

1980

c 152 Family Law Reform Act

Ontario

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CHAPTER 152

Family Law Reform Act

WHEREAS, it is desirable to encourage and strengthen ^{Preamble} the role of the family in society;

AND WHEREAS for that purpose it is necessary to recognize the equal position of spouses as individuals within marriage and to recognize marriage as a form of partnership;

AND WHEREAS in support of such recognition it is necessary to provide in law for the orderly and equitable settlement of the affairs of the spouses upon the breakdown of the partnership; and to provide for other mutual obligations in family relationships, including the equitable sharing by parents of responsibility for their children:

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

**Interpre-
tation**

- (a) "child" means a child born within or outside marriage, subject to sections 86 and 87 of the *Child Welfare Act* (which relate to the effect of adoption), and includes a person whom the parent has demonstrated a settled intention to treat as a child of his or her family, but does not include a child placed in a foster home for consideration by a person having lawful custody; ^{R.S.O. 1980, c. 66}
- (b) "cohabit" means to live together in a conjugal relationship, whether within or outside marriage;
- (c) "court" means a provincial court (family division), the Unified Family Court, a county or district court or the Supreme Court;
- (d) "domestic contract" means a domestic contract as defined in Part IV;

(e) "parent" means the father or mother of a child, and includes a person who has demonstrated a settled intention to treat a child as a child of his or her family, but does not include a person in whose home a child was placed as a foster child for consideration by a person having lawful custody;

(f) "spouse" means either of a man and woman who,

(i) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year. 1978, c. 2, s. 1.

Combining of
application

2.—(1) Where, in an application under any provision of this Act, it appears to the court that for the appropriate determination of the affairs of the spouses it is necessary or desirable to have other matters first or simultaneously determined, the court may direct that the application stand over until such other applications are brought or determined as the court considers appropriate.

All
proceedings
in one court

(2) Except as otherwise provided, where an application is made to a court under this Act, no person who is a party to the proceeding shall make an application under this Act to any other court, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

Applications

(3) An application under this Act may be made in the manner prescribed by the rules of the court or in another proceeding.

Capacity
of minors

(4) A minor who is a spouse has capacity to commence, conduct and defend a proceeding under this Act without the intervention of a next friend or guardian *ad litem* and give any consent required or authorized by this Act.

Extension
of times

(5) The court may extend any time prescribed by this Act where the court is satisfied that,

- (a) there are *prima facie* grounds for relief;
- (b) relief is unavailable because of delay that has been incurred in good faith; and
- (c) no substantial prejudice or hardship will result to any person affected by reason of the delay.

(6) The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court may by order prohibit the publication of any matter connected with the application or given in evidence at the hearing. Closed hearings

(7) Upon the consent of the parties in an application under this Act, the court may make any order that the court is otherwise empowered to make by this Act, subject to the duty of the court to have regard to the best interests of children affected. Consent orders

(8) Any matter provided for in a domestic contract may be incorporated in an order made under this Act. Incorporation of contract in order

(9) Where a domestic contract makes provision in respect of a matter that is provided for in this Act, the contract prevails except as otherwise provided in this Act. Act subject to contracts

(10) Where an order made under this Act affects real property, the order does not affect the acquisition of an interest in the real property by a person in good faith without notice of the order, unless the order is registered in the proper land registry office. 1978, c. 2, s. 2. Registration of orders

PART I

FAMILY PROPERTY

3. In this Part,

Interpretation

- (a) "court" means a court as defined in section 1 but does not include a provincial court (family division);
- (b) "family assets" means a matrimonial home as determined under Part III and property owned by one spouse or both spouses and ordinarily used or enjoyed by both spouses or one or more of their children while the spouses are residing together for shelter or transportation or for household, educational, recreational, social or aesthetic purposes, and includes,

- (i) money in an account with a chartered bank, savings office, credit union or trust company where the account is ordinarily used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes,
- (ii) where property owned by a corporation, partnership or trustee would, if it were owned by a spouse, be a family asset, shares in the corporation or an interest in the partnership or trust owned by the spouse having a market value equal to the value of the benefit the spouse has in respect of the property,
- (iii) property over which a spouse has, either alone or in conjunction with another person, a power of appointment exercisable in favour of himself or herself, if the property would be a family asset if it were owned by the spouse, and
- (iv) property disposed of by a spouse but over which the spouse has, either alone or in conjunction with another person, a power to revoke the disposition or a power to consume, invoke or dispose of the property, if the property would be a family asset if it were owned by the spouse,

but does not include property that the spouses have agreed by a domestic contract is not to be included in the family assets;

- (c) "property" means real or personal property or any interest therein. 1978, c. 2, s. 3.

Division of
family
assets

4.—(1) Subject to subsection (4), where a decree *nisi* of divorce is pronounced or a marriage is declared a nullity or where the spouses are separated and there is no reasonable prospect of the resumption of cohabitation, each spouse is entitled to have the family assets divided in equal shares notwithstanding the ownership of the assets by the spouses as determinable for other purposes and notwithstanding any order under section 7.

Application
to court

(2) The court may, upon the application of a person who is the spouse of another, determine any matter respecting the division of family assets between them.

Effect of
death of
spouse

(3) The rights under subsection (1) are personal as between the spouses but any application commenced under subsection

(2) before the death of a spouse may be continued by or against the estate of the deceased spouse.

(4) The court may make a division of family assets resulting in shares that are not equal where the court is of the opinion that a division of the family assets in equal shares would be inequitable, having regard to, Variation of division

- (a) any agreement other than a domestic contract;
- (b) the duration of the period of cohabitation under the marriage;
- (c) the duration of the period during which the spouses have lived separate and apart;
- (d) the date when the property was acquired;
- (e) the extent to which property was acquired by one spouse by inheritance or by gift; or
- (f) any other circumstance relating to the acquisition, disposition, preservation, maintenance, improvement or use of property rendering it inequitable for the division of family assets to be in equal shares.

