



Family Law Reform Act 1969

1969 CHAPTER 46

PART II

PROPERTY RIGHTS OF ILLEGITIMATE CHILDREN

- 14 Right of illegitimate child to succeed on intestacy of parents, and of parents to succeed on intestacy of illegitimate child**
- (1) Where either parent of an illegitimate child dies intestate as respects all or any of his or her real or personal property, the illegitimate child or, if he is dead, his issue, shall be entitled to take any interest therein to which he or such issue would have been entitled if he had been born legitimate.
 - (2) Where an illegitimate child dies intestate in respect of all or any of his real or personal property, each of his parents, if surviving, shall be entitled to take any interest therein to which that parent would have been entitled if the child had been born legitimate.
 - (3) In accordance with the foregoing provisions of this section, Part IV of the Administration of Estates Act 1925 (which deals with the distribution of the estate of an intestate) shall have effect as if—
 - (a) any reference to the issue of the intestate included a reference to any illegitimate child of his and to the issue of any such child ;
 - (b) any reference to the child or children of the intestate included a reference to any illegitimate child or children of his ; and
 - (c) in relation to an intestate who is an illegitimate child, any reference to the parent, parents, father or mother of the intestate were a reference to his natural parent, parents, father or mother.
 - (4) For the purposes of subsection (2) of this section and of the provisions amended by subsection (3)(c) thereof, an illegitimate child shall be presumed not to have been survived by his father unless the contrary is shown.
 - (5) This section does not apply to or affect the right of any person to take any entailed interest in real or personal property.

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- (6) The reference in section 50(1) of the said Act of 1925 (which relates to the construction of documents) to Part IV of that Act, or to the foregoing provisions of that Part, shall in relation to an instrument inter vivos made, or a will or codicil coming into operation, after the coming into force of this section (but not in relation to instruments inter vivos made or wills or codicils coming into operation earlier) be construed as including references to this section.
- (7) Section 9 of the Legitimacy Act 1926 (under which an illegitimate child and his issue are entitled to succeed on the intestacy of his mother if she leaves no legitimate issue, and the mother of an illegitimate child is entitled to succeed on his intestacy as if she were the only surviving parent) is hereby repealed.
- (8) In this section " illegitimate child " does not include an illegitimate child who is—
 - (a) a legitimated person within the meaning of the said Act of 1926 or a person recognised by virtue of that Act or at common law as having been legitimated; or
 - (b) an adopted person under an adoption order made in any part of the United Kingdom, the Isle of Man or the Channel Islands or under an overseas adoption as defined in section 4(3) of the Adoption Act 1968.
- (9) This section does not affect any rights under the intestacy of a person dying before the coming into force of this section.

15 Presumption that in dispositions of property references to children and other relatives include references to, and to persons related through, illegitimate children

- (1) In any disposition made after the coming into force of this section—
 - (a) any reference (whether express or implied) to the child or children of any person shall, unless the contrary intention appears, be construed as, or as including, a reference to any illegitimate child of that person; and
 - (b) any reference (whether express or implied) to a person or persons related in some other manner to any person shall, unless the contrary intention appears, be construed as, or as including, a reference to anyone who would be so related if he, or some other person through whom the relationship is deduced, had been born legitimate.
- (2) The foregoing subsection applies only where the reference in question is to a person who is to benefit or to be capable of benefiting under the disposition or, for the purpose of designating such a person, to someone else to or through whom that person is related; but that subsection does not affect the construction of the word " heir " or " heirs " or of any expression which is used to create an entailed interest in real or personal property.
- (3) In relation to any disposition made after the coming into force of this section, section 33 of the Trustee Act 1925 (which specifies the trusts implied by a direction that income is to be held on protective trusts for the benefit of any person) shall have effect as if—
 - (a) the reference to the children or more remote issue of the principal beneficiary included a reference to any illegitimate child of the principal beneficiary and to anyone who would rank as such issue if he, or some other person through whom he is descended from the principal beneficiary, had been born legitimate; and

