

SCHEDULES

SCHEDULE 2

Section 8.

STATUS CONFERRED IN SCOTLAND BY ADOPTION

General

- 1 (1) In Scotland, a child who is the subject of an adoption order shall, subject to the provisions of this Schedule, be treated in law—
- (a) where the adopters are a married couple, as if he had been born as a legitimate child of the marriage (whether or not he was in fact born after the marriage was constituted);
 - (b) in any other case, as if he had been born as a legitimate child of the adopter (but not as a child of any actual marriage of the adopter),
- and as if he were not the child of any person other than the adopters or adopter.
- (2) Where an illegitimate child has been adopted by one of his natural parents as sole adoptive parent and the adopter thereafter marries the other natural parent, sub-paragraph (1) shall not affect any enactment or rule of law whereby, by virtue of the marriage, the child is rendered the legitimate child of both natural parents.
- (3) Sub-paragraph (1) does not apply in determining the prohibited degrees of consanguinity and affinity in respect of the law relating to marriage or in respect of the crime of incest, except that, on the making of an adoption order, the adopter and the child shall be deemed, for all time coming, to be within the said prohibited degrees in respect of the law relating to marriage.
- (4) Sub-paragraph (1) 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 law for the time being in force which determines citizenship of the United Kingdom and Colonies.
- (5) 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.
- (6) Subject to the provisions of this Schedule, this paragraph applies for the construction of any enactments or instruments passed or made before or after the commencement of this Act so far as the context admits.
- (7) Subject to the provisions of this Schedule, this paragraph does not affect things done or events occurring before the adoption or, where the adoption took place before 1st January 1976, before that date.

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Pensions

- 2 The provision in paragraph 1(1) whereby a child who is the subject of an adoption order is to be treated in law as if he were not the child of any person other than the adopters or adopter shall not affect entitlement to a pension which is payable to, or for the benefit of, the child and is in payment at the time of his adoption.

Insurance

- 3 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 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.

Social Security

- 4 (1) Paragraph 1 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 1 he would be so treated.
- (2) Paragraph 1 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).
- (3) Subject to regulations made under section 72 of the Social Security Act 1975 (entitlement of certain relatives of deceased to industrial death benefit), paragraph 1 shall not affect the entitlement to an industrial death benefit of a person who would, apart from paragraph 1, be treated as a relative of a deceased person for the purposes of the said section 72.

Succession and Property

- 5 (1) Paragraph 1 does not affect the existing law relating to adopted persons in respect of—
- (a) the succession to a deceased person (whether testate or intestate), and
 - (b) the disposal of property by virtue of any inter vivos deed.
- (2) In section 23 of the Succession (Scotland) Act 1964 (adopted person to be treated for purposes of succession, etc., as child of adopter)—
- (a) in subsection (3) (property devolving along with a title or honour, etc.), after " this section " there is inserted " or in the Children Act 1975 ";
 - (b) in subsection (5) (meaning of " adoption order "), for the words from " an order " to " Northern Ireland " there are substituted the words—
 - “(a) an adoption order under the Children Act 1975 ;
 - (b) an adoption order under the Adoption Act 1958 or the Adoption Act 1950 or any enactment repealed by the Adoption Act 1950 ;
 - (c) an order effecting an adoption made in Northern Ireland, the Isle of Man or any of the Channel Islands ;
 - (d) an " overseas adoption " as defined in section 4(3) of the Adoption Act 1968 ; or

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- (e) any other adoption recognised by the law of Scotland ;
(whether the order took effect before or after the
commencement of this Act); ”.
- (3) In section 24 of the said Act of 1964 (provisions supplementary to section 23), after
subsection (1) there is inserted the following subsection—
- “(1A) Where, in relation to any purpose specified in section 23(1) of this Act, any
right is conferred or any obligation is imposed, whether by operation of law
or under any deed coming into operation after the commencement of the
Children Act 1975, by reference to the relative seniority of the members of
a class of persons, then, without prejudice to any entitlement under Part I
of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 of an
illegitimate child who is adopted by one of his parents,
- (a) any member of that class who is an adopted person shall rank as if
he had been born on the date of his adoption, and
- (b) if two or more members of the class are adopted persons whose dates
of adoption are the same, they shall rank as between themselves in
accordance with their respective times of birth.”.
- (4) In section 37(1) of the said Act of 1964 (exclusion from Act of matters relating to
titles, etc.), after " nothing in this Act" there is inserted " or (as respects paragraph (a)
of this subsection) in the Children Act 1975 ".

Adoption and Legitimation

- 6 (1) In section 26 of the Adoption Act 1958, after subsection (1) there is inserted the
following subsection—
- “(1A) Subsection (1) above does not apply to Scotland, and where the natural
parents of an illegitimate child, one of whom has adopted him in Scotland,
have subsequently married each other, the court by which the adoption order
was made may, on the application of any of the parties concerned, revoke
that order.”.
- (2) Section 1 of the Legitimation (Scotland) Act 1968, (requirements and effects of
legitimation) is renumbered subsection (1) and at the end there is added the following
subsection—
- “(2) Subsection (1) above shall apply in relation to an illegitimate person who has
been adopted by one of his natural parents as sole adoptive parent, where the
adopter thereafter marries the other natural parent, as it applies in relation to
any illegitimate person, to the effect of rendering that person the legitimate
child of both natural parents; and in this Act " illegitimate ", " legitimated "
and cognate expressions shall be construed accordingly.”.
- (3) In section 6(2) of the said Act of 1968, for the words from " of an adoption order"
to " 1958 " there are substituted the words " (under this section or otherwise) of
any adoption order within the meaning of Schedule 2 to the Children Act 1975, in
consequence of the marriage of the parents of the adopted person to each other ".

Interpretation

- 7 In this Schedule, " adoption order " means—

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- (a) an adoption order as denned in section 107 ;
 - (b) an adoption order under the 1958 Act or the Adoption Act 1950 or any enactment repealed by the Adoption Act 1950 ;
 - (c) an order effecting an adoption made in Northern Ireland, the Isle of Man or any of the Channel Islands ;
 - (d) an " overseas adoption " as denned in section 4(3) of the Adoption Act 1968 ; or
 - (e) any other adoption recognised by the law of Scotland ;
- (whether the order took effect before or after the commencement of this Act); and cognate expressions shall be construed accordingly.