(5) The purpose of this section is to recognize that child care, household management and financial provision are the joint responsibilities of the spouses and that inherent in the marital relationship there is joint contribution, whether financial or otherwise, by the spouses to the assumption of these responsibilities, entitling each spouse to an equal division of the family assets, subject to the equitable considerations set out in subsections (4) and (6). Purpose

(6) The court shall make a division of any property that is not a family asset where, Property other than family assets

- (a) a spouse has unreasonably impoverished the family assets; or
 - (b) the result of a division of the family assets would be inequitable in all the circumstances, having regard to,
 - (i) the considerations set out in clauses (4) (a) to (f), and
 - (ii) the effect of the assumption by one spouse of any of the responsibilities set out in subsection (5) on the ability of the other spouse to acquire, manage, maintain, operate or improve property that is not a family asset.
- 1978, c. 2, s. 4.

Statement
of property

5.—(1) Where an application is made under section 4, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of all property of the party in the manner and form prescribed by the rules of the court.

Order for
sealing
statement

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection (1) would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record. 1978, c. 2, s. 5.

Powers of
court

6. In an application under section 4, the court may order,

- (a) that the title to any specified property directed to a spouse in the division be transferred to or in trust for or vested in the spouse whether absolutely, for life or for a term of years;
- (b) the partition or sale of any property;
- (c) that payment be made out of the proceeds of sale to one or both spouses, and the amount thereof;
- (d) that any property forming part of the share of either or both spouses be transferred to or in trust for or vested in a child to whom a spouse owes an obligation to provide support;
- (e) that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property; and
- (f) that either spouse pay to the other such sum as is set out in the order for the purpose of adjusting the division,

and may make such other orders or directions as are ancillary thereto. 1978, c. 2, s. 6.

Determin-
ation of
questions of
title between
married
persons

7. Any person may apply to the court for the determination of any question between that person and his or her spouse or former spouse as to the ownership or right to possession of any particular property, except where an application or an order has been made respecting the property under section 4 or 6, and the court may,

- (a) declare the ownership or right to possession;
- (b) where the property has been disposed of, order payment in compensation for the interest of either party;

- (c) order that the property be partitioned or sold for the purpose of realizing the interests therein; and
- (d) order that either or both spouses give security for the performance of any obligation imposed by the order, including a charge on property,

and may make such other orders or directions as are ancillary thereto. 1978, c. 2, s. 7.

8. Where one spouse or former spouse has contributed work, money or money's worth in respect of the acquisition, management, maintenance, operation or improvement of property, other than family assets, in which the other has or had an interest, upon application, the court may by order,

Contribution
to property

- (a) direct the payment of an amount in compensation therefor; or
- (b) award a share of the interest of the other spouse or former spouse in the property appropriate to the contribution,

and the court shall determine and assess the contribution without regard to the relationship of husband and wife or the fact that the acts constituting the contribution are those of a reasonable spouse of that sex in the circumstances. 1978, c. 2, s. 8.

9. In or pending an application under section 4, 7 or 8, the court may make such interim order as it considers necessary for restraining the dissipation of the property and for the possession, delivering up, safekeeping and preservation of the property. 1978, c. 2, s. 9.

Interim
orders for
preservation

10. Where a court orders security for the performance of any obligation under this Part or charges a property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge. 1978, c. 2, s. 10.

Realization
of security

11.—(1) The rule of law applying a presumption of advancement in questions of the ownership of property as between husband and wife is abolished and in place thereof the rule of law applying a presumption of a resulting trust shall be applied in the same manner as if they were not married, except that,

Presump-
tions

- (a) the fact that property is placed or taken in the name of spouses as joint tenants is *prima facie* proof that each spouse is intended to have on a severance of the joint tenancy a one-half beneficial interest in the property; and

- (b) money on deposit in a chartered bank, savings office, credit union or trust company in the name of both spouses shall be deemed to be in the name of the spouses as joint tenants for the purposes of clause (a).

Application (2) Subsection (1) applies notwithstanding that the event giving rise to the presumption occurred before the 31st day of March, 1978. 1978, c. 2, s. 11.

Application of Part

12. This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before the 31st day of March, 1978;
- (b) the property in issue was acquired before the 31st day of March, 1978;
- (c) a proceeding to determine the rights as between spouses in respect of property has been commenced or adjudicated before the 31st day of March, 1978. 1978, c. 2, s. 12.

Conflict of laws

13.—(1) The division of family assets and the ownership as between spouses of movable property wherever situate are governed by the internal law of the place where both spouses had their last common habitual residence or, where there is no place where the spouses had a common habitual residence, by the law of Ontario.

Idem

(2) The ownership of immovable property as between spouses is governed by the internal law of the place where the land is situated, but where the law of Ontario is applicable respecting the division of family assets, the value of the property may be taken into consideration for the purposes of section 4. 1978, c. 2, s. 13.

PART II

SUPPORT OBLIGATIONS

Interpretation

14. In this Part,

- (a) "dependant" means a person to whom another has an obligation to provide support under this Part;
- (b) "spouse" means a spouse as defined in section 1, and in addition includes,
 - (i) either of a man and woman not being married to each other who have cohabited,

(A) continuously for a period of not less than five years, or

(B) in a relationship of some permanence where there is a child born of whom they are the natural parents,

and have so cohabited within the preceding year, and

- (ii) either of a man and woman between whom an order for support has been made under this Part or an order for alimony or maintenance has been made before this Part comes into force. 1978, c. 2, s. 14.

15. Every spouse has an obligation to provide support for himself or herself and for the other spouse, in accordance with need, to the extent that he or she is capable of doing so. 1978, c. 2, s. 15. Obligation of spouses for support

16.—(1) Every parent has an obligation, to the extent the parent is capable of doing so, to provide support, in accordance with need, for his or her child who is unmarried and is under the age of eighteen years. Obligation of parent to support child

(2) The obligation under subsection (1) does not extend to a child who, being of the age of sixteen years or over, has withdrawn from parental control. 1978, c. 2, s. 16. Idem

17. Every child who is not a minor has an obligation to provide support, in accordance with need, for his or her parent who has cared for and provided support for the child, to the extent that the child is capable of doing so. 1978, c. 2, s. 17. Obligation of child to support parent

18.—(1) A court may, upon application, order a person to provide support for his or her dependants and determine the amount thereof. Order for support

(2) An application for an order for the support of a dependant may be made by the dependant or a parent of the dependant or under subsection (3). Applicants

(3) An application for an order for the support of a dependant who is a spouse or a dependent child of the spouse may be made by, Idem

(a) the Ministry of Community and Social Services in the name of the Minister; or

(b) a municipal corporation, including a metropolitan, district or regional municipality, but not including an area municipality thereof,

if the Ministry or municipality is providing a benefit under the *Family Benefits Act* or assistance under the *General* R.S.O. 1980, cc. 151, 188

Welfare Assistance Act in respect of the support of the dependant.

Setting aside
domestic
contract

(4) The court may set aside a provision for support in a domestic contract or paternity agreement and may determine and order support in an application under subsection (1) notwithstanding that the contract or agreement contains an express provision excluding the application of this section,

- (a) where the provision for support or the waiver of the right to support results in circumstances that are unconscionable;
- (b) where the provision for support is to a spouse who qualifies for an allowance for support out of public money; or
- (c) where there has been default in the payment of support under the contract or agreement.

Determin-
ation of
amount

(5) In determining the amount, if any, of support in relation to need, the court shall consider all the circumstances of the parties, including,

- (a) the assets and means of the dependant and of the respondent and any benefit or loss of benefit under a pension plan or annuity;
- (b) the capacity of the dependant to provide for his or her own support;
- (c) the capacity of the respondent to provide support;
- (d) the age and the physical and mental health of the dependant and of the respondent;
- (e) the length of time the dependant and respondent cohabited;
- (f) the needs of the dependant, in determining which the court may have regard to the accustomed standard of living while the parties resided together;
- (g) the measures available for the dependant to become financially independent and the length of time and cost involved to enable the dependant to take such measures;
- (h) the legal obligation of the respondent to provide support for any other person;
- (i) the desirability of the dependant or respondent remaining at home to care for a child;

- (j) a contribution by the dependant to the realization of the career potential of the respondent;
- (k) where the dependant is a child, his or her aptitude for and reasonable prospects of obtaining an education;
- (l) where the dependant is a spouse, the effect on his or her earning capacity of the responsibilities assumed during cohabitation;
- (m) where the dependant is a spouse, whether the dependant has undertaken the care of a child who is of the age of eighteen years or over and unable by reason of illness, disability or other cause to withdraw from the charge of his or her parents;
- (n) where the dependant is a spouse, whether the dependant has undertaken to assist in the continuation of a program of education for a child who is of the age of eighteen years or over and unable for that reason to withdraw from the charge of his or her parents;
- (o) where the dependant is a spouse, any house-keeping, child care or other domestic service performed by the spouse for the family, in the same way as if the spouse were devoting the time spent in performing that service in remunerative employment and were contributing the earnings therefrom to the support of the family; and
- (p) any other legal right of the dependant to support other than out of public money.

(6) The obligation to provide support for a spouse exists without regard to the conduct of either spouse, but the court may in determining the amount of support have regard to a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship. 1978, c. 2, s. 18. Conduct

19.—(1) In an application under section 18, the court may order, Powers of court

- (a) an amount payable periodically, whether annually or otherwise and whether for an indefinite or limited period, or until the happening of a specified event;
- (b) a lump sum to be paid or held in trust;

- (c) any specified property to be transferred to or in trust for or vested in the dependant, whether absolutely, for life or for a term of years;
- (d) any matter authorized to be ordered under clauses 45 (1) (a) to (d) and subject to subsection 45 (3);
- (e) that all or any of the moneys payable under the order be paid into court or to any other appropriate person or agency for the benefit of the dependant;
- (f) the payment of support to be made in respect of any period before the date of the order;
- (g) the payment to an agency referred to in subsection 18 (3) of any amount in reimbursement for a benefit or assistance referred to therein, including an amount in reimbursement for such benefit or assistance provided before the date of the order;
- (h) the payment of expenses in respect of the pre-natal care and birth of a child;
- (i) that the obligation and liability for support continue after the death of the respondent and be a debt of his or her estate for such period as is fixed in the order;
- (j) that a spouse who has a policy of life insurance as defined in Part V of the *Insurance Act* designate the other spouse or a child as the beneficiary irrevocably; and
- (k) the securing of payment under the order, by a charge on property or otherwise.

R.S.O. 1980,
c. 218

Limitation
on
jurisdiction
of family
court

(2) A provincial court (family division) shall not make an order under clause (1) (b), (c), (j) or (k) except for the provision of necessities or preventing the dependant from becoming a public charge.

Interim
orders

(3) Where an application is made under section 18, the court may make such interim order as the court considers appropriate.

Assignment
of support

(4) An order for support is assignable to an agency referred to in subsection 18 (3).

(5) Unless an order to provide support otherwise provides, it terminates upon the death of the person having the obligation to provide support, and the liability for amounts under the order coming due and unpaid in the preceding twelve months is a debt of his or her estate. 1978, c. 2, s. 19.

Termination
of support
order on
death

20.—(1) Where an action for divorce is commenced under the *Divorce Act* (Canada), any application for support or custody under this Part that has not been determined is stayed except by leave of the court.

Effect of
divorce
proceedings
R.S.C. 1970.
c. D-8

(2) Where a marriage is terminated by a decree absolute of divorce or declared a nullity and the question of support was not judicially determined in the divorce or nullity proceedings, an order for support made under this Part continues in force according to its terms. 1978, c. 2, s. 20.

Idem

21.—(1) Where an order for support has been made or confirmed and where the court is satisfied that there has been a material change in the circumstances of the dependant or the respondent or evidence has become available that was not available on the previous hearing, the court may, upon the application of any person named in the order or referred to in subsection 18 (3), discharge, vary or suspend any term of the order, prospectively or retroactively, relieve the respondent from the payment of part or all of the arrears or any interest due thereon and make such other order under section 19 as the court considers appropriate in the circumstances referred to in section 18.

Review and
variation
of orders

(2) An application under subsection (1) shall be made to the court that made the order or to a co-ordinate court in another part of Ontario.

Court

(3) No application under subsection (1) shall be made within six months after the making of the order for support or the disposition of any other application under subsection (1) in respect of the same order, except by leave of the court.

