

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Children Act 1975, SCHEDULE 1. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 1

STATUS CONFERRED BY ADOPTION OR LEGITIMATION IN ENGLAND AND WALES

Textual Amendments

F1 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c.36, SIF 49:11\)](#) s. 74(2), Sch 4

[^{F2}PART I

INTERPRETATION]]

Textual Amendments

F2 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

- [^{F3}1 (1) This Part applies for the construction of this Schedule, except where the context otherwise requires.
- (2) “Adoption” means adoption—
- (a) by an adoption order as defined in section 107,
 - (b) by an adoption order made under the 1958 Act or the ^{M1}Adoption Act 1950 or any enactment repealed by the Adoption Act 1950
 - (c) by an order made in Northern Ireland, the Isle of Man or in any of the Channel Islands,
 - (d) which is an overseas adoption as defined by section 4(3) of the ^{M2}Adoption Act 1968, or
 - (e) which is an adoption recognised by the law of England and Wales, and effected under the law of any other country.
- and cognate expressions shall be construed accordingly.
- (3) ^{F4}
- (4) [^{F5}This definition of adoption includes], where the context admits, [^{F5}an adoption effected] before the passing of this Act, and the date of an adoption effected by an order is the date of the making of the order.
- (5) “Existing”, in relation to any enactment or other instrument, means one passed or made before 1st January 1976 (and whether or not before the passing of this Act).
- (6) The death of the testator is the date at which a will or codicil is to be regarded as made.]

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Textual Amendments

- F3** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4
F4 Sch. 1 paras. 1(3), 12, 13, 14(2) repealed by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), [Sch. 2](#)
F5 Words substituted by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), [Sch. 1 para. 7](#)

Marginal Citations

- M1** 1950 c. 26.
M2 1968 c. 53(49:11).

Dispositions of property

- [^{F6}2 (1) In this Schedule—
 “disposition” includes the conferring of a power of appointment and any other disposition of an interest in or right over property;
 “power of appointment” includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.
 (2) This Schedule applies to an oral disposition of property as if contained in an instrument made when the disposition was made.]

Textual Amendments

- F6** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

[^{F7}PART II

ADOPTION ORDERS]

Textual Amendments

- F7** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Status conferred by adaption

- [^{F8}3 (1) An adopted child shall be treated in law—
 (a) where the adopters are a married couple, as if he had been born as a child of the marriage (whether or not he was in fact born after the marriage was solemnized);
 (b) in any other case, as if he had been born to the adopter in wedlock (but not as a child of any actual marriage of the adopter).
 (2) An adopted child shall be treated in law as if he were not the child of any person other than the adopters or adopter.
 (3) It is hereby declared that this paragraph prevents an adopted child from being illegitimate.

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- (4) This paragraph has effect—
- (a) in the case of an adoption before 1st January 1976, from that date, and
 - (b) in the case of any other adoption, from the date of the adoption.
- (5) Subject to the provisions of this Part, this paragraph applies for the construction of enactments or instruments passed or made before the adoption or later, and so applies subject to any contrary indication.
- (6) Subject to the provisions of this Part, the paragraph has effect as respects things done, or events occurring, after the adoption, or after 31st December 1975, whichever is the later.]

Textual Amendments

F8 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Modifications etc. (not altering text)

C1 Sch. 1 para. 3 restricted by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), s. 4 and excluded by [S.I. 1975/515](#) reg. 2 (as substituted by [S.I. 1985/1327](#) reg. 2)

C2 Sch. 1 para. 3(2) excluded by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), s. 4

Vocabulary

- [^{F9}4 A relationship existing by virtue of paragraph 3 may be referred to as an adoptive relationship, and—
- (a) a male adopter may be referred to as the adoptive father;
 - (b) a female adopter may be referred to as the adoptive mother;
 - (c) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree,
- but this paragraph does not prevent the term “parent”, or any other term not qualified by the word “adoptive”, being treated as including an adoptive relative.]

