

SCHEDULE 4

Regulation 5

References to adoption etc in enactments to be read as references to effect of parental order etc

Marriage Act 1949

1. In Schedule 1 to the Marriage Act 1949(1) (kindred and affinity) any reference to an adoptive relationship (however expressed) is to be read as a reference to the corresponding relationships created by the grant of a parental order and which arise by virtue of the enactments applied with modifications by regulations 2, 3 and 4 of these Regulations.

Succession (Scotland) Act 1964

2. In section 37(1) of the Succession (Scotland) Act 1964(2) (exclusion of certain matters from operation of Act) the reference to the Adoption and Children (Scotland) Act 2007 is to be read as including a reference to that Act, as applied with modifications made by regulation 3 of and Schedule 2 to these Regulations.

Registration of Births, Deaths and Marriages (Scotland) Act 1965

3. In section 39E(5) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(3) (abbreviated extracts)—

- (a) the reference to the Adopted Children Register maintained under section 53(1) of the Adoption and Children (Scotland) Act 2007 is to be read as including a reference to the Parental Order Register maintained by the Registrar General under section 53(1) of that Act, as applied with modifications by regulation 3 of and Schedule 2 to these Regulations; and
- (b) the reference to adoption is to be read as including a reference to the effect of a parental order made under section 54 or 54A of the 2008 Act.

4. In section 43(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (recording of baptismal name or change of name or surname) the reference to the Adopted Children Register maintained by the Registrar General under section 22 of the Adoption Act 1958 is to be read as including a reference to the Parental Order Register maintained by the Registrar General under section 53(1) of the Adoption and Children (Scotland) Act 2007, as applied with modifications by regulation 3 of and Schedule 2 to these Regulations.

Births and Deaths Registration (Northern Ireland) Order 1976

5. In Article 37 of the Births and Deaths Registration (Northern Ireland) Order 1976(4) (registration or alteration of child's name)—

- (a) the references to the Adoption (Northern Ireland) Order 1987 are to be read as including a reference to the Adoption (Northern Ireland) Order 1987, as applied with modifications by regulation 4 of and Schedule 3 to these Regulations; and
- (b) the references to the Adopted Children Registrar General under Article 50 of the Adoption (Northern Ireland) Order 1987 are to be read as including a reference to the Parental Order

(1) 1949 c. 76. Schedule 1 was substituted by paragraph 27 of Schedule 2 to the Civil Partnership Act 2004.

(2) 1964 c. 41. Section 64 was amended by paragraph 1 of Schedule 2 to the Adoption and Children (Scotland) Act 2007. Other amendments have been made which are not relevant to this instrument.

(3) 1965 c. 49. Section 39E was inserted by section 44(5) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14) and was amended by paragraph 1 of the Schedule to SSI 2010/21. Section 43 was amended, but those amendments are not relevant to this instrument.

(4) 1976 No 1041 (NI 14). Article 37 was amended by section 16 of the Civil Registration Act (Northern Ireland) 2011 (c. 20).

Register maintained by the Registrar General under Article 50 of that Order, as applied with modifications by regulation 4 of and Schedule 3 to these Regulations.

Marriage (Scotland) Act 1977

6. In Schedule 1 to the Marriage (Scotland) Act 1977⁽⁵⁾ (degrees of relationship) any reference to an adoptive relationship (however expressed) is to be read as a reference to the corresponding relationships created by the grant of a parental order and which arise by virtue of the enactments applied with modifications by regulations 2, 3 and 4 of these Regulations.

Adoption (Scotland) Act 1978

7.—(1) In section 39 of the Adoption (Scotland) Act 1978⁽⁶⁾ (status conferred by adoption)—

- (a) a reference to an adoption order in each place it occurs is to be read as including a reference to a parental order made under section 54 or section 54A of the 2008 Act; and
- (b) a reference to an adopter is to be read as including a reference to any of the persons, or the person, who obtained a parental order in respect of the child.

(2) In subsection (2) the reference to a child who has been adopted by one of his natural parents is to be read as including a reference to a child who is the subject of a parental order granted to one of that child's natural parents.

8. In section 41(1) of the Adoption (Scotland) Act 1978⁽⁷⁾ (miscellaneous enactments)—

- (a) the reference to an adoption order is to be read as including a reference to a parental order made under section 54 or section 54A of the 2008 Act; and
- (b) the reference to the adopter is to be read as including a reference to any of the persons, or the person, who obtained the parental order in respect of the child.