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- (b) the reference to the issue of the principal beneficiary included a reference to anyone who would rank as such issue if he, or some other person through whom he is descended from the principal beneficiary, had been born legitimate.
- (4) In this section references to an illegitimate child include references to an illegitimate child who is or becomes a legitimated person within the meaning of the Legitimacy Act 1926 or a person recognised by virtue of that Act or at common law as having been legitimated; and in section 3 of that Act—
- (a) subsection (1)(b) (which relates to the effect of dispositions where a person has been legitimated) shall not apply to a disposition made after the coming into force of this section except as respects any interest in relation to which the disposition refers only to persons who are, or whose relationship is deduced through, legitimate persons; and
 - (b) subsection (2) (which provides that, where the right to any property depends on the relative seniority of the children of any person, legitimated persons shall rank as if born on the date of legitimation) shall not apply in relation to any right conferred by a disposition made after the coming into force of this section unless the terms of the disposition are such that the children whose relative seniority is in question cannot include any illegitimate children who are not either legitimated persons within the meaning of that Act or persons recognised by virtue of that Act as having been legitimated.
- (5) Where under any disposition any real or personal property or any interest in such property is limited (whether subject to any preceding limitation or charge or not) in such a way that it would, apart from this section, devolve (as nearly as the law permits) along with a dignity or title of honour, then, whether or not the disposition contains an express reference to the dignity or title of honour, and whether or not the property or some interest in the property may in some event become severed therefrom, nothing in this section shall operate to sever the property or any interest therein from the dignity or title, but the property or interest shall devolve in all respects as if this section had not been enacted.
- (6) This section is without prejudice to sections 16 and 17 of the Adoption Act 1958 (which relate to the construction of dispositions in cases of adoption).
- (7) There is hereby abolished, as respects dispositions made after the coming into force of this section, any rule of law that a disposition in favour of illegitimate children not in being when the disposition takes effect is void as contrary to public policy.
- (8) In this section " disposition " means a disposition, including an oral disposition, of real or personal property whether inter vivos or by will or codicil; and, notwithstanding any rule of law, a disposition made by will or codicil executed before the date on which this section comes into force shall not be treated for the purposes of this section as made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

16 Meaning of "child " and " issue " in s. 33 of Wills Act 1837

- (1) In relation to a testator who dies after the coming into force of this section, section 33 of the Wills Act 1837 (gift to children or other issue of testator not to lapse if they predecease him but themselves leave issue) shall have effect as if—
- (a) the reference to a child or other issue of the testator (that is, the intended beneficiary) included a reference to any illegitimate child of the testator and

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to anyone who would rank as such issue if he, or some other person through whom he is descended from the testator, had been born legitimate; and

- (b) the reference to the issue of the intended beneficiary included a reference to anyone who would rank as such issue if he, or some other person through whom he is descended from the intended beneficiary, had been born legitimate.

- (2) In this section "illegitimate child " includes an illegitimate child who is a legitimated person within the meaning of the Legitimacy Act 1926 or a person recognised by virtue of that Act or at common law as having been legitimated.

17 Protection of trustees and personal representatives

Notwithstanding the foregoing provisions of this Part of this Act, trustees or personal representatives may convey or distribute any real or personal property to or among the persons entitled thereto without having ascertained that there is no person who is or may be entitled to any interest therein by virtue of—

- (a) section 14 of this Act so far as it confers any interest on illegitimate children or their issue or on the father of an illegitimate child ; or
- (b) section 15 or 16 of this Act,

and shall not be liable to any such person of whose claim they have not had notice at the time of the conveyance or distribution; but nothing in this section shall prejudice the right of any such person to follow the property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

18 Illegitimate children to count as dependants under Inheritance (Family Provision) Act 1938

- (1) For the purposes of the Inheritance (Family Provision) Act 1938, a person's illegitimate son or daughter shall be treated as his dependant in any case in which a legitimate son or daughter of that person would be so treated, and accordingly in the definition of the expressions " son" and " daughter " in section 5(1) of that Act, as amended by the Family Provision Act 1966, after the words "respectively include " there shall be inserted the words " an illegitimate son or daughter of the deceased ".
- (2) In section 26(6) of the Matrimonial Causes Act 1965 (which provides, among other things, for the word " dependant" to have the same meaning as in the said Act of 1938 as amended by the said Act of 1966), after the words " as amended by the Family Provision Act 1966 " there shall be inserted the words " and the Family Law Reform Act 1969 ".
- (3) This section does not affect the operation of the said Acts of 1938 and 1965 in relation to a person dying before the coming into force of this section.

19 Policies of assurance and property in industrial and provident societies

- (1) In section 11 of the Married Women's Property Act 1882 and section 2 of the Married Women's Policies of Assurance (Scotland) Act 1880 (policies of assurance effected for the benefit of children) the expression " children" shall include illegitimate children.
- (2) In section 25(2) of the Industrial and Provident Societies Act 1965 (application of property in registered society where member was illegitimate and is not survived by certain specified relatives) for the words " and leaves no widow, widower or issue, and

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his mother does not survive him " there shall be substituted the words " and leaves no widow, widower or issue (including any illegitimate child of the member) and neither of his parents survives him ".

- (3) Subsection (1) of this section does not affect the operation of the said Acts of 1882 and 1880 in relation to a policy effected before the coming into force of that subsection; and subsection (2) of this section does not affect the operation of the said Act of 1965 in relation to a member of a registered society who dies before the coming into force of the said subsection (2).