

PROJET DE LOI

ENTITLED

The Married Women's Property Law, 1928 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

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Ordres en Conseil Vol. VIII, p. 213; as amended by the: Law Reform (Tort) (Guernsey) Law, 1979 (Ordres en Conseil Vol. XXVII, p. 50); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 (No. XIII of 2017); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 (Alderney Ordinance No. VIII of 2018); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020 (Sark Ordinance No. II of 2020). This Law is applied to the Island of Herm by the Herm Laws Ordinance, 1948 (Recueil d'Ordonnances Tome IX, p. 247); to the Island of Alderney, with modifications, by the Alderney Land and Property, &c., Law, 1949 (Ordres en Conseil Vol. XIV, p. 67); and to the Island of Sark, in part, with modifications, by the Married Women's Property (Sark) Law, 1975 (Ordres en Conseil Vol. XXV, p. 69). See also the: Adoption (Guernsey) Law, 1960 (Ordres en Conseil Vol. XVIII, p. 192); Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); Law Reform (Age of Majority) (Sark) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 378); Age of Majority (Alderney) Law, 2001 (No. XXV of 2001, Ordres en Conseil Vol. XLI, p. 738); Alderney (Application of Legislation) (Adoption) Ordinance, 1974 (Recueil d'Ordonnances Tome XIX, p. 247); Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 (*supra*); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 (*supra*); Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020 (*supra*).

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The Married Women's Property Law, 1928

ARRANGEMENT OF SECTIONS

DEFINITION

1. Married woman to be capable of acquiring and disposing of property as if she were an unmarried woman of full age. Married woman to be capable of contracting as if she were an unmarried woman of full age.
2. Property of a married woman after this Law to be held by her as feme sole.
3. Property acquired after this Law by a woman married before this Law to be held by her as feme sole.
4. Married woman's property—when free of husband's control.
5. As to money or other estate lent or entrusted by wife to her husband.
6. Effect of execution of a general power by will by a married woman.
7. As to stock, &c., to which a married woman is entitled.
8. As to stock &c., to be transferred, to a married woman.
9. Investments in joint names of married woman and others.
10. As to stock, &c. standing in the joint names of a married woman and others.
11. Fraudulent investments with money of husband.
12. Moneys payable under policy of assurance not to form part of the estate of the insured.
13. Remedies of married woman for protection and security of separate property.[...]
14. Wife's anti-nuptial debts and liabilities.
15. Husband to be liable for his wife's debts contracted before marriage to a certain extent.
16. Suits for ante-nuptial liabilities.
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LES RÈGLEMENTS qui ensuivent, rédigés en anglais, ayant rapport aux droits de la femme mariée à la Propriété Mobilière et Immobilière auront force de loi en cette Île.

DEFINITION

In this Law the words "**movable property**" have the same meaning as "propriété mobilière", and the words "**immovable property**" the same meaning as "propriété immobilière".

Married woman to be capable of acquiring and disposing of property as if she were an unmarried woman of full age. Married woman to be capable of contracting as if she were an unmarried woman of full age.

1. (1) A married woman shall, in accordance with the provisions of this law, be capable of acquiring, holding and disposing by will or otherwise, of any movable or immovable property as her separate property, in the same manner as if she were an unmarried woman of full age. She shall also be able, without her husband, to dispose of, or to join in disposing of, movable or immovable property held by her solely or jointly with any other person as trustee or personal representative in like manner as if she were an unmarried woman of full age.

(2) A married woman shall be capable, without her husband, of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, either in contract or in

tort, or otherwise, in all respects as if she were an unmarried woman of full age, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her and any damages or costs recovered by her in any such action or proceeding shall be her separate property: and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise.

(3) Every contract hereafter entered into by a married woman otherwise than as agent,

- (a) shall be deemed to be a contract entered into by her with respect to and to bind her separate property whether she is or is not in fact possessed of or entitled to any separate property at the time when she enters into such contract,
- (b) shall bind all separate property which she may at that time or thereafter be possessed of or entitled to, and
- (c) shall also be enforceable by process of law against all property which she may thereafter while discover be possessed of or entitled to.

Provided that nothing in this section contained shall render available to satisfy any liability or obligation arising out of such contract any separate property which at the time or thereafter she is restrained from anticipating.

(4) In any action or proceeding now or hereafter instituted by or on behalf of a woman, the Court shall have jurisdiction by judgment or order from time to time to order payment of the costs of the opposite party out of property which is subject to a restraint on anticipation, and may enforce such payment by granting

orders for execution on such property or otherwise as may be just.

(5) Every married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the laws relating to insolvency in the same way as if she were an unmarried woman of full age.

NOTES

The Law is applied to the Island of Herm by the Herm Laws Ordinance, 1948, Article 1, Schedule, Part ID, with effect from 13th March, 1948.

The Law is applied to the Island of Alderney by the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949, subject to the modifications in that section.

The Law, save for section 20 and section 24 thereof, is applied to the Island of Sark by the Married Women's Property (Sark) Law, 1975, section 1(1), with effect from 10th June, 1975, subject to the modifications in and the provisions of, respectively, subsection (2) and subsection (3) of the said section 1.

The following case has referred to this Law:

In re Estate Poole (1998) 25.GLJ.48.

In accordance with the provisions of, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 2, Schedule 2, with effect from 2nd May, 2017, second (in relation to Alderney), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 2, Schedule 2, with effect from 14th June, 2018 and, third (in relation to Sark), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020, section 2, Schedule 2, with effect from 23rd April, 2020, section 1(2) and section 2 of, respectively, the Same-Sex Marriage (Guernsey) Law, 2016, the Same-Sex Marriage (Alderney) Law, 2017 and the Same-Sex Marriage (Sark) Law, 2020 do not apply in respect of this Law, except for the second paragraph of Article 12.

In accordance with the provisions of, first, the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, second, the Law Reform (Age of Majority) (Sark) Law, 1986, section 1(1) and section 1(2), with effect from 3rd February, 1987 and subject to the savings in section 1(3) of, and the

Schedule to, the 1986 Law and, third, the Age of Majority (Alderney) Law, 2001, section 1(1) and section 1(3), with effect from 14th December, 2001 and subject to the transitional and savings provisions in section 1(5) of, and the Schedule to, the 2001 Law, and having regard to the references in this section to "full age", a person shall attain full age on attaining the age of 18 years.

Property of a married woman after this Law to be held by her as feme sole.

2. Every woman who marries after the commencement of this Law may have and hold as her separate property and (subject to the rights of a surviving husband and descendants under the law of succession for the time being in force) dispose of in manner aforesaid all movable and immovable property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage, including any wages, earnings, money and property gained or acquired by her in any employment, trade, or occupation, in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic, or scientific skill.

NOTES

In its application to the Island of Alderney, section 2 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 2 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

Property acquired after this Law by a woman married before this Law to be held by her as feme sole.

3. Every woman married before the commencement of this Law may have and hold and (subject to the rights of a surviving husband and descendants under the law of succession for the time being in force) dispose of in manner aforesaid as her separate property all movable and immovable property, her title to which shall accrue after the commencement of this Law, including any wages, earnings, money,

and property so gained or acquired by her as aforesaid.

NOTES

In its application to the Island of Alderney, section 3 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 3 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

Married woman's property—when free of husband's control.

4. (1) The property whether movable or immovable of a woman who marries after the commencement of this Law and the property whether movable or immovable acquired after the commencement of this Law by a woman married before the commencement of this Law, shall not be subject by reason of the marriage to any control administration or beneficial or other interest by or of her husband during the marriage and it shall not be necessary for her husband to join in any contract, act, or deed whereby she acquires movable or immovable property or whereby the movable or immovable property of a woman married after the commencement of this Law, or the movable or immovable property acquired by a married woman after the commencement of this Law, is disposed of.

(2) Where the immovable property of a married woman, being property which belonged to her at the commencement of this Law, is alienated, the proceeds of such alienation shall be her own separate estate and shall not be subject to any control, administration or interest of her husband.

(3) In all cases where by law custom or usage of this Island a married woman, being a party contracting in respect of property, rights or liabilities, or abandoning actual or eventual rights has been required to declare upon oath that she so acted of her own free will and without being forced or constrained thereto by

her husband, such declaration is by this Law abolished.

