



Law Reform (Husband and Wife) (Scotland) Act 1984

1984 CHAPTER 15

An Act to amend the law relating to husband and wife and breach of promise of marriage and for connected purposes. [24th May 1984]

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:—

Abolition of actions of breach of promise of marriage, adherence and enticement

1 Promise of marriage not an enforceable obligation

- (1) No promise of marriage or agreement between two persons to marry one another shall have effect under the law of Scotland to create any rights or obligations; and no action for breach of any such promise or agreement may be brought in any court in Scotland, whatever the law applicable to the promise or agreement.
- (2) This section shall have effect in relation to any promise made or agreement entered into before it comes into force, but shall not affect any action commenced before it comes into force.

2 Actions of adherence and enticement abolished

- (1) No spouse shall be entitled to apply for a decree from any court in Scotland ordaining the other spouse to adhere.
- (2) No person shall be liable in delict to any person by reason only of having induced the spouse of that person to leave or remain apart from that person.
- (3) This section shall not affect any action commenced before this Act comes into force.

Abolition of miscellaneous rules relating to husband and wife

3 Curatory after marriage

- (1) No married person shall, by reason only of minority, be subject to the curatory of his parent or of any person appointed by his parent.
- (2) No wife shall, by reason only of minority, be subject to the curatory of her husband.
- (3) Section 2 of the Married Women's Property (Scotland) Act 1920 (husband to be curator to his wife during her minority) is repealed.

4 Abolition of husband's right to choose matrimonial home

Any rule of law entitling the husband, as between husband and wife, to determine where the matrimonial home is to be, shall cease to have effect.

5 Abolition of certain rules relating to antenuptial marriage contracts

- (1) In relation to an antenuptial contract of marriage entered into after this Act comes into force—
 - (a) any rule of law enabling a woman to create an alimentary right in her own favour in respect of any property provided by her shall cease to have effect;
 - (b) any rule of law whereby the marriage is onerous consideration for any provision of the contract, shall cease to have effect.
- (2) Nothing in paragraph (b) of subsection (1) above shall affect the operation of any enactment relating to gifts in consideration of marriage.

6 Abolition of husband's remaining liability for wife's debts incurred before marriage

- (1) A husband shall not be liable, by reason only of being her husband, for any debts incurred by his wife before marriage.
- (2) Subsection (1) above shall have effect in relation to any such debts, whether incurred before or after this Act comes into force.
- (3) Section 4 of the Married Women's Property (Scotland) Act 1877 (liability of husband for wife's antenuptial debts limited to amount of property received through her) is repealed.

7 Abolition of praepositura

- (1) For the purpose of determining a husband's liability for any obligation incurred by his wife after this Act comes into force, a married woman shall not be presumed as a matter of law to have been placed by her husband in charge of his domestic affairs, and any rule of law to the contrary shall cease to have effect.
- (2) No warrant of inhibition or inhibition in whatever form may be granted at the instance of a husband for the purpose of cancelling his wife's authority to incur any obligation on his behalf.

- (3) No such inhibition granted before the date this Act comes into force shall be registered on or after that date, and any such inhibition registered before that date shall be treated as discharged on that date.

8 Abolition of husband's liability for wife's judicial expenses when neither a party nor dominus litis

Any rule of law whereby a husband—

- (a) who is not a party to an action between his wife and a third party, and
(b) who is not, in relation to that action, *dominus litis*,

may nevertheless be found liable in the expenses of that action, shall cease to have effect.

General

9 Consequential amendments and repeals

- (1) The enactments specified in Schedule 1 shall have effect subject to the amendments specified in that Schedule, being amendments consequential to the provisions of this Act.
- (2) The enactments specified in Schedule 2 are repealed to the extent specified in the third column of that Schedule.

10 Citation etc.

- (1) This Act may be cited as the Law Reform (Husband and Wife) (Scotland) Act 1984.
- (2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act extends to Scotland only.

SCHEDULES

SCHEDULE 1

Section 9(1).

ENACTMENTS AMENDED

Court of Session Act 1850 (c.36)

- 1 In section 16 (certain enactments to apply to actions of adherence etc.), omit " actions of adherence, and ".

Conjugal Rights (Scotland) Amendment Act 1861 (c.86)

- 2 In section 19 (interpretation), in the definition of " consistorial action ", omit " and of adherence ".

Sheriff Courts (Scotland) Act 1907 (c.51)

- 3 In section 5 (extension of jurisdiction), in subsection (2), omit " adherence and aliment ".

Maintenance Orders Act 1950 (c.37)

- 4 In section 6 (jurisdiction of the sheriff in certain actions of aliment), in subsection (2), omit " an action of adherence and aliment or ".

Maintenance Orders (Reciprocal Enforcement) Act 1972 (c.18)

- 5 In section 4 (power of sheriff to make provisional maintenance order), in subsection (2), omit " or adherence and aliment ".

Matrimonial Proceedings (Polygamous Marriages) Act 1972 (c.38)

- 6 In section 2, in paragraph (e) of subsection (2), omit " adherence and aliment ".

Civil Jurisdiction and Judgments Act 1982 (c.27)

- 7 In Schedule 8, in paragraph 2, in rule (5), omit " for adherence and aliment or ".

SCHEDULE 2

Section 9(2).

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
24 & 25 Vict. c. 86.	Conjugal Rights (Scotland) Amendment Act 1861.	Sections 1 to 5.
37 & 38 Vict. c. 31.	Conjugal Rights (Scotland) Amendment Act 1874.	The whole Act.
40 & 41 Vict. c. 29.	Married Women's Property (Scotland) Act 1877.	The whole Act.
10 & 11 Geo. 5 c. 64.	Married Women's Property (Scotland) Act 1920.	Section 2.
6 & 7 Eliz. 2 c. 40.	Matrimonial Proceedings (Children) Act 1958.	Subsection (2) of section 9.