Textual Amendments

F9 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Instruments and enactments concerning property

- [^{F10}5 (1) Paragraph 3—
- (a) does not apply to an existing instrument or enactment so far as it contains a disposition of property, and
 - (b) does not apply to any public general Act in its application to any disposition of property in an existing instrument or enactment.
- (2) The repeal by this Act of sections 16 and 17 of the ^{M3}1958 Act, and of provisions containing references to those sections, does not affect their application in relation to a disposition of property effected by an existing instrument.
- (3) For the purposes of this paragraph, and of paragraph 6, provisions of the law of intestate succession applicable to the estate of a deceased person shall be treated as

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if contained in an instrument executed by him (while of full capacity) immediately before his death.]

Textual Amendments

F10 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Marginal Citations

M3 [1958 c. 5 \(7 & 8 Eliz. 2\)\(49:11\)](#).

- [^{F11}6 (1) Subject to any contrary indication, the rules of construction contained in this paragraph apply to any instrument, other than an existing instrument, so far as it contains a disposition of property.
- (2) In applying paragraph 3(1) to a disposition which depends on the date of birth of a child or children of the adoptive parent of parents, the disposition shall be construed as if—
- (a) the adopted child had been born on the date of adoption,
 - (b) two or more children adopted on the same date had been born on that date in the order of their actual births,
- but this does not affect any reference to the age of a child.
- (3) Examples of phrases in wills on which sub-paragraph (2) can operate are—
1. Children of A “living at my death or born afterwards”.
 2. Children of A “living at my death or born afterwards before any one of such children for the time being in existence attains a vested interest, and who attain the age of 21 years”.
 3. As in example 1 or 2, but referring to grandfather of A, instead of children of A.
 4. A for life “until he has a child”, and then to his child or children.
- Note.* Sub-paragraph (2) will not affect the reference to the age of 21 years in example 2.
- (4) Paragraph 3(2) does not prejudice any interest vested in possession in the adopted child before the adoption, or any interest expectant (whether immediately or not) upon an interest so vested.
- (5) Where it is necessary to determine for the purposes of a disposition of property effected by an instrument whether a woman can have a child, it shall be presumed that once a woman has attained the age of fifty-five she will not adopt a child after execution of the instrument, and notwithstanding paragraph 3 if she does so the child shall not be treated as her child or as the child of her spouse (if any) for the purposes of the instrument.
- (6) In this paragraph “instrument” includes a private Act settling property, but not any other enactment.
- (7) Paragraph 3(6) has effect subject to this paragraph.]

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Textual Amendments

F11 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Other enactments and instruments

- [^{F127} (1) Paragraph 3 does not apply for the purposes of the table of kindred and affinity in Schedule 1 to the ^{M4}Marriage Act 1949 or sections 10 and 11 (incest) of the ^{M5}Sexual Offences Act 1956.
- (2) Paragraph 3 does not apply for the purposes of any provision of—
- (a) [^{F13}the ^{M6}British Nationality Act 1981],
 - (b) the ^{M7}Immigration Act 1971,
 - (c) any instrument having effect under an enactment within paragraph (a) or (b), or
 - (d) any other provision of the law for the time being in force which determines [^{F14}British citizenship, British Dependent Territories citizenship [, ^{F15}the status of a British National (Overseas)] or British Overseas citizenship.]
- (3) Paragraph 3 shall not prevent a person being treated as a near relative of a deceased person for the purposes of section 32 of the ^{M8}Social Security Act 1975 (payment of death grant), if apart from paragraph 3 he would be so treated.
- (4) Paragraph 3 does not apply for the purposes of section 70(3)(b) or section 73(2) of the ^{M9}Social Security Act 1975 (payment of industrial death benefit to or in respect of an illegitimate child of the deceased and the child's mother).
- (5) Subject to regulations made under section 72 of the ^{M10}Social Security Act 1975 (entitlement of certain relatives of deceased to industrial death benefit), paragraph 3 shall not affect the entitlement to an industrial death benefit of a person who would, apart from paragraph 3, to treated as a relative of a deceased person for the purposes of the said section 72.]

Textual Amendments

- F12** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4
- F13** Words substituted by [British Nationality Act 1981 \(c. 61, SIF 87\)](#), s. 52(6), [Sch. 7](#)
- F14** Words substituted by [British Nationality Act 1981 \(c. 61, SIF 87\)](#), s. 52(6), [Sch. 7](#)
- F15** Words inserted by [S.I.1986/948](#) arts. 1(1), 8, Sch.

