PART I

PRELIMINARY

1. This Act may be cited as the "Statutes Amendment (Law of Property and Wrongs) Act, 1972".

2. This Act shall come into operation on a day to be fixed by proclamation.

3. This Act is arranged as follows:—

PART I—PRELIMINARY

PART II—AMENDMENT OF THE LAW OF PROPERTY ACT, 1936-1969

PART III—AMENDMENT OF THE WRONGS ACT, 1936-1959
1972 Statutes Amendment (Law of Property and Wrongs) Act, 1972

PART II

AMENDMENT OF LAW OF PROPERTY ACT, 1936-1969

4. (1) The Law of Property Act, 1936-1969, as amended by this Act, may be cited as the “Law of Property Act, 1936-1972”.

(2) The Law of Property Act, 1936-1969, is in this Part referred to as “the principal Act”.

5. Section 92 of the principal Act is amended—
   (a) by striking out the passage “Subject as regards actions in tort between husband and wife to the provisions of section 101, a married woman shall” and inserting in lieu thereof the passage “A married woman shall”;
   and
   (b) by inserting after paragraph (b) the following paragraph:

(ba) be capable of appointing an agent or attorney to act on her behalf
and.

6. Section 93 of the principal Act is amended by striking out the proviso.

7. The following section is enacted and inserted in the principal Act immediately after section 95 thereof:

95a. A husband and wife shall, for the purposes of the acquisition of any interest in property pursuant to a disposition that comes into operation after the commencement of the Statutes Amendment (Law of Property and Wrongs) Act, 1971, be treated as two persons.

8. Section 99 of the principal Act is amended by striking out the word “ensure” and inserting in lieu thereof the word “enure”.

9. Section 101 of the principal Act is amended by striking out from subsection (1) the passage “but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort”.

10. The following section is enacted and inserted in the principal Act immediately after section 105 thereof:

105a. If any question arises as to the right of a husband or wife to money derived from an allowance made by the husband to the wife for the purpose of defraying domestic expenses,
or to property acquired with such money, the money or property shall, in the absence of agreement to the contrary, be treated as belonging to the husband and wife in equal shares.

11. Section 110 of the principal Act is repealed and the following section is enacted and inserted in its place:

110. Any restraint or restriction upon anticipation or alienation affecting the enjoyment of property by a woman that could not have been validly made or imposed in respect of the enjoyment of property by a man, is invalid.

PART III

AMENDMENT OF THE WRONGS ACT, 1936-1959

12. (1) The Wrongs Act, 1936-1959, as amended by this Act, may be cited as the “Wrongs Act, 1936-1972”.

(2) The Wrongs Act, 1936-1959, is in this Part referred to as “the principal Act”.

13. The following headings and sections are enacted and inserted in the principal Act immediately after section 31 thereof:

32. (1) Subject to this section, where any injury or damage is suffered by any person by reason of the wrongful act, neglect or default of his spouse, the spouse shall be liable in respect of that injury or damage in all respects as if the injured person and the person by reason of whose wrongful act neglect or default the injury or damage is suffered were not married.

(2) This section shall not be construed as entitling any person to maintain an action in trespass or ejectment against his spouse in respect of a matrimonial home.

(3) Where proceedings are brought pursuant to this section, the court may dismiss the proceedings if it appears to the court—

(a) that no substantial benefit would accrue to either party from the continuation of the proceedings;

or
(b) that the question or questions in issue could be more conveniently disposed of on an application under section 105 of the Law of Property Act.

33. (1) Where a person causes injury to another by wrongful act, neglect or default, he shall (whether or not the injury results in death) be liable in damages to the wife of the injured person for loss or injury suffered by her as a result of the loss or impairment of the consortium of husband and wife.

(2) The damages shall be assessed in the same manner as upon a claim by a husband for damages in tort in respect of loss or impairment of consortium.

34. (1) Where a husband and wife are engaged in the conduct of a business, and either of them suffers an injury as a result of which his or her participation in the conduct of the business ceases or is impaired, the other spouse shall be entitled to recover from a person whose wrongful act, neglect or default caused the injury compensation for loss that he or she has suffered or continues to suffer by reason of the fact that the participation of his or her spouse in the conduct of the business has ceased or has been impaired.

(2) In this section—

“business” includes any professional or commercial undertaking:

“injury” includes an injury that results in the death of a spouse.

Abolition of actions of seduction, enticement and harbouring

35. The following actions at common law are abolished—

(a) the action for seduction;

(b) the action for enticement;

and

(c) the action for harbouring.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor