



# Legitimacy Act (Northern Ireland) 1961

## 1961 CHAPTER 5

An Act to amend the Legitimacy Act (Northern Ireland), 1928, to legitimate the children of certain void marriages, and to provide for the revocation of adoption orders in cases of legitimation and for purposes connected with the matters aforesaid. [4th July 1961]

### 1 Application of the Legitimacy Act (Northern Ireland)

*Subs. (1) rep. by SLR (NI) 1973*

- (2) In relation to an illegitimate person to whom it applies by virtue of this section, the Legitimacy Act (Northern Ireland), 1928, shall have effect as if for references to the commencement of that Act there were substituted references to the commencement of this Act.

### 2 Legitimacy of children of certain void marriages [<sup>F1</sup>and civil partnerships].

- (1) Subject to the provisions of this section, the child of a void marriage [<sup>F2</sup>or a void civil partnership], whether born before or after the commencement of this Act, shall be treated as the legitimate child of his parents if at the time of the [<sup>F3</sup>insemination resulting in the birth or, where there was no such insemination, the child's conception] (or at the time of the celebration of the marriage [<sup>F4</sup>, or the formation of the civil partnership,] if later) both or either of the parties reasonably believed that the marriage [<sup>F5</sup>or civil partnership] was valid.

- (2) This section applies, and applies only, where [<sup>F6</sup>—

- (a) the father of the child was domiciled in Northern Ireland at the time of the birth or, if he died before the birth, was so domiciled before his death [<sup>F7</sup>, or
- (b) if a woman is treated as the female parent of a child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, that female parent was domiciled in Northern Ireland at the time of the birth, or if she died before the birth, was so domiciled immediately before her death.]

[<sup>F3</sup>(2A) Without prejudice to the generality of subsection (1), that subsection applies notwithstanding that the belief that the marriage [<sup>F8</sup>or civil partnership] was valid was due to a mistake of law.

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*Changes to legislation:* There are currently no known outstanding effects for the Legitimacy Act (Northern Ireland) 1961. (See end of Document for details)

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(2B) In relation to a child [<sup>F9</sup>of a void marriage] born after the commencement of paragraph 14 of Schedule 9 to the Children (Northern Ireland) Order 1995, [<sup>F10</sup>or a child of a void civil partnership (whenever born),] it shall be presumed for the purposes of subsection (1), unless the contrary is shown, that one of the parties to the void marriage [<sup>F11</sup>or civil partnership] reasonably believed at the time of the insemination resulting in the birth or, where there was no such insemination, the child's conception (or at the time of the celebration of the marriage<sup>F12</sup>, or the formation of the civil partnership,] if later) that the marriage [<sup>F13</sup>or civil partnership] was valid.]

(3) This section does not affect—

- (a) any rights under the intestacy of a person who died before the commencement of this Act;
- (b) the operation or construction of any disposition coming into operation before the commencement of this Act; or
- (c) the succession to any dignity or title of honour or the devolution of any property limited by any disposition in such a way as to devolve with any dignity or title of honour as nearly as the law permits.

[<sup>F14</sup>(3A) Where a void marriage results from the purported conversion of a void civil partnership, references in subsections (1) and (2B) to the time of the celebration of the marriage are to be read as references to the time of the formation of the civil partnership; and where a void civil partnership results from the purported conversion of a void marriage, references in subsections (1) and (2B) to the time of the formation of the civil partnership are to be read as references to the time of the celebration of the marriage.]

(4) In this section the following expressions have the meanings hereby assigned to them, that is to say—

“void marriage” means a marriage, not being voidable only, in respect of which the High Court has or had jurisdiction to grant a decree of nullity, or would have or would have had such jurisdiction if the parties were domiciled in Northern Ireland;

“disposition” has the same meaning as in the Legitimacy Act (Northern Ireland), 1928 .

*Subs. (5) rep. by 1989 NI 4*

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| <b>F1</b> | Words in s. 2 heading inserted (13.1.2020) by <a href="#">The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514)</a> , regs. 1(2), <b>24(2)</b> (with regs. 6-9) |
| <b>F2</b> | Words in s. 2(1) inserted (13.1.2020) by <a href="#">The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514)</a> , regs. 1(2), <b>24(3)(a)</b> (with regs. 6-9)   |
| <b>F3</b> | <a href="#">1995 NI 2</a>   |
| <b>F4</b> | Words in s. 2(1) inserted (13.1.2020) by <a href="#">The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514)</a> , regs. 1(2), <b>24(3)(b)</b> (with regs. 6-9)   |
| <b>F5</b> | Words in s. 2(1) inserted (13.1.2020) by <a href="#">The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514)</a> , regs. 1(2), <b>24(3)(c)</b> (with regs. 6-9)   |

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**Changes to legislation:** There are currently no known outstanding effects for the Legitimacy Act (Northern Ireland) 1961. (See end of Document for details)

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- F6** Word in s. 2(2) inserted (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), **24(4)(a)** (with regs. 6-9)
- F7** s. 2(2)(b) and word inserted (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), **24(4)(b)** (with regs. 6-9)
- F8** Words in s. 2(2A) inserted (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), **24(5)** (with regs. 6-9)
- F9** Words in s. 2(2B) inserted (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), **24(6)(a)** (with regs. 6-9)
- F10** Words in s. 2(2B) inserted (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), **24(6)(b)** (with regs. 6-9)
- F11** Words in s. 2(2B) inserted (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), **24(6)(c)** (with regs. 6-9)
- F12** Words in s. 2(2B) inserted (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), **24(6)(d)** (with regs. 6-9)
- F13** Words in s. 2(2B) inserted (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), **24(6)(e)** (with regs. 6-9)
- F14** [S. 2\(3A\) inserted \(7.12.2020\) by The Marriage and Civil Partnership \(Northern Ireland\) \(No. 2\) Regulations 2020 \(S.I. 2020/1143\)](#), regs. 1(2), **34**

*S. 3 rep. by 1987 NI 22*

#### **4 Short title, citation and commencement.**

- (1) This Act may be cited as the Legitimacy Act (Northern Ireland), 1961.
- (2) This Act and the Legitimacy Acts (Northern Ireland), 1928 and 1958, may be cited together as the Legitimacy Acts (Northern Ireland), 1928 to 1961.
- (3) *Commencement*

**Changes to legislation:**

There are currently no known outstanding effects for the Legitimacy Act (Northern Ireland) 1961.