

# STATUS OF MARRIED WOMEN ORDINANCE 1936. <sup>(1)</sup>

## No. 23 of 1936.

### An Ordinance Relating to the Legal Status of Married Women and other matters.

**B**E it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1935*, as follows:—

1. This Ordinance may be cited as the *Status of Married Women Ordinance 1936*. <sup>(1) (2)</sup> Short title.

2.—(1.) Subject to the provisions of this Ordinance, the legal capacity of a married woman, whether contractual, proprietary, testamentary, or of any other kind whatsoever, shall be the same as that of an unmarried woman. Legal status of married women.

(2.) Subject to the provisions of this Ordinance, and save in respect of intestate succession, a marriage shall not confer on either party to it any rights to, or in respect of, the property of the other.

(3.) Subject to the provisions of this Ordinance, the rule of the common law that for certain purposes a husband and wife are deemed to be one person only is hereby abolished.

(4.) Nothing in this section shall affect—

(a) the law relating to the nationality or domicile of married women;

(b) the rules of common law in force in the Territory relating to the personal rights and obligations arising from marriage;

(c) the provisions of the Criminal Code of Queensland in its application to the Territory; or

(1) Particulars of this Ordinance are as follows:—

Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
26.2.1936	15.6.1936	26.2.1936 ( <i>Laws of T.N.G.</i> , Vol. XIII, p. 418)

(2) This Ordinance was ordained subsequent to *Booth v. Booth* (1934-35) 53 C.L.R. 1; 41 A.L.R. 183; 8 A.L.J. 460; in which the High Court held that the *Laws Repeal and Adopting Ordinance 1921-1933* did not incorporate into the law of the Territory of New Guinea those rules of the common law of England concerning the capacity of a married woman to acquire and enjoy property that had been repealed by the *Married Women's Property Acts* (United Kingdom).

MARRIED WOMEN AND CHILDREN—

(d) the provisions of any Ordinance of the Territory which commenced on or after the first day of June, One thousand nine hundred and twenty-one.

Liability of  
husband for  
wife's tort.

3. An action shall not lie against a husband, as such, for any tort committed by his wife before or after marriage nor shall a husband, as such, be joined in any action against his wife to recover damages for any tort committed by her.

Saving.

4. Nothing in this Ordinance shall affect—

(a) any right, privilege, obligation, or liability acquired, accrued, or incurred before the commencement of this Ordinance; or

(b) the tribal institutions, customs, and usages of the aboriginal natives of the Territory.