

Status: This version of this chapter contains provisions that are prospective.
Changes to legislation: *Adoption and Children Act (Northern Ireland) 2022, CHAPTER 4 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*



2022 CHAPTER 18

PART 1

Adoption

PROSPECTIVE

CHAPTER 4

Status of adopted children

Meaning of adoption in Chapter 4

65.—(1) In this Chapter “adoption” means—

- (a) adoption by an adoption order made under the law of any part of the United Kingdom;
- (b) adoption by an order made in the Isle of Man or any of the Channel Islands;
- (c) an adoption effected under the law of a Convention country outside the United Kingdom, the Channel Islands and the Isle of Man, and certified in pursuance of Article 23(1) of the Convention (referred to in this Act as a “Convention adoption”);
- (d) an overseas adoption; or
- (e) an adoption recognised by the law of Northern Ireland and effected under the law of any other country.

(2) But references in this Chapter to adoption do not include an adoption effected before the day on which this Chapter comes into operation (referred to in this Chapter as “the appointed day”).

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(3) Any reference in a statutory provision to an adopted person within the meaning of this Chapter includes a reference to an adopted child within the meaning of Part 5 of the Adoption (Northern Ireland) Order 1987.

Commencement Information

II S. 65 not in operation at Royal Assent, see [s. 160\(1\)](#)

Status conferred by adoption

66.—(1) An adopted person is to be treated in law as if born as the child of the adopters or adopter.

(2) An adopted person is the legitimate child of the adopters or adopter and, if adopted by—

- (a) two persons who are a couple; or
- (b) one of a couple under section 48(2),

is to be treated as the child of the relationship of the couple in question.

(3) An adopted person—

- (a) if adopted by one of a couple under section 48(2), is to be treated in law as not being the child of any person other than the adopter and the other one of the couple; and
- (b) in any other case, is to be treated in law, subject to subsection (4), as not being the child of any person other than the adopters or adopter;

but this subsection does not affect any reference in this Act to a person's natural parent or to any other natural relationship.

(4) In the case of a person adopted by one of the person's natural parents as sole adoptive parent, subsection (3)(b) has no effect as respects entitlement to property depending on relationship to that parent, or as respects anything else depending on that relationship.

(5) This section has effect from the date of the adoption.

(6) Subject to the provisions of this Chapter and Schedule 4, this section—

- (a) applies for the interpretation of statutory provisions or instruments passed or made before as well as after the adoption, and so applies subject to any contrary indication; and
- (b) has effect as respects things done, or events occurring, on or after the adoption.

(7) This section—

- (a) does not apply to a statutory provision or other instrument passed or made before 1st October 1989 in so far as it contains a disposition of property; and

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- (b) does not apply to any public general Act in its application to any disposition of property in a statutory provision or other instrument passed or made before 1st October 1989.

Commencement Information

I2 S. 66 not in operation at Royal Assent, see [s. 160\(1\)](#)

Adoptive relatives

67.—(1) A relationship existing by virtue of section 66 may be referred to as an adoptive relationship, and—

- (a) an adopter may be referred to as an adoptive parent or (as the case may be) as an adoptive father or adoptive mother;
- (b) any other relative of any degree under an adoptive relationship may be referred to as an adoptive relative of that degree.

(2) Subsection (1) does not affect the interpretation of any reference, not qualified by the word “adoptive”, to a relationship.

(3) A reference (however expressed) to the adoptive mother and father of a child adopted by—

- (a) two persons of the same sex who are a couple; or
 - (b) a partner of the child’s parent, where the couple are of the same sex,
- is to be read as a reference to the child’s adoptive parents.

Commencement Information

I3 S. 67 not in operation at Royal Assent, see [s. 160\(1\)](#)

Rules of interpretation for instruments concerning property

68.—(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 66(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.

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(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 A has a child”, and then to A’s child or children.

Note. Subsection (2) will not affect the reference to the age of 21 years in example 2.

(4) Section 66(3) does not prejudice—

- (a) any qualifying interest;
- (b) any interest expectant (whether immediately nor not) upon a qualifying interest; or
- (c) any contingent interest (other than a contingent interest in remainder) which the adopted person has immediately before the adoption in the estate of a deceased parent, whether testate or intestate.

“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 66) 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 statutory provision.

(7) This section does not apply to a statutory provision or other instrument passed or made before 1st October 1989.

Commencement Information

I4 S. 68 not in operation at Royal Assent, see [s. 160\(1\)](#)

Dispositions depending on date of birth

69.—(1) Where a disposition depends on the date of birth of a person who was born illegitimate and who is adopted by one of the natural parents as sole adoptive parent, section 68(2) does not affect entitlement by virtue of

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Part 2 of the Family Law Reform (Northern Ireland) Order 1977 or Article 22 of the Wills and Administration Proceedings (Northern Ireland) Order 1