Limitation
on appli-
cations for
review

(4) This section applies to orders for maintenance or alimony made before the 31st day of March, 1978 or in a proceeding commenced before the 31st day of March, 1978. 1978, c. 2, s. 21.

Existing
orders

22. In or pending an application under section 18 or appearance to a notice under section 28, or where an order for support has been made, the court may make such interim or final order as it considers necessary for restraining the disposition or wasting of assets that would impair or defeat the claim or order for the payment of support. 1978, c. 2, s. 22.

Restraining
orders

Statement
of financial
affairs

23.—(1) Where an application is made under section 18 or 21, each party shall file with the court and serve upon the other a statement verified by oath or statutory declaration disclosing particulars of financial information in the manner and form prescribed by the rules of the court.

Order for
sealing
statement

(2) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection (1) would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record. 1978, c. 2, s. 23.

Absconding
respondent
or debtor

24. Where an application is made under section 18 or a notice is issued under section 28 and a judge of the court is satisfied that the respondent or debtor is about to leave Ontario, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent or debtor. 1978, c. 2, s. 24.

Provisional
orders

25.—(1) Where an application is made under section 18 or 21 in a provincial court (family division) or the Unified Family Court and,

- (a) the respondent in the application fails to appear;
- (b) it appears to the court that the respondent resides in a locality in Ontario that is outside the territorial jurisdiction of the court; and
- (c) in the circumstances of the case, the court is of the opinion that the issues can be adequately determined by proceeding under this section,

the court may proceed in the absence of the respondent and without the statement of the financial affairs of the respondent required by section 23 and in place of a final order may make an order for support that is provisional only and the order has no effect until it is confirmed by the provincial court (family division) or the Unified Family Court in the locality in which the respondent resides.

Transmission
for hearing

(2) Where a provisional order is made under subsection (1), the court making the order shall send to the court having jurisdiction in the locality in which the respondent resides copies of such documents and records, certified in such manner, as are prescribed by the rules of the court.

Show
cause

(3) The court to which the documents and records are sent under subsection (2) shall cause them to be served upon

the respondent together with a notice to file with the court the statement of financial affairs required by section 23 and to appear and show cause why the provisional order should not be confirmed.

(4) At the hearing, the respondent may raise any defence that might have been raised in the original proceedings, but, if on appearing the respondent fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order without variation or with such variation as the court considers proper having regard to all the evidence. Confirmation of order

(5) Where the respondent appears before the court and satisfies the court that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the court where the applicant resides, the court may so remit the case and adjourn the proceedings for that purpose. Adjournment for further evidence

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court that made the order together with a statement of the reasons for so doing, and in that event the court that made the order may dispose of the application in such manner as it considers proper. Where order not confirmed

(7) A certificate certifying copies of documents or records for the purpose of this section and purporting to be signed by the clerk of the court is, without proof of the office or signature of the clerk, admissible in evidence in a court to which it is transmitted under this section as *prima facie* proof of the authenticity of the copy. Certificates as evidence

(8) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have had if the order had been made under section 19. 1978, c. 2, s. 25. Right of appeal

26.—(1) Where it appears to a court that,

Access to records

(a) for the purpose of bringing an application under this Part; or

(b) for the purpose of the enforcement of an order for support, custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts

of the proposed respondent or person against whom the order is made, the court may order any person or public agency to provide the court with such particulars of the address as are contained in the records in its custody and the person or agency shall provide to the court such particulars as it is able to provide.

Section
binds Crown

(2) This section binds the Crown in right of Ontario. · 1978, c. 2, s. 26.

Enforcement
of orders by
family court
clerk

27.—(1) The clerk of the Unified Family Court or of a provincial court (family division) may, upon the filing of such material as is prescribed by the rules of court, enforce an order for support or maintenance enforceable in Ontario, upon the request of,

- (a) a person entitled to support under the order;
- (b) a parent of a person entitled to support under the order;
or
- (c) a person or agency mentioned in clause 18 (3) (a) or (b). 1979, c. 96, s. 1.

Powers of
court for
enforcement

R.S.O. 1980,
cc. 476, 103

(2) For the purposes of enforcing an order filed under subsection (1), a provincial court (family division) has the power to issue execution and garnishment in accordance with the rules of the court and section 145 of the *Small Claims Courts Act* and subsection 4 (3) of the *Creditors' Relief Act* apply to a garnishment issued by the provincial court (family division).

Crown
subject to
attachment
for support
R.S.O. 1980,
c. 393

(3) Notwithstanding section 25 of the *Proceedings Against the Crown Act*, an attachment under subsection 30 (1) and any other execution, garnishment or attachment or process in the nature thereof for the payment of an amount owing or accruing under an order for support or maintenance, may be issued against the Crown. 1978, c. 2, s. 27 (2, 3).

Examination
of debtor

28.—(1) Where there is default in payment under an order for support or maintenance, a clerk of the Unified Family Court or a provincial court (family division) may require the debtor, upon notice,

- (a) to file a statement of financial information referred to in section 23;
- (b) to submit to an examination as to assets and means; and
- (c) to appear before the court to explain the default.

Compelling
attendance

(2) If the debtor fails to appear as required after being served with a notice, or if the court is satisfied that the

debtor cannot be served or intends to leave Ontario without appearing as required after being served, the court giving the notice may issue a warrant for the arrest of the debtor for the purpose of compelling attendance. 1978, c. 2, s. 28.

29.—(1) Where the debtor fails to satisfy the court that the default is owing to his or her inability to pay and where the court is satisfied that all other practicable means that are available under this Act for enforcing payment have been considered, the court may,

Penalty
for
default

(a) order imprisonment for a term of not more than ninety days to be served intermittently or as ordered by the court; or

(b) make such other order as may be made upon summary conviction for an offence that is punishable by imprisonment.

(2) The order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order, including the performance of a community service order. 1978, c. 2, s. 29.

Conditions
of
sentence

30.—(1) Where the court considers it appropriate in a proceeding under section 28, the court may make an attachment order directing the employer of the debtor to deduct from any remuneration of the debtor due at the time the order is served on the employer or thereafter due or accruing due such amount as is named in the order and to pay the amounts deducted into court, and section 7 of the *Wages Act* does not apply.

