, or to direct that the contribution to be recovered from any person shall amount to a complete indemnity.

- (3) For the purposes of this section –

- (a) (i) “parent” includes father and mother, and grandfather and grandmother, and stepfather and stepmother;

“child” includes son and daughter, and grandson and granddaughter, and stepson and stepdaughter;

- (ii) a person shall be deemed to be the parent or child of another person notwithstanding that he is or was only related to him illegitimately; and accordingly in deducing any relationship which, under this Part only, is included within the meaning of the expression “parent” and “child”, any illegitimate person shall be treated as being, or as having been, the legitimate offspring of his mother and reputed father;

- (b) the reference in this section to “judgment first given” shall, in a case where that judgment is reversed on appeal, be construed as a reference to the judgment first given which is not so reversed and, in a case where a judgment is varied on appeal, be construed as a reference to that judgment as so varied.

(4) Nothing in this section shall—

- (a) apply with respect to any tort

committed before the commencement of this Part; or

- (b) affect any criminal proceedings against any person in respect of any wrongful act; or
- (c) render enforceable any agreement for indemnity which would not have been enforceable if this section had not been passed.

PART III
CONTRIBUTORY NEGLIGENCE AND FOR PURPOSES
CONNECTED THEREWITH

Interpretation.

8. In this Part—

“damage” includes loss of life and personal injury;

“dependant” means any person for whose benefit an action could be brought under the Accidental Deaths and Workmen’s Injuries (Compensation) Ordinance, and any Act amending the same or substituted therefor;

Cap. 111
1953 Ed.

“fault” means negligence, breach of statutory duty or other act or omission which gives rise to a liability in tort, or would, apart from this Part, give rise to a defence of contributory negligence.

Apportionment
of liability in
case of
contributory
negligence.

9. (1) Where any person suffers damage as the result partly of his own fault and partly of the fault of any other person or persons, a claim in respect of that damage shall not be defeated by reason of the fault of the person suffering the damage, but the damages recoverable in respect thereof shall be reduced to such extent as the court thinks just and equitable having regard to the claimant’s share in the responsibility for the damage:

Provided that—

- (a) this subsection shall not operate to defeat any defence arising under a contract;
- (b) where any contract or enactment providing for the limitation of liability is applicable to the claim, the amount of damages recoverable by the claimant by virtue of this subsection shall not exceed the maximum limit so applicable.

(2) Where damages are recoverable by any person by virtue of the foregoing subsection subject to such reduction as is therein mentioned, the court shall find and record the total damages which would have been recoverable if the claimant had not been at fault.

(3) Section 7 shall apply in any case where two or more persons are liable or would, if they had all been sued, be liable by virtue of subsection (1) of this section in respect of the damage suffered by any person.

(4) Where any person dies as the result partly of his own fault and partly of the fault of any other person or persons, and accordingly if an action were brought for the benefit of the estate under Part IV, the damages recoverable would be reduced under subsection (1), any damages recoverable in an action brought for the benefit of the dependants of that person under the Accidental Deaths and Workmen's Injuries (Compensation) Ordinance shall be reduced to a proportionate extent.

(5) Where in any case to which subsection (1) applies, one of the persons at fault avoids liability to any other such person or his personal representative by pleading

c. 7:02 the Limitation Act, or any other enactment limiting the time within which proceedings may be taken, he shall not be entitled to recover any damages or contributions from that other person or representative by virtue of the said subsection.

22 & 23 Geo. 5,
c. 36. (6) Article 21 of the Convention contained in the First Schedule to the applied Act entitled the Carriage by Air Act, 1932, (which empowers a court to exonerate wholly or partly a carrier who proves that the damage was caused by or contributed to by the negligence of the injured person), as extended to Guyana by the applied law entitled the Carriage by Air (Colonies, Protectorates and Mandated Territories) Order, 1934, shall have effect subject to this section.

Saving for
Maritime
Conventions
Act, 1911 and
past cases.
1 & 2 Geo. 5,
c. 57. **10.** (1) This Part shall not apply to any claim in which section one of the applied Act entitled the Maritime Conventions Act, 1911, applies and that Act shall have effect as if this Part had not been passed.

(2) This Part shall not apply to any case where the acts or omissions giving rise to the claim occurred before the passing of this Part.

PART IV
EFFECT OF DEATH ON CERTAIN CAUSES OF ACTION

Effect of death
on certain
causes.
[14 of 1988] **11.** (1) Subject to this section, on the death of any person after the commencement of this Part, all causes of action subsisting against or vested in him shall survive against, or, as the case may be, for the benefit of, his estate:

Provided that this subsection shall not apply to causes of action for defamation, or seduction, or for inducing one spouse to leave or remain apart from the other or to claims for damages on the ground of adultery.

(2) Where a cause of action survives as aforesaid

for the benefit of the estate of a deceased person, the damages recoverable for the benefit of the estate of that person—

- (a) shall not include –
 - (i) any exemplary damages;
 - (ii) any damages for loss of income in respect of any period after that person's death;
- (b) in the case of a breach of promise to marry shall be limited to such damage, if any, to the estate of that person as flows from the breach of promise to marry;
- (c) where the death of that person has been caused by the act or omission which gives rise to the cause of action, shall be calculated without reference to any loss or gain to his estate consequent on his death, except that a sum in respect of funeral expenses may be included.

(3) No proceedings shall be maintainable in respect of a cause of action in tort which by virtue of this section has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death; or
- (b) the cause of action arose not earlier than six months before his death and

proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(4) Where damage has been suffered by reason of any act or omission in respect of which a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Part, to have been subsisting against him before his death such cause of action in respect of that act or omission as would have subsisted if he had died after the damage was suffered.

(5) The rights conferred by this Part for the benefit of the estates of deceased persons shall be in addition to and not in derogation of any rights conferred on the dependants of deceased persons by the Accidental Deaths and Workmen's Injuries (Compensation) Ordinances or the applied Act entitled the Carriage of Air Act, 1932, as applied to Guyana by the applied law entitled the Carriage by Air (Colonies, Protectorates and Mandated Territories) Order, 1934, and so much of this Part as relates to causes of action against the estates of deceased persons shall apply in relation to causes of action under said Acts as it applies in relation to other causes of action not expressly excepted from the operation of subsection (1).

(6) In the event of the insolvency of an estate against which proceedings are maintainable by virtue of this section, any liability in respect of the cause of action in respect of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate, notwithstanding that it is a demand in the nature of unliquidated damages arising otherwise than by a contract, promise or breach of trust.

PART V
INTEREST ON DEBTS, DAMAGES AND JUDGMENTS

Power of the courts to award interest on debts, damages and judgments. [29 of 1961]

12. (1) In any proceedings tried in any court for the recovery of any debt or damages, the court may, if it thinks fit, order that there should be included in the sum for which judgment is given interest at such rate not exceeding six per cent *per annum* as it thinks fit on the whole or any part of the debt or damages for the whole or any part of the period between the date when the cause of action arose and the date of the judgment:

Provided that nothing in this section—

- (a) shall authorise the giving of interest upon interest;
- (b) shall apply in relation to any debt upon which interest is payable as of right whether by virtue of any agreement or otherwise; or
- (c) shall affect the damages recoverable for the dishonour of a bill of exchange.

(2) Every judgment shall carry interest at the rate of four per cent *per annum* from the time of entering the judgment until the same shall be satisfied, and such interest may be levied under a writ of execution on such judgment.