



# Legitimacy Act 1976

## 1976 CHAPTER 31

### **5 Rights of legitimated persons and others to take interests in property.**

- (1) Subject to any contrary indication, the rules of construction contained in this section apply to any instrument other than an existing instrument, so far as the instrument contains a disposition of property.
- (2) For the purposes of this section, provisions of the law of intestate succession applicable to the estate of a deceased person shall be treated as if contained in an instrument executed by him (while of full capacity) immediately before his death.
- (3) A legitimated person, and any other person, shall be entitled to take any interest as if the legitimated person had been born legitimate.
- (4) A disposition which depends on the date of birth of a child or children of the parent or parents shall be construed as if—
  - (a) a legitimated child had been born on the date of legitimation,
  - (b) two or more legitimated children legitimated 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.
- (5) Examples of phrases in wills on which subsection (4) above 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 grandchildren of A, instead of children of A.
  - (4) A for life “until he has a child” and then to his child or children.

*Note.* Subsection (4) above will not affect the reference to the age of 21 years in example 2.
- (6) If an illegitimate person or a person adopted by one of his natural parents dies, or has died before the commencement of this Act, and—

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**Changes to legislation:** There are currently no known outstanding effects for the Legitimacy Act 1976, Section 5. (See end of Document for details)

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- (a) after his death his parents marry or have married; and
- (b) the deceased would, if living at the time of the marriage, have become a legitimated person,

this section shall apply for the construction of the instrument so far as it relates to the taking of interests by, or in succession to, his spouse, children and remoter issue as if he had been legitimated by virtue of the marriage.

- (7) In this section “instrument” includes a private Act settling property, but not any other enactment.

**Changes to legislation:**

There are currently no known outstanding effects for the Legitimacy Act 1976, Section 5.