Attachment
of
wages

R.S.O. 1980,
c. 526

(2) Where an application is made under section 21, the court may discharge, vary or suspend any term of an order made under subsection (1).

Variation of
attachment

(3) An order under subsection (1) has priority over any other seizure or attachment of wages arising before or after the service of the order. 1978, c. 2, s. 30.

Priority
of
order

31. Where the court considers it appropriate in a proceeding under section 28, the court may order the debtor to give security for the payment of support or may charge any property of the debtor with payment of an amount for the provision of necessities or preventing the dependant from becoming a public charge. 1978, c. 2, s. 31.

Security
for
payment

32. Where a court orders security for the payment of support under this Part or charges property therewith,

Realization
of
security

the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge. 1978, c. 2, s. 32.

Pledging
credit for
necessaries

33.—(1) During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessities of life, except where the spouse has notified the third party that he or she has withdrawn the authority.

Liability
for
necessaries
of minor

(2) Where a person is entitled to recover against a minor in respect of the provision of necessities for the minor, each parent who has an obligation to support the minor is liable therefor jointly and severally with the minor.

Recovery
between
persons
jointly
liable

(3) Where persons are jointly and severally liable with each other under this section, their liability to each other shall be determined in accordance with their obligation to provide support.

Common
law
supplanted

(4) The provisions of this section apply in place of the rules of common law by which a wife may pledge the credit of her husband. 1978, c. 2, s. 33.

Order
restraining
harassment

34. Upon application, a court may make an order restraining the spouse of the applicant from molesting, annoying or harassing the applicant or children in the lawful custody of the applicant and may require the spouse of the applicant to enter into such recognizance as the court considers appropriate. 1978, c. 2, s. 34.

Custody of
children

35.—(1) Upon application, the court may order that either parent or any person have custody of or access to a child in accordance with the best interests of the child and may at any time alter, vary or discharge the order.

Court

(2) An application to alter, vary or discharge the order shall be made to the court that made the order or to a co-ordinate court in another part of Ontario.

Interim
orders

(3) Where an application is made under subsection (1), the court may make such interim order as the court considers appropriate.

Application
to orders
under
R.S.O. 1970,
c. 128

(4) This section applies to orders for custody or access made under *The Deserted Wives' and Children's Maintenance Act*, being chapter 126 of the Revised Statutes of Ontario, 1970. 1978, c. 2, s. 35.

Appeal
from
provincial
court (family
division)

36. An appeal lies from an order of the provincial court (family division) under this Part to the county or district

court in the county or district in which the provincial court (family division) is situated. 1978, c. 2, s. 36.

37.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or by both, any wilful contempt of or resistance to its process, rules or orders under this Act, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days. Contempt of orders of provincial court (family division)

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently. 1978, c. 2, s. 37. Conditions of imprisonment

PART III

MATRIMONIAL HOME

38. In this Part, “property” means real or personal property. 1978, c. 2, s. 38. Interpretation

39.—(1) Property in which a person has an interest and that is or has been occupied by the person and his or her spouse as their family residence is their matrimonial home. Matrimonial home

(2) Subsection (1) applies notwithstanding that its application results in more than one matrimonial home. More than one matrimonial home

(3) The ownership of a share or shares, or of an interest in a share or shares, of a corporation entitling the owner to the occupation of a housing unit owned by the corporation shall be deemed to be an interest in the unit for the purposes of subsection (1). Ownership of shares

(4) Where property that includes a matrimonial home is normally used for a purpose other than residential only, the matrimonial home is only such portion of the property as may reasonably be regarded as necessary to the use and enjoyment of the residence. 1978, c. 2, s. 39. Residence on farm-land, etc.

40.—(1) A spouse is equally entitled to any right of possession of the other spouse in a matrimonial home. Right to possession

(2) Subject to an order of the court under this or any other Act, and subject to a separation agreement that provides otherwise, a right of a spouse to possession by virtue of subsection (1) ceases upon the spouse ceasing to be a spouse. 1978, c. 2, s. 40. Termination of right to possession

**Registered
designation
of
matrimonial
home**

41.—(1) Both spouses may, by instrument in the form prescribed by the regulations, designate any property that is a matrimonial home and, upon the registration of the instrument and while there is a designation made by the spouses under this subsection that is not cancelled, any other property that would qualify as a matrimonial home under section 39 and that is not similarly designated ceases to be a matrimonial home.

**Extent of
designation**

(2) The property that is designated as a matrimonial home under subsection (1) may include any property contiguous to the matrimonial home that is described for the purpose in the instrument.

**Cancellation
of
designation**

(3) The designation of a matrimonial home under subsection (1) is cancelled upon the registration or deposit of,

- (a) an instrument in the form prescribed by the regulations executed by both spouses;
- (b) a decree absolute of divorce or judgment of nullity;
- (c) an order under section 45 cancelling the designation; or
- (d) proof of death of one of the spouses.

**Effect of
cancellation**

(4) Upon the cancellation of the designation of a property under subsection (3), the property ceases to be a matrimonial home under section 39.

**Revival
of
matrimonial
home**

(5) Upon there ceasing to be a designation under subsection (1), section 39 applies in respect of property that is a matrimonial home. 1978, c. 2, s. 41.

**Alienation of
matrimonial
home**

42.—(1) No spouse shall dispose of or encumber any interest in a matrimonial home unless,

- (a) the other spouse joins in the instrument or consents to the transaction;
- (b) the other spouse has released all rights under this Part by a separation agreement;
- (c) the transaction is authorized by court order or an order has been made releasing the property as a matrimonial home; or
- (d) the property is not designated as a matrimonial home under section 41 and an instrument design-

nating another property as a matrimonial home of the spouses is registered under section 41 and not cancelled.

(2) Where a spouse disposes of or encumbers an interest in a matrimonial home in contravention of subsection (1), the transaction may be set aside on an application under section 44 unless the person holding the interest or encumbrance at the time of the application acquired it for value, in good faith and without notice that the property was at the time of the disposition, agreement or encumbrance a matrimonial home.

