

South Australia

Married Persons (Separate Legal Status) Act 2019

An Act to provide for the separate legal status of married persons and to make related amendments to the *Law of Property Act 1936*.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Married Persons (Separate Legal Status) Act 2019*.

2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

Part 2—Separate legal status of married persons

3—Married person has legal capacity as if not married

- (1) A married person—
 - (a) has legal capacity for all purposes as if the person were not married; and
 - (b) has a legal personality that is independent, separate and distinct from that of the person's spouse.
- (2) Nothing in this Act affects the generality of subsection (1).

4—Married person entitled to criminal and civil redress in respect of property

A married person is entitled to civil and criminal redress (as the case may be) against the person's spouse for the protection of their property as if the person were not married.

5—Married person has no authority to act as agent for spouse

Subject to any other law or agreement to the contrary, a married person does not, by reason only of the person's status as a spouse, have the authority to pledge the credit of, or to act as an agent for, the person's spouse.

6—Married person not liable for debts of spouse incurred before marriage

Subject to any agreement to the contrary, a married person is not liable for any debt incurred by the person's spouse before their marriage.

7—Housekeeping payments and allowances taken to be joint property

If a married person makes a payment or gives an allowance to the person's spouse to pay their joint household expenses (or for similar purposes), any property bought with the payment or allowance and any money not spent from the payment or allowance is, in the absence of an agreement to the contrary between the person and the person's spouse, taken to be the joint property of the person and the person's spouse.

Part 3—Miscellaneous

8—Regulations

The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

Schedule 1—Related amendments

Part 1—Preliminary

1—Amendment provisions

In this Schedule, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment to *Law of Property Act 1936*

2—Amendment of section 40—Conveyances by a person to self etc

- (1) Section 40(1)—delete "himself" and substitute:
themselves
- (2) Section 40(1)—delete "him" and substitute:
the person
- (3) Section 40(2)—delete subsection (2) and substitute:
 - (2) Freehold land, or a thing in action, may be conveyed by a person to themselves jointly with another person by the like means by which it might be conveyed by the person to another person.
- (4) Section 40(3)—delete "himself or to himself" and substitute:
themselves, or to themselves

3—Amendment of section 42—Covenants for title

Section 42(3)—delete subsection (3)

4—Amendment of section 82—Request by infant or person under disability

- (1) Section 82—delete "a married woman," and substitute:
an
- (2) Section 82—delete "the married woman," and substitute:
the

5—Repeal of sections 92 to 99

Sections 92 to 99 (inclusive)—delete the sections

6—Repeal of sections 101 to 107

Sections 101 and 107 (inclusive)—delete the sections

7—Amendment of section 108—Interpretation of terms

Section 108—delete "executrix or administratrix, and the provisions of this Part as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit 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 intermeddled in the trust or administration" and substitute:

executor or administrator

8—Repeal of section 109

Section 109—delete the section

9—Repeal of section 111

Section 111—delete the section

Legislative history

Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal Act

Year	No	Title	Assent	Commencement
2019	48	<i>Married Persons (Separate Legal Status) Act 2019</i>	19.12.2019	1.5.2020 (<i>Gazette</i> 30.4.2020 p837)