



ANNO SEPTIMO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 15 of 1968

**An Act to Amend the Law with respect to Civil Proceedings
between Husband and Wife**

[ASSENTED TO 19TH APRIL, 1968]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and commencement. (1) This Act may be cited as "*The Law Reform (Husband and Wife) Act of 1968.*"

(2) This Act shall come into operation on a day to be fixed by the Governor in Council by Proclamation published in the *Government Gazette*.

2. 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 under section twenty-one of “*The Married Women’s Property Act, 1890*,”

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 twenty-one or give such directions as it thinks fit for the disposal under that section of any question arising in the proceeding.

(3) Rules of Court shall be made under “*The Supreme Court Act of 1921*,” “*The District Courts Act of 1967*,” and “*The Magistrates Courts Acts, 1921 to 1964*,” respectively, requiring the Court to consider at an early stage of proceedings in tort between the parties to a marriage whether the power to stay the action under subsection (2) of this section should or should not be exercised.

3. Interpretation. The reference in subsection (1) of section two of this Act to the parties to a marriage includes reference to the persons who were parties to a marriage which has been annulled or dissolved.

4. Application of Act. 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. Amendment. The Acts described in the Schedule to this Act are hereby repealed or amended to the extent and subject to the limitations specified in the third column of that Schedule.

SCHEDULE
ENACTMENTS REPEALED

Number of Act	Short Title	Extent of Amendment or Repeal
54 Vic No. 9 ..	“ <i>The Married Women’s Property Act, 1890</i> ”	Section fifteen (as amended) is further amended by omitting the words “; but except as aforesaid, no husband or wife shall be entitled to sue the other for a wrong”.
1 Eliz II No. 36	“ <i>The Married Women (Restraint upon Anticipation) Act of 1952</i> ”	Section two is amended by omitting the words “and subject as respects actions in tort between husband and wife to the provisions of section fifteen of “ <i>The Married Women’s Property Act, 1890</i> ,””.

SCHEDULE—*continued*
 ENACTMENTS REPEALED—*continued*

Number of Act	Short Title	Extent of Amendment or Repeal
1 Eliz II No. 42	<p><i>“The Law Reform (Tortfeasors Contribution, Contributory Negligence, and Division of Chattels) Act of 1952”</i></p>	<p>Section seven is repealed but notwithstanding the repeal of that section the provisions of the said section seven shall continue to apply to and in relation to a claim for contribution where the act or omission giving rise to the claim occurred prior to the coming into operation of <i>“The Law Reform (Husband and Wife) Act of 1968”</i> and for the purposes of such a claim for contribution and any liability arising out of such a claim the said section seven shall be deemed to remain in full force.</p>