(3) For the purpose of subsection (2), an affidavit of the person making the disposition or encumbrance,

(a) verifying that he or she is not, or was not, a spouse at the time of the disposition or encumbrance;

(b) verifying that the property has never been occupied by the person and his or her spouse as their matrimonial home;

(c) where the property is not designated under section 41, verifying that an instrument designating another property as a matrimonial home of the person and his or her spouse is registered under section 41 and not cancelled; or

(d) verifying that the other spouse has released all rights under this Part by a separation agreement,

shall, unless the person to whom the disposition or encumbrance is made had actual notice to the contrary, be deemed to be sufficient proof that the property is not a matrimonial home.

(4) This section does not apply to the acquisition of an interest in property by operation of law or of a lien under section 18 of the *Legal Aid Act*. 1978, c. 2, s. 42.

43.—(1) Where a person is proceeding to realize upon a lien, encumbrance or execution or exercises a forfeiture against property that is a matrimonial home, the spouse who has a right of possession by virtue of section 40 has the same right of redemption or relief against forfeiture as the other spouse has and is entitled to any notice respecting the claim and its enforcement or realization to which the other spouse is entitled.

**Service of
notice**

(2) Any notice to which a spouse is entitled by virtue of subsection (1) shall be deemed to be sufficiently given if served or given personally or by registered mail addressed to the person to whom notice is to be given at his or her usual or last known address or, where none, the address of the matrimonial home, and, where notice is served or given by mail, the service shall be deemed to have been made on the fifth day after the day of mailing.

**Effect of
payments
made by
spouse**

(3) Where a spouse makes any payment by way of or on account of redemption or relief against forfeiture under the right conferred by subsection (1), the payment shall be applied in satisfaction of the claim giving rise to the lien, encumbrance, execution or forfeiture.

**Continuation
of
proceedings
in absence
of spouse**

(4) Notwithstanding any other Act, where a person who commences a proceeding to realize upon a lien, encumbrance or execution or to exercise a forfeiture does not have sufficient particulars of a spouse entitled under subsection (1) for the purposes of the proceeding, and a notice given under subsection (2) is not responded to, the proceeding may continue in the absence of the spouse and without regard to the interest of the spouse and any final order in the proceeding terminates the rights of the spouse under this section. 1978, c. 2, s. 43.

**Powers of
court
respecting
alienation**

44. The court may, on the application of a spouse or person having an interest in property, by order,

- (a) determine whether or not property is the matrimonial home and, if so, its extent;
- (b) authorize the disposition or encumbrance of the matrimonial home where the court finds that the spouse whose consent is required,
 - (i) cannot be found or is not available,
 - (ii) is not capable of giving or withholding consent, or
 - (iii) is unreasonably withholding consent,

subject to such terms and conditions including provision of other comparable accommodation or payment in place thereof as the court considers appropriate;

- (c) dispense with any notice required to be given under section 43; and

- (d) direct the setting aside of any transaction disposing of or encumbering an interest in the matrimonial home contrary to subsection 42 (1) and the revesting of the interest or any part of the interest upon such terms and subject to such conditions as the court considers appropriate. 1978, c. 2, s. 44.

45.—(1) Notwithstanding the ownership of a matrimonial home and its contents, and notwithstanding section 40, the court on application may by order, Order for possession of matrimonial home

- (a) direct that one spouse be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs and release any other property that is a matrimonial home from the application of this Part;
- (b) direct a spouse to whom exclusive possession of a matrimonial home is given to pay such periodic payments to the other spouse as is prescribed in the order;
- (c) direct that the contents of a matrimonial home, or any part thereof, remain in the home for the use of the person given possession;
- (d) fix the obligation to repair and maintain the matrimonial home or to pay other liabilities arising in respect thereof;
- (e) authorize the disposition or encumbrance of the interest of a spouse in a matrimonial home subject to the right to exclusive possession of the other spouse as ordered; and
- (f) where a false affidavit is given under subsection 42 (3), direct,
 - (i) the person who swore the false affidavit, or
 - (ii) any person who knew at the time it was sworn that the affidavit was false and who thereafter conveyed the property,

to substitute other real property for the matrimonial home or direct such person to set aside money or security to stand in place thereof subject to such terms and conditions as the court considers appropriate.

(2) An order may be made under subsection (1) for temporary relief or pending the bringing or disposition of another application under this Act. Temporary possession

Order
where no
property
interest

(3) An order under subsection (1) for exclusive possession may be made only if, in the opinion of the court, other provision for shelter is not adequate in the circumstances or it is in the best interests of a child to do so.

Limitation
on
jurisdiction
of family
court

(4) A provincial court (family division) shall not make an order under clause 44 (b) or (d) or clause (1) (e) or (f). 1978, c. 2, s. 45.

Variation
of possessory
order

46.—(1) Upon the application of a person named in an order made under clause 45 (1) (a), (b), (c) or (d) or the personal representative of such person and where the court is satisfied that there has been a material change in circumstances, the court may discharge, vary or suspend the order.

Variation of
conditions
of sale

(2) Upon the application of a person who is subject to terms and conditions imposed in an order made under clause 44 (b) or his personal representative and where the court is satisfied that the terms and conditions are no longer appropriate, the court may discharge, vary or suspend the terms and conditions. 1978, c. 2, s. 46.

Interim
order for
preservation
of property

47. In an application under this Part, the court may make such interim order as it considers necessary for the delivering up, safekeeping and preservation of the matrimonial home or its contents. 1978, c. 2, s. 47.

Registration
of order
R.S.O. 1980,
cc. 445, 230

48. An order made under this Part is registrable against land under the *Registry Act* and the *Land Titles Act*. 1978, c. 2, s. 48.

Application
of Part

49.—(1) This Part applies to matrimonial homes that are situated in Ontario.

Idem

(2) This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before the 31st day of March, 1978;
- (b) the matrimonial home was acquired before the 31st day of March, 1978; or
- (c) a proceeding to determine the rights as between spouses in respect of property has been commenced or adjudicated before the 31st day of March, 1978. 1978, c. 2, s. 49.

PART IV

DOMESTIC CONTRACTS

50. In this Part,Interpre-
tation

- (a) "cohabitation agreement" means an agreement entered into under section 52;
- (b) "domestic contract" means a marriage contract, separation agreement or cohabitation agreement;
- (c) "marriage contract" means an agreement entered into under section 51;
- (d) "separation agreement" means an agreement entered into under section 53. 1978, c. 2, s. 50.