9. In section 44 of the Adoption (Scotland) Act 1978 (effect of s. 39 on succession and inter vivos deed)—

- (a) the reference to adoption is to be read as including a reference to a parental order made under section 54 or section 54A of the 2008 Act; and
- (b) the reference to adopted persons is to be read as including a reference to persons who were the subjects of parental orders.

British Nationality Act 1981

10. In section 1 of the British Nationality Act 1981⁽⁸⁾ (acquisition by birth or adoption)—

- (a) the reference to an order authorising the adoption of a minor who is not a British citizen in subsection (5)(a) is to be read as including a reference to a parental order made under section 54 or section 54A of the 2008 Act in respect of a minor; and
- (b) the reference to the adopter is to be read as including a reference to the person who obtained the parental order under section 54A of the Human Fertilisation and Embryology Act 2008 and the reference, in relation to the case of a joint adoption, to one of the adopters as including a reference to one of the persons who obtained the parental order under section 54 of the 2008 Act.

(5) 1977 c. 15. Schedule 1 was substituted by the Marriage and Civil Partnership (Scotland) Act 2014 (2014 asp 5).

(6) 1978 c. 28. Section 39 was amended by section 97 of the Children (Scotland) Act 1995 (c. 36) and paragraph 1 of Schedule 3 to the Family Law (Scotland) Act 2006 (asp 2). Other amendments have been made, but those amendments are not relevant to this instrument

(7) Section 41(1) was amended by section 86(10) of the Civil Partnership Act 2004.

(8) 1981 c. 61. Section 1 has been amended, but no amendments are relevant.

Senior Courts Act 1981

11. In paragraph 3 of Schedule 1 to the Senior Courts Act 1981⁽⁹⁾ (Distribution of Business in High Court: Family Division) the reference to all causes and matters relating to adoption is to be read as including a reference to proceedings under the provisions of the Adoption and Children Act 2002 applied with modifications by regulation 2 of and Schedule 1 to these Regulations.

Foster Children (Scotland) Act 1984

12. In section 2(5)(a) of the Foster Children (Scotland) Act 1984⁽¹⁰⁾ (exceptions to section 1) the reference to a child placed in the care of a person who proposes to adopt the child under arrangements made by an adoption agency within the meaning of the provisions mentioned in that paragraph is to be read as including a reference to a child being in the care of a person or persons who propose to apply for a parental order under section 54 or section 54A of the 2008 Act in respect of that child.

Child Abduction and Custody Act 1985

13. In paragraph 5(vii) of Part 2 of Schedule 3 to the Child Abduction and Custody Act 1985⁽¹¹⁾ (custody orders: Scotland) the reference to an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007) is to be read as including a reference to a parental order under section 54 or section 54A of the 2008 Act.

Family Law Act 1986

14. In section 1(1)(b)(x) of the Family Law Act 1986⁽¹²⁾ (child custody) the reference to an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007) is to be read as including a reference to a parental order under section 54 or section 54A of the 2008 Act.

Children Act 1989

15. In paragraph 5 of Schedule 8 to the Children Act 1989⁽¹³⁾ (privately fostered children: exemptions) the reference to a child being placed in the care of a person who proposes to adopt the child under arrangements made by an adoption agency within the meaning of the provisions mentioned in that paragraph is to be read as including a reference to a child being in the care of a person or persons who propose to apply for a parental order under section 54 or section 54A of the 2008 Act in respect of that child.

Human Fertilisation and Embryology Act 1990

16. In Sections 27(2) (meaning of mother) and 28(5)(c) (meaning of father) of the Human Fertilisation and Embryology Act 1990⁽¹⁴⁾ any reference to adoption is to be read as including a reference to the effect of a parental order under section 54 or section 54A of the 2008 Act.

(9) 1981 c. 54. Paragraph 3 of Schedule 1 was amended by Schedule 4 to the Family Law Reform Act 1987 (c. 42). Other amendments have been made, but are not relevant to this instrument.

(10) 1984 c. 56. Section 2 was amended by paragraph 3 of Schedule 2 to the Adoption and Children (Scotland) Act 2007. Other amendments have been made which are not relevant to this instrument.

(11) 1985 c. 60. Paragraph 5(vii) was added by paragraph 1 of Schedule 2 to S.I. 2011/1740.

