



Adoption and Children Act 2002

2002 CHAPTER 38

PART 1

ADOPTION

CHAPTER 4

STATUS OF ADOPTED CHILDREN

69 Rules of interpretation for instruments concerning property

- (1) The rules of interpretation contained in this section apply (subject to any contrary indication and to Schedule 4) to any instrument so far as it contains a disposition of property.
- (2) In applying section 67(1) and (2) to a disposition which depends on the date of birth of a child or children of the adoptive parent or parents, the disposition is to be interpreted as if—
 - (a) the adopted person had been born on the date of adoption,
 - (b) two or more people 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 a person's age.
- (3) Examples of phrases in wills on which subsection (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. Subsection (2) will not affect the reference to the age of 21 years in example 2.

Status: This is the original version (as it was originally enacted).

- (4) Section 67(3) does not prejudice—
- (a) any qualifying interest, or
 - (b) any interest expectant (whether immediately or not) upon a qualifying interest.
“Qualifying interest” means an interest vested in possession in the adopted person before the adoption.
- (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—
- (a) it must be presumed that once a woman has attained the age of 55 years she will not adopt a person after execution of the instrument, and
 - (b) if she does so, then (in spite of section 67) that person is not to be treated as her child or (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 section, “instrument” includes a private Act settling property, but not any other enactment.