51.—(1) Two persons may enter into an agreement, before their marriage or during their marriage while cohabiting, in which they agree on their respective rights and obligations under the marriage or upon separation or the annulment or dissolution of the marriage or upon death, including,

Marriage
contracts

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and
- (d) any other matter in the settlement of their affairs.

(2) Any provision in a marriage contract purporting to limit the rights of a spouse under Part III in respect of a matrimonial home is void. 1978, c. 2, s. 51.

Rights re
matrimonial
home
excepted

52.—(1) A man and a woman who are cohabiting and not married to one another may enter into an agreement in which they agree on their respective rights and obligations during cohabitation, or upon ceasing to cohabit or death, including,

Cohabitation
agreements

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children, but not the right to custody of or access to their children; and

(d) any other matter in the settlement of their affairs.

Effect of
marriage on
agreement

(2) Where the parties to an agreement entered into under subsection (1) subsequently marry, the agreement shall be deemed to be a marriage contract. 1978, c. 2, s. 52.

Separation
agreements

53. A man and woman who cohabited and are living separate and apart may enter into an agreement in which they agree on their respective rights and obligations, including,

- (a) ownership in or division of property;
- (b) support obligations;
- (c) the right to direct the education and moral training of their children;
- (d) the right to custody of and access to their children; and
- (e) any other matter in the settlement of their affairs. 1978, c. 2, s. 53.

Form of
contract

54.—(1) A domestic contract and any agreement to amend or rescind a domestic contract are void unless made in writing and signed by the persons to be bound and witnessed.

Capacity
of minor

(2) A minor who has capacity to contract marriage has capacity to enter into a marriage contract or separation agreement that is approved by the court, whether the approval is given before or after the contract is entered into.

Agreement
on behalf of
mentally
incompetent

(3) The committee of a person who is mentally incompetent or, if the committee is the spouse of such person or, if there is no committee, the Public Trustee may, subject to the approval of the court, enter into a domestic contract or give any waiver or consent under this Act on behalf of the mentally incompetent person. 1978, c. 2, s. 54.

Contracts
subject
to best
interests
of child

55.—(1) In the determination of any matter respecting the support, education, moral training or custody of or access to a child, the court may disregard any provision of a domestic contract pertaining thereto where, in the opinion of the court, to do so is in the best interests of the child.

Dum casta
clauses

(2) A provision in a separation agreement or a provision in a marriage contract to take effect on separation whereby any right of a spouse is dependent upon remaining chaste is void, but this subsection shall not be construed to affect a contingency upon remarriage or cohabitation with another.

(3) A provision in a separation agreement made before ^{Idem} this section comes into force whereby any right of a spouse is dependent upon remaining chaste shall be given effect as a contingency upon remarriage or cohabitation with another. 1978, c. 2, s. 55.

56. Where a domestic contract provides that specific gifts ^{Rights of donors of gifts} made to one or both parties are not disposable or encumberable without the consent of the donor, the donor shall be deemed to be a party to the contract for the purpose of the enforcement or any amendment of the provision. 1978, c. 2, s. 56.

57. The manner and formalities of making a domestic ^{Contracts made outside Ontario} contract and its essential validity and effect are governed by the proper law of the contract, except that,

(a) a contract for which the proper law is that of a jurisdiction other than Ontario, is also valid and enforceable in Ontario if entered into in accordance with the internal law of Ontario;

(b) subsection 18 (4) and section 55 apply in Ontario to contracts for which the proper law is that of a jurisdiction other than Ontario; and

(c) a provision in a marriage contract or cohabitation agreement respecting the right to custody of or access to children is not valid or enforceable in Ontario. 1978, c. 2, s. 57.

58.—(1) Where a man and a woman who are not spouses ^{Paternity agreements} enter into an agreement for,

(a) the payment of the expenses of prenatal care and birth in respect of a child;

(b) support of a child; or

(c) burial expenses of the child or mother,

on the application of a party to the agreement or a children's aid society made to a provincial court (family division) or the Unified Family Court, the court may incorporate the agreement in an order, and Part II applies to the order in the same manner as if it were an order for support made under that Part.

(2) Where an application is made under subsection (1) ^{Absconding respondent} and a judge of the court is satisfied that the respondent is about to leave Ontario, the judge may issue a warrant in the

form prescribed by the rules of the court for the arrest of the respondent.

Capacity of
a minor

(3) A minor who has capacity to contract marriage has capacity to enter into an agreement under subsection (1) that is approved by the court, whether the approval is given before or after the agreement is entered into.

Application
to
pre-existing
agreements

(4) This section applies to agreements referred to in subsection (1) that were made before the 31st day of March, 1978. 1978, c. 2, s. 58.

Application
of Act to
pre-existing
contracts

59.—(1) A separation agreement or marriage contract validly made before the 31st day of March, 1978 shall be deemed to be a domestic contract for the purposes of this Act.

Contracts
entered into
before
Part comes
into force

(2) Where a domestic contract was entered into in accordance with this Part before the 31st day of March, 1978 and,

(a) the contract or any part would have been valid if entered into on or after the 31st day of March, 1978; and

(b) the contract or part was entered into in contemplation of the coming into force of this Part,

the contract or part is not invalid for the reason only that it was entered into before the 31st day of March, 1978.

Idem

(3) Where pursuant to an understanding or agreement entered into before the 31st day of March, 1978 by spouses who are living separate and apart, property is transferred, between them, the transfer is effective as if made pursuant to a domestic contract. 1978, c. 2, s. 59.

PART V

DEPENDANTS' CLAIM FOR DAMAGES

Right of
dependants
to sue in
tort

60.—(1) Where a person is injured or killed by the fault or neglect of another under circumstances where the person is entitled to recover damages, or would have been entitled if not killed, the spouse, as defined in Part II, children, grandchildren, parents, grandparents, brothers and sisters of the person are entitled to recover their pecuniary loss resulting from the injury or death from the person from whom the person injured or killed is entitled to recover or would have been entitled if not killed, and to maintain an action for the purpose in a court of competent jurisdiction.