NOTES

In its application to the Island of Alderney, section 4 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 4 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

As to money or other estate lent or entrusted by wife to her husband.

5. Any money or other estate of the wife lent or entrusted by her to her husband for the purpose of any trade or business carried on by him, or otherwise, shall be treated as assets of her husband's estate in case of his insolvency, under reservation of the wife's claim to a dividend as a creditor for the amount or value of such money or other estate after, but not before, all claims of the other creditors of the husband for valuable consideration in money or money's worth have been satisfied.

Effect of execution of a general power by will by a married woman.

6. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Law.

As to stock, &c., to which a married woman is entitled.

7. All deposits in any post office or other bank, all annuities, sums, shares, stock, debentures, debenture stock and other interests, which at or after the commencement of this Law are standing in the sole name of a married woman, shall be deemed, unless and until the contrary be shown, to be the separate property of such married woman; and the fact that any such deposit, annuity, sum, share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient prima facie evidence that she is beneficially

entitled thereto for her separate use, so as to authorise and empower her to receive or transfer the same, and to receive the dividends, interest, and profits thereof, without the concurrence of her husband, and to indemnify all directors, managers, trustees and other persons controlling or administering the same, in respect thereof.

NOTES

In its application to the Island of Alderney, section 7 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 7 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

As to stock &c., to be transferred, to a married woman.

8. All deposits in any post office or other bank, all annuities, sums, shares, stock, debentures, debenture stock, and other interests, which after the commencement of this Law shall be allotted to or placed, registered, or transferred in or into or made to stand in the sole name of any married woman shall be deemed, unless and until the contrary be shown, to be her separate property, in respect of which so far as any liability may be incident thereto her separate estate shall alone be liable, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded, or not.

Provided always, that nothing in this Law shall require or authorise any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein to which any liability may be incident, contrary to the provisions of any law, statute, charter, bye-law, articles of association, or deed of settlement regulating such corporation or company.

NOTES

In its application to the Island of Alderney, section 8 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 8 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

Investments in joint names of married woman and others.

9. All the provisions hereinbefore contained as to deposits, annuities, sums, shares, stock, debentures, debenture stock, and other interests, which at or after the commencement of this Law shall be standing in, or shall be allotted to, placed, registered or transferred to or into, or made to stand in, the sole name of a married woman, shall respectively extend and apply, so far as relates to the estate, right, title, or interest of the married woman, to any of the particulars aforesaid which, at the commencement of this Law, or at any time afterwards, shall be standing in, or shall be allotted to, placed, registered or transferred to or into, or made to stand in, the name of any married woman jointly with any person or persons other than her husband.

NOTES

In its application to the Island of Alderney, section 9 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 9 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

As to stock, &c. standing in the joint names of a married woman and others.

10. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any annuity, deposit, sum, share, stock, debenture, debenture stock, or other interest, which is at the commencement of

this Law or shall at any time hereafter be standing in the sole name of any married woman, or in the joint names of such married woman and any other person or persons not being her husband.

NOTES

In its application to the Island of Alderney, section 10 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 10 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

Fraudulent investments with money of husband.

11. If any investment shall have been made by a married woman by means of moneys of her husband, without his consent, the Royal Court sitting as the Ordinary Court may, upon an application by the husband or by any bank, corporation, company, public body, or society in whose books any stocks, funds, or shares are standing in consequence of such investment, order such investment and the dividends thereof, or any part thereof, to be transferred and paid respectively to the husband; and nothing in this Law contained shall give validity as against creditors of the husband to any gift, by a husband to his wife, of any property, which after such gift shall continue to be in the order and disposition or reputed ownership of the husband, or to any deposit or other investment of moneys of the husband made by or in the name of his wife, in fraud of his creditors; but any moneys so deposited or invested may be followed as if this Law had not passed.

NOTES

In its application to the Island of Alderney, section 11 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 11 is modified in accordance

with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(b), with effect from 10th June, 1975.

Moneys payable under policy of assurance not to form part of the estate of the insured.