(12) 1986 c. 55. So far as England and Wales are concerned, section 1 was amended by paragraph 2 of Schedule 1 to S.I. 2011/1740.

(13) 1989 c. 41. Paragraph 5 of Schedule 8 was amended by section 14 and paragraph 73 of Schedule 3 to the Adoption and Children Act 2002 and paragraph 3 of Schedule 1 to S.I. 2011/1740. There are other amendments to paragraph 5 of Schedule 8 which are not relevant to this instrument.

(14) 1990 c. 37. Section 27 was amended by paragraph 77 to Schedule 3 of the Adoption and Children Act 2002. Section 28(5) (c) was amended by paragraph 78 of Schedule 3 to that Act.

Judicial Pensions and Retirement Act 1993

17. In section 6 of the Judicial Pensions and Retirement Act 1993(15) (grant and payment of a children's pension)—

- (a) the references in subsections (2)(c) and (d), (5) and (7)(b) and (c) to children adopted by a person are to be read as including children in respect of whom a parental order has been obtained by that person; and
- (b) the reference in subsection (5) to the deceased's intention of adopting the child is to be read as including a reference to the deceased's intention of applying for a parental order in respect of the child.

Civil Evidence (Family Mediation) (Scotland) Act 1995

18. Section 2(1)(d)(iii) of the Civil Evidence (Family Mediation) (Scotland) Act 1995(16) (exceptions to the general rule of inadmissibility) the reference to an adoption order (as defined in section 28(1) of the Adoption and Children (Scotland) Act 2007) is to be read as including a reference to a parental order under section 54 or section 54A of the 2008 Act.

Children (Northern Ireland) Order 1995

19. In paragraph (7)(a) of Article 107 of the Children (Northern Ireland) Order 1995(17) (privately fostered children further defined) the reference to a child being placed in the care of a person who proposes to adopt the child under arrangements made by an adoption agency within the meaning of the provisions mentioned in that paragraph is to be read as including a reference to a child being in the care of the person or persons who propose to apply for a parental order under section 54 or section 54A of the 2008 Act in respect of that child.

Sexual Offences Act 2003

20. In sections 64 and 65 of the Sexual Offences Act 2003(18) (sex with an adult relative: penetration) references to an adoptive relationship (however expressed) is to be read as a reference to the corresponding relationships created by the grant of a parental order and which arise by virtue of the enactments applied with modifications by regulations 2, 3 and 4 of these Regulations.

Civil Partnership Act 2004

21. Schedule 1 (prohibited degrees of relationship: England and Wales) is to be read as if any reference to an adoptive relationship (however expressed) is to be read as a reference to the corresponding relationships created by the grant of a parental order and which arise by virtue of the enactments applied with modifications by regulations 2, 3 and 4 of these Regulations.

Modification of the Local Electoral Administration and Registration Services (Scotland) Act 2006

22.—(1) In section 58(2)(k) of the Local Electoral Administration and Registration Services (Scotland) Act 2006(19) (issuing of other material kept or held by Registrar General) references to

(15) 1993 c. 8. Section 6 has been amended by S.I. 2005/3325.

(16) 1995 c. 6. Section 2 was amended by paragraph 8 of Schedule 2 to the Adoption and Children (Scotland) Act 2007. Other amendments have been made, but those amendments are not relevant to this instrument.

(17) S. I. 1995/755. (N.I. 2) Article 107 has been amended by paragraph 17 of Schedule 1 to S.I. 2011/1740. Other amendments have been made to Article 107, but those amendments are not relevant to this instrument.

(18) 2003 c. 42. Section 64 was amended by paragraph 5 of Schedule 15 to the Criminal Justice and Immigration Act 2008 (c. 4) and section 65 was amended by paragraph 6 of Schedule 15 to that Act.

(19) 2006 asp 14. Section 58 was amended by paragraph 7 of the Schedule to SSI 2010/21.

the Adopted Children Register and to any register or book are to be read as including references to the Parental Order Register maintained by the Registrar General under section 53(1) of the 2007 Act and to any register or book maintained in pursuance of section 55(1) of that Act, both as applied with modifications by regulation 3 of and Schedule 2 to these Regulations.

Human Fertilisation and Embryology Act 2008

23. In sections 33(2) (meaning of mother) and 38(4) (further provision relating to sections 35 and 36) of the 2008 Act references to adoption are to be read as including a reference to the effect of a parental order under section 54 or 54A of that Act.