Damages in
case of
injury

(2) The damages recoverable in a claim under subsection (1) may include,

- (a) actual out-of-pocket expenses reasonably incurred for the benefit of the injured person;
- (b) a reasonable allowance for travel expenses actually incurred in visiting the injured person during his treatment or recovery;
- (c) where, as a result of the injury, the claimant provides nursing, housekeeping or other services for the injured person, a reasonable allowance for loss of income or the value of the services; and
- (d) an amount to compensate for the loss of guidance, care and companionship that the claimant might reasonably have expected to receive from the injured person if the injury had not occurred.

(3) In an action under subsection (1), the right to damages is subject to any apportionment of damages due to contributory fault or neglect of the person who was injured or killed. Contributory negligence

(4) Not more than one action lies under subsection (1) for and in respect of the same occurrence, and no such action shall be brought after the expiration of two years from the time the cause of action arose. 1978, c. 2, s. 60. One action and limitation of actions

61.—(1) An action under subsection 60 (1) in respect of a person who is killed shall be commenced by and in the name of the executor or administrator of the deceased for the benefit of the persons entitled to recover under subsection 60 (1). Executor to sue where death

(2) If there is no executor or administrator of the deceased, or if there is an executor or administrator and no such action is, within six months after the death of the deceased, brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by the executor or administrator. When action may be brought by persons beneficially interested

(3) Every action so brought is for the benefit of the same persons and is subject to the same regulations and procedure, as nearly as may be, as if it were brought by the executor or administrator. 1978, c. 2, s. 61. Regulations and procedure in such case

62.—(1) Where an action is commenced under section 60, the plaintiff shall, in his statement of claim, name and join the claim of any other person who is entitled to main- Joining claims

tain an action under section 60 in respect of the same injury or death and thereupon such person becomes a party to the action.

Affidavit

(2) A person who commences an action under section 60 shall file with the statement of claim an affidavit stating that to the best of his knowledge, information and belief the persons named in the statement of claim are the only persons who are entitled or claim to be entitled to damages under section 60. 1978, c. 2, s. 62.

**How money
may be paid
into court**

63.—(1) The defendant may pay into court one sum of money as compensation for his fault or neglect to all persons entitled to compensation without specifying the shares into which it is to be divided.

**Apportion-
ment**

(2) Where the compensation has not been otherwise apportioned, a judge may, upon application, apportion it among the persons entitled.

**When pay-
ment may
be
postponed**

(3) The judge may in his discretion postpone the distribution of money to which minors are entitled and may direct payment from the undivided fund. 1978, c. 2, s. 63.

**Assessment
of damages,
insurance**

64.—(1) In assessing the damages in an action brought under this Part, the court shall not take into account any sum paid or payable as a result of the death or injury under a contract of insurance.

**Funeral
expenses**

(2) For the purposes of this Part, damages may be awarded for reasonable expenses actually incurred for the burial of the person in respect of whose death the action is brought. 1978, c. 2, s. 64.

PART VI

AMENDMENTS TO THE COMMON LAW

**Unity of legal
personality
abolished**

65.—(1) For all purposes of the law of Ontario, a married man has a legal personality that is independent, separate and distinct from that of his wife and a married woman has a legal personality that is independent, separate and distinct from that of her husband.

**Capacity of
married
person**

(2) A married person has and shall be accorded legal capacity for all purposes and in all respects as if such person were an unmarried person.

Idem

(3) Without limiting the generality of subsections (1) and (2),

- (a) each of the parties to a marriage has the like right of action in tort against the other as if they were not married;
- (b) a married woman is capable of acting as guardian *ad litem* or next friend as if she were an unmarried woman;
- (c) the same rules shall be applied to determine the domicile of a married woman as for a married man.

(4) The purpose of subsections (1) and (2) is to make the same law apply, and apply equally, to married men and married women and to remove any difference therein resulting from any common law rule or doctrine, and subsections (1) and (2) shall be so construed. 1978, c. 2, s. 65.

Purpose
of subss.
(1), (2)

66. No person shall be disentitled from bringing an action or other proceeding against another for the reason only that they stand in the relationship of parent and child. 1978, c. 2, s. 66.

Actions
between
parent and
child

67. No person shall be disentitled from recovering damages in respect of injuries incurred for the reason only that the injuries were incurred before his birth. 1978, c. 2, s. 67.

Recovery for
prenatal
injuries

68.—(1) Subject to subsection (2), a child who is a minor,

Domicile
of minors

- (a) takes the domicile of his or her parents, where both parents have a common domicile;
- (b) takes the domicile of the parent with whom the child habitually resides, where the child resides with one parent only;
- (c) takes the domicile of the father, where the domicile of the child cannot be determined under clause (a) or (b); or
- (d) takes the domicile of the mother, where the domicile of the child cannot be determined under clause (c).

(2) The domicile of a minor who is or has been a spouse shall be determined in the same manner as if the minor were of full age. 1978, c. 2, s. 68.

Idem

69.—(1) No action shall be brought for criminal conversation or for any damages resulting therefrom or from adultery.

Criminal
conversation
abolished

Enticement
and
harbouring
of spouse
abolished

(2) No action shall be brought by a married person for the enticement or harbouring of the spouse of such person or for any damages resulting therefrom.

Loss of
consortium
abolished

(3) No action shall be brought by a married person for the loss of the consortium of his or her spouse or for any damages resulting therefrom.

Enticement,
harbouring,
seduction,
loss of
services
of child
abolished

(4) No action shall be brought by a parent for the enticement, harbouring, seduction or loss of services of his or her child or for any damages resulting therefrom. 1978, c. 2, s. 69 (1-4).

Dower
abolished

70. The common law right of a widow to dower is abolished. 1978, c. 2, s. 70 (1).

Alimony
abolished

71. The right of a married woman to alimony under any law existing before the 31st day of March, 1978 is abolished. 1978, c. 2, s. 71 (1).

Polygamous
marriages

72. This Act applies to persons whose marriage is actually or potentially polygamous if the marriage was celebrated in a jurisdiction whose system of law recognizes the marriage as valid. 1978, c. 2, s. 72.

GENERAL

Regulations

73. The Lieutenant Governor in Council may make regulations respecting any matter required to be or referred to as prescribed by the regulations. 1978, c. 2, s. 90.