12. A married woman may by virtue of the power of making contracts hereinbefore contained effect a policy upon her own life or the life of her [spouse] for her separate use; and the same and all benefit thereof shall enure accordingly.

A policy of assurance affected by any man on his own life, and expressed to be for the benefit of his [spouse], or of his children, or of his [spouse] and children, or any of them, or by any woman on her own life, and expressed to be for the benefit of her [spouse], or of her children, or of her [spouse] and children, or any of them, shall create a trust in favour of the objects therein named, and the moneys payable under such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts: Provided, that if it shall be proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid. The insured may by the policy, or by any memorandum under his or her hand, appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy. In default of any such appointment of a trustee such policy, immediately on its being effected, shall vest in the insured and his or her legal personal representatives, in trust for the purposes aforesaid. If, at the time of the death of the insured, or at any time afterwards, there shall be no trustee, or it shall be expedient to appoint a new trustee or new trustees, a trustee or trustees or a new trustee or new trustees may be appointed by the Royal Court sitting as the Ordinary Court on an application made for that purpose. The receipt of a trustee or trustees duly appointed, or, in default of any such appointment, or in default of notice to the

insurance office, the receipt of the legal personal representative of the insured shall be a discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

NOTES

In section 12, the word "spouse" in square brackets, wherever occurring, was substituted by, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 1, Schedule 1, Part I, paragraph 3, with effect from 2nd May, 2017, second (in relation to Alderney), by the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 1, Schedule 1, Part I, paragraph 2, with effect from 14th June, 2018 and, third (in relation to Sark), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020, section 1, Schedule 1, paragraph 2, with effect from 23rd April, 2020.

In its application to the Island of Alderney, section 12 is modified in accordance with, first, the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949; and, second, the provisions of the Adoption (Guernsey) Law, 1960, section 13(3), as applied by the Alderney (Application of Legislation) (Adoption) Ordinance, 1974, section 1, Schedule, with effect from 1st July, 1974.

In its application to the Island of Sark, section 12 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(b), with effect from 10th June, 1975.

The following case has referred to section 12:

In re Estate Poole (1998) 25.GLJ.48.

In accordance with the provisions of the Adoption (Guernsey) Law, 1960, section 13(3), with effect from 15th March, 1961, references in this section to a person's children shall include, and be deemed always to have included, references to children adopted by that person under an adoption order.

Remedies of married woman for protection and security of separate property.

13. Every woman, whether married before or after this Law shall be in force, shall have in her own name against all persons whomsoever, including her husband, the same civil remedies, and also (subject as regards her husband, to the

proviso hereinafter contained) the same remedies and redress by way of criminal proceedings, for the protection and security of her own separate property as if such property belonged to her as an unmarried woman of full age, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any indictment or other proceeding under this section it shall be sufficient to allege such property to be her property; and in any proceeding under this section the husband and wife respectively shall be competent and admissible witnesses, and, except when defendant in criminal proceedings, compellable to give evidence any law to the contrary notwithstanding: Provided always, that no criminal proceeding shall be taken on the complaint of any wife against her husband by virtue of this Law while they are living together, as to or concerning any property claimed by her, nor while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting, or about to leave or desert his wife.

NOTES

Section 13 was repealed, except so far as it relates to criminal proceedings, by the Law Reform (Tort) (Guernsey) Law, 1979, section 20, Schedule, with effect from 1st July, 1979.

In accordance with the provisions of, first, the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, second, the Law Reform (Age of Majority) (Sark) Law, 1986, section 1(1) and section 1(2), with effect from 3rd February, 1987 and subject to the savings in section 1(3) of, and the Schedule to, the 1986 Law and, third, the Age of Majority (Alderney) Law, 2001, section 1(1) and section 1(3), with effect from 14th December, 2001 and subject to the transitional and savings provisions in section 1(5) of, and the Schedule to, the 2001 Law, and having regard to the reference in this section to "full age", a person shall attain full age on attaining the age of 18 years.

Wife's anti-nuptial debts and liabilities.

