

SCHEDULES

SCHEDULE 1

STATUS CONFERRED BY ADOPTION OR LEGITIMATION IN ENGLAND AND WALES

PART II

ADOPTION ORDERS

Status conferred by adoption

- 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.
- (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, this paragraph has effect as respects things done, or events occurring, after the adoption, of after 31st December 1975, whichever is the later.

Vocabulary

- 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.

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Instruments and enactments concerning property

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

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(7) Paragraph 3(6) has effect subject to this paragraph.

Other enactments and instruments

- 7 (1) Paragraph 3 does not apply for the purposes of the table of kindred and affinity in Schedule 1 to the Marriage Act 1949 or sections 10 and 11 (incest) of the Sexual Offences Act 1956.
- (2) Paragraph 3 does not apply for the purposes of any provision of—
- (a) the British Nationality Acts 1948 to 1965,
 - (b) the 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 citizenship of the United Kingdom and Colonies.
- (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 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 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 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, be treated as a relative of a deceased person for the purposes of the said section 72.

Pensions

- 8 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.

Adoption of child by natural parents

- 9 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.

Peerages, etc.

- 10 An adoption does not affect the descent of any peerage or dignity or title of honour.

Insurance

- 11 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

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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.