Marginal Citations

- M4** 1949 c. 76(49:1).
- M5** 1956 c. 69(39:5).
- M6** 1981 c. 61(87).
- M7** 1971 c. 77(62).
- M8** 1975 c. 14(113:1).
- M9** 1975 c. 14(113:1).
- M10** 1975 c. 14(113:1).

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Pensions

[^{F168} Paragraph 3(2) does not affect entitlement to a pension which is payable to or for the benefit of a child and is in payment at the time of his adoption.]

Textual Amendments

F16 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Adoption of child by natural parents

[^{F179} In the case of a child adopted by one of its natural parents as sole adoptive parent, paragraph 3(2) has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship]

Textual Amendments

F17 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Peerages, etc.

[^{F1810} An adoption does not affect the descent of any peerage or dignity or title of honour.]

Textual Amendments

F18 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Insurance

[^{F1911} Where a child is adopted whose natural parent has effected an insurance with a friendly society or a collecting society or an industrial insurance company for the payment on the death of the child of money for funeral expenses, the rights and liabilities under the policy shall by virtue of the adoption be transferred to the adoptive parents who shall for the purposes of the enactments relating to such societies and companies be treated as the person who took out the policy.]

Textual Amendments

F19 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

PART III

12, 13. ^{F20}

Textual Amendments

F20 Sch. 1 paras. 1(3), 12, 13, 14(2) repealed by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), **Sch. 2**

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[^{F21}PART IV

SUPPLEMENTAL]

Textual Amendments

F21 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Dispositions depending on date of birth

[^{F22}14 (1) Where a disposition depends on the date of birth of a child who was born illegitimate and who—

- (a) is adopted by one of the natural parents as sole adoptive parent,
- (b) . . . ^{F23}

paragraph 6(2) and paragraph 12(4) do not affect entitlement under Part II of the ^{M11}Family Law Reform Act 1969 (illegitimate children).

(2) ^{F24}

(3) This paragraph applies for example where—

- (a) a testator dies in 1976 bequeathing a legacy to his eldest grandchild living at a specified time,
- (b) his daughter has an illegitimate child in 1977 who is the first grandchild,
- (c) his married son has a child in 1978,
- (d) subsequently the illegitimate child is adopted by the mother as sole adoptive parent . . . ^{F25}.

and in all those cases the daughter's child remains the eldest grandchild of the testator throughout.]

Textual Amendments

F22 Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

F23 Para. 14(1)(b) repealed by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), **Sch. 2**

F24 Sch. 1 paras. 1(3), 12, 13, 14(2) repealed by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), **Sch. 2**

F25 Words repealed by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), **Sch. 2**

Marginal Citations

M11 1969 c. 46.

Protection of trustees and personal representatives

[^{F26}15 (1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether—

- (a) any adoption has been effected or revoked,
- (b) . . . ^{F27}

if that fact could affect entitlement to the property.

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- (2) A trustee or personal representative shall not be liable to any person by reason of a conveyance or distribution of the property made without regard to any such fact if he has not received notice of the fact before the conveyance or distribution.
- (3) This paragraph does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.]

Textual Amendments

- F26** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4
- F27** Para. 15(1)(b) repealed by [Legitimacy Act 1976 \(c. 31, SIF 49:7\)](#), [Sch. 2](#)

Property devolving with peerages, etc.

- [^{F28}16 (1) This Schedule shall not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any peerage or dignity of title of honour.
- (2) This paragraph applies only if and so far as a contrary intention is not expressed in the instrument, and shall have effect subject to the terms of the instrument.]

Textual Amendments

- F28** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

Entails

- [^{F29}17 It is hereby declared that references in this Schedule to dispositions of property include references to a disposition by the creation of an entailed interest.]

Textual Amendments

- F29** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

[^{F30}PART V

EXTENT]

Textual Amendments

- F30** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

- [^{F31}18 This Schedule does not apply to Scotland.]

Textual Amendments

- F31** Sch. 1 repealed (E.W.) by [Adoption Act 1976 \(c. 36, SIF 49:11\)](#) s. 74(2), Sch. 4

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