14. A woman after her marriage shall continue to be liable in respect and

to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage, including any sums for which she may be liable, as a contributory, either before or after she has been placed on the list of contributories, under and by virtue of the Law relating to Limited Liability Companies; and she may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts, or wrongs, and for all damages or costs recovered in respect thereof: Provided always, that nothing in this Law shall operate to increase or diminish the liability of any woman married before the commencement of this Law, for any such debt, contract or wrong, as aforesaid, except as to any separate property to which she may become entitled by virtue of this Law and to which she would not have been entitled for her separate use, if this Law had not passed.

NOTES

In its application to the Island of Alderney, section 14 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 14 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

The Loi relative aux Sociétés Anonymes ou à Responsabilité Limitée, 1908 (the "Law relating to Limited Liability Companies") has since been repealed by the Companies (Guernsey) Law, 1994, section 122, with effect from 31st March, 1995, subject to the savings and transitional provisions in section 121 of, and Schedule 1 to, the 1994 Law.

Husband to be liable for his wife's debts contracted before marriage to a certain extent.

15. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, including any liabilities to which she may be so subject under the Law relating to limited liability companies as aforesaid, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment may have been bona fide recovered against him in any proceeding at law, in respect of any such debts, contracts, or wrongs for or in respect of which his wife was liable before her marriage as aforesaid but he shall not be liable for the same any further or otherwise; and any court in which a husband shall be sued for any such debt shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount, or value of such property: Provided always, that nothing in this Law contained shall operate to increase or diminish the liability of any husband married before the commencement of this Law for or in respect of any such debt or other liability of his wife as aforesaid.

NOTES

In its application to the Island of Alderney, section 15 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 15 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

Suits for ante-nuptial liabilities.

16. A husband and wife may be jointly sued in respect of any such debt or other liability (whether by contract or for any wrong) contracted or incurred by the wife before marriage as aforesaid, if the plaintiff in the action shall seek to establish his claim, either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife

so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly, if it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages the judgment shall be a separate judgment against the wife as to her separate property only.

Act of wife liable to criminal proceedings.

17. A wife doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings on the complaint of the wife under this Law, shall in like manner be liable to criminal proceedings by her husband, and, in any such proceedings the husband and wife respectively shall be competent and admissible witnesses, and, except when defendant, compellable to give evidence.

Married woman as an executrix or trustee.

18. A married woman who is an executrix or administratrix alone or jointly with any other person or persons of the estate of any deceased person, or a trustee alone or jointly as aforesaid of property subject to any trust, may sue or be sued, and may transfer or join in transferring any annuity or deposit or any sum, share, stock, debenture, debenture stock, or other benefit, right, claim, or other interest in that character, without her husband, as if she were an unmarried woman of full age.

NOTE

In accordance with the provisions of, first, the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving

provision in section 1(6) of the 1978 Law, second, the Law Reform (Age of Majority) (Sark) Law, 1986, section 1(1) and section 1(2), with effect from 3rd February, 1987 and subject to the savings in section 1(3) of, and the Schedule to, the 1986 Law and, third, the Age of Majority (Alderney) Law, 2001, section 1(1) and section 1(3), with effect from 14th December, 2001 and subject to the transitional and savings provisions in section 1(5) of, and the Schedule to, the 2001 Law, and having regard to the reference in this section to "full age", a person shall attain full age on attaining the age of 18 years.

Saving of existing settlements and the power to make future settlements.

19. Nothing in this Law contained shall interfere with or affect any settlement or agreement for a settlement or contract made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage and no settlement or agreement for a settlement shall have any greater force or validity against creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. Provided that a settlement or agreement for a settlement made after the commencement of this Law by the husband or intended husband whether before or after marriage, respecting the property of any woman he may marry or have married, shall not be valid unless it is executed by her if she is of full age, or confirmed by her after she attains full age. But if she dies a minor any covenant or disposition by her husband contained in the settlement or agreement shall bind or pass any interest in any property of hers to which he may become entitled on her death and which he could have bound or disposed of if this proviso had not been passed.

NOTES

In its application to the Island of Alderney, section 19 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 19 is modified in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(2)(a), with effect from 10th June, 1975.

In accordance with the provisions of, first, the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, second, the Law Reform (Age of Majority) (Sark) Law, 1986, section 1(1) and section 1(2), with effect from 3rd February, 1987 and subject to the savings in section 1(3) of, and the Schedule to, the 1986 Law and, third, the Age of Majority (Alderney) Law, 2001, section 1(1) and section 1(3), with effect from 14th December, 2001 and subject to the transitional and savings provisions in section 1(5) of, and the Schedule to, the 2001 Law, and having regard to the references in this section to, first, "full age" and, second, "minor", a person shall attain full age on attaining the age of 18 years; and the reference to a minor shall be construed as a reference to a person under the age of 18 years.

Married woman to be liable to the parish for the maintenance of her husband.

20. Where the husband of any woman having separate property becomes chargeable for relief under the Laws from time to time in force relating to the relief of the poor, the Court, on proceedings being taken against the wife by the Board administering such relief or by such officer as may be authorised thereto, may make and enforce such order against her for the maintenance of her husband out of such separate property as may be made and enforced against a husband for the maintenance of his wife if she becomes chargeable for such relief as aforesaid.

NOTE

In its application to the Island of Sark, section 20 is omitted in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(1), with effect from 10th June, 1975.

Married woman to be liable to the parish for the maintenance of her children.

21. A married woman having separate property shall be subject to all such

liability for the maintenance of her children and grandchildren as the husband is by law subject to for the maintenance of her children and grandchildren. She shall also be subject to all such liability for the maintenance of her parent, parents, grandparent or grandparents as an unmarried woman of full age is by law subject to for the maintenance of such parent, parents, grandparent or grandparents; Provided always, that nothing in this Law shall relieve her husband from any liability imposed upon him by law to maintain her children or grandchildren, but the husband shall have the right to recover against the wife's property any expense to which he may have been put, under such liability, in respect of the maintenance of her children and grandchildren who are not also his children or grandchildren.

NOTES

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 1, with effect from 4th January, 2010, the references in this section to "parent" and "parents" shall mean, in relation to a child and subject to the conditions in paragraph (a) and (b) of subsection (1) and the exceptions in paragraph (a) and (b) of subsection (2) of that section, a father or mother who has parental responsibility in respect of the child.

In accordance with the provisions of, first, the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, second, the Law Reform (Age of Majority) (Sark) Law, 1986, section 1(1) and section 1(2), with effect from 3rd February, 1987 and subject to the savings in section 1(3) of, and the Schedule to, the 1986 Law and, third, the Age of Majority (Alderney) Law, 2001, section 1(1) and section 1(3), with effect from 14th December, 2001 and subject to the transitional and savings provisions in section 1(5) of, and the Schedule to, the 2001 Law, and having regard to the reference in this section to "full age", a person shall attain full age on attaining the age of 18 years.

Legal representative of married woman.

22. ...

NOTE

Section 22 was repealed by the Law Reform (Tort) (Guernsey) Law, 1979, section 20, Schedule, with effect from 1st July, 1979.

Interpretation of terms.

23. The word "**contract**" in this Law shall include the acceptance of any trust, or of the office of executrix or administratrix, and the provisions of this Law as to liabilities of married women shall extend to all liabilities by reason of any breach of trust committed by any married woman being a trustee or executrix or administratrix either before or after her marriage and her husband shall not be subject to such liabilities unless he has acted or inter-meddled in the trust or administration.

Commencement of Law.

24. The date of the commencement of this Law shall be the date whereon the Order of the King's most Excellent Majesty in Council sanctioning the same shall be registered on the records of this Island.

NOTES

The Law was registered on the Records of the Island of Guernsey and came into force on 8th September, 1928.

In its application to the Island of Alderney, section 24 is modified in accordance with the provisions of the Alderney Land and Property, &c., Law, 1949, section 55, with effect from 28th May, 1949.

In its application to the Island of Sark, section 24 is omitted in accordance with the provisions of the Married Women's Property (Sark) Law, 1975, section 1(1), with effect from 10th June, 1975.

Short title.

25. This Law may be cited as the Married Women's Property Law, 1928.

NOTE

In the printed version of this enactment, the Law is styled as the "Loi étendant les Droits de la Femme Mariée quant à la propriété mobilière et immobilière".
