
STATUTORY INSTRUMENTS

1987 No. 2203

The Adoption (Northern Ireland) Order 1987

PART V

STATUS OF ADOPTED CHILDREN

Rules of construction for instruments concerning property

42.—(1) Subject to any contrary indication, the rules of construction contained in this Article apply to any instrument, other than an existing instrument, so far as it contains a disposition of property.

(2) In applying Article 40(1) to a disposition which depends on the date of birth of a child or children of the adoptive parent or 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 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 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. Paragraph (2) will not affect the reference to the age of 21 years in example 2.

(4) Article 40(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 55 years she will not adopt a child after execution of the instrument, and, notwithstanding Article 40, if she does so that child shall not be treated as her child or ^{F1}(if she does so as one of a couple) as the child of the other one of the couple] for the purposes of the instrument.

(6) In this Article, “instrument” includes a private Act or Measure settling property, but not any other statutory provision.

F1 Words in art. 42(5) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **30(10)** (with regs. 6-9, 30(11))

Changes to legislation: *The Adoption (Northern Ireland) Order 1987, Section 42 is up to date with all changes known to be in force on or before 14 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Modifications etc. (not altering text)

- C1** Art. 42 applied (with modifications) (6.4.2010) by [Human Fertilisation and Embryology \(Parental Orders\) Regulations 2010 \(S.I. 2010/985\)](#), reg. 3, **Sch. 2**

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- s. 6(2) words inserted by [S.I. 2019/1514 reg. 29\(4\)](#)
- art. 60(1A) inserted by [2022 c. 18 \(N.I.\) Sch. 4 para. 6\(a\)](#)