Law Reform (Husband and Wife) Act (Northern Ireland) 1964

1964 CHAPTER 23

An Act to amend the law as to actions in tort between husband and wife; to extend the powers of the court under section 17 of the Married Women's Property Act 1882; to make provision with respect to certain contracts of insurance and other contracts for the benefit of a spouse or child and with respect to criminal proceedings by or against a spouse; and for purposes connected with matters aforesaid. [7th July 1964]

1 Application of Act.

(1) Save where otherwise appears, this Act applies to persons whether married before or after the commencement of this Act.

(2) Section 2 shall not apply to any cause of action in tort which arose, or would but for the subsistence of a marriage have arisen, before the commencement of this Act.

2 Actions in tort between husband and wife.

(1) 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) The reference in subsection (1) to the parties to a marriage includes a reference to the persons who were parties to a marriage which has been dissolved.

3 [F1] Extension of s. 17 of Married Women's Property Act.

(1) Any right of a wife, under section 17 of the Married Women's Property Act 1882 [M1] to apply to a judge of the High Court or of a county court, in any question between husband and wife as to the title to or possession of property, shall include the right to make such an application where it is claimed by the wife that her husband has had in his possession or under his control—

Changes to legislation: *There are currently no known outstanding effects for the Law Reform (Husband and Wife) Act (Northern Ireland) 1964. (See end of Document for details)*

(a) money to which, or to a share of which, she was beneficially entitled (whether by reason that it represented the proceeds of property to which, or to an interest in which, she was beneficially entitled, or for any other reason); or

(b) property (other than money) to which, or to an interest in which, she was beneficially entitled;

and that either that money or other property has ceased to be in his possession or under his control or that she does not know whether it is still in his possession or under his control.

(2) Where, on an application made to a judge of the High Court or of a county court under the said section 17 the judge is satisfied—

(a) that the husband has had in his possession or under his control money or other property as mentioned in paragraph (*a*) or paragraph (*b*) of subsection (1); and

(b) that he has not made to the wife, in respect of that money or other property, such payment or disposition as would have been just and equitable in the circumstances;

the power to make orders under that section shall be extended in accordance with subsection (3).

(3) Where subsection (2) applies, the power to make orders under the said section 17 shall include power for the judge to order the husband to pay to the wife—

(a) in a case falling within paragraph (*a*) of subsection (1), such sum in respect of the money to which the application relates, or the wife's share thereof, as the case may be; or

(b) in a case falling within paragraph (*b*) of subsection (1), such sum in respect of the value of the property to which the application relates, or the wife's interest therein, as the case may be;

as the judge may consider appropriate.

(4) Where on an application under the said section 17 it appears to the judge that there is any property which—

(a) represents the whole or part of the money or property in question; and

(b) is property in respect of which an order could have been made under that section if an application had been made by the wife thereunder in a question as to the title to or possession of that property;

the judge (either in substitution for or in addition to the making of an order in accordance with subsection (3)) may make any order under that section in respect of that property which he could have made on such an application as is mentioned in paragraph (*b*) of this subsection.

(5) The preceding provisions of this section shall have effect in relation to a husband as they have effect in relation to a wife, as if any reference to the husband were a reference to the wife and any reference to the wife were a reference to the husband.

(6) Any power of a judge under the said section 17 to direct inquiries or give any other directions in relation to an application under that section shall be exercisable in relation to an application made under that section as extended by this section; and the provisos to that section (which relate to appeals and other matters) shall apply in relation to any order made under the said section 17 as extended by this section as they apply in relation to an order made under that section apart from this section.

(7) For the avoidance of doubt it is hereby declared that any power conferred by the said section 17 to make orders with respect to any property includes power to order a sale of the property …[F2].

F1 1978 NI 15 art.55
F2 1978 NI 15

Marginal Citations
M1 1882 c. 75

4 Insurance for benefit of spouse or children.

(1) This section applies to a policy of life assurance or endowment expressed to be for the benefit of, or by its express terms purporting to confer a benefit upon, the wife, husband or child of the insured.

(2) Such policy shall create a trust in favour of the objects therein named.

(3) The moneys payable under the policy shall not, so long as any part of the trust remains unperformed, form part of the estate of the insured or be subject to his or her debts.

(4) If it is 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, on account of their debts, payment out of the moneys payable under the policy, so, however, that the total amount of such payments shall not exceed the amount of the premiums so paid.

(5) 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 may from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or trustees thereof and for the investment of the moneys payable under the policy.

(6) In default of any such appointment of a trustee, the policy, immediately on its being effected, shall vest in the insured and his or her legal personal representatives in trust for the purposes aforesaid.

(7) The receipt of a trustee or trustees duly appointed or, in default either of any such appointment or of notice thereof to the insurer, the receipt of the legal personal representative of the insured shall be a good discharge to the insurer for any sum paid by him under the policy.

(8) This section applies whether the policy was effected before or after the commencement of this Act.

S. 5 rep. by 1999 c. 31

6 Meaning of "child" in sections 4 and 5.

(1) For the purposes of sections 4 and 5—

(a) "child" includes stepchild, illegitimate child, adopted person and a person of whom,[F3]... the insured,[F3]..., is the lawful guardian;

(b) an illegitimate child shall be treated as the legitimate child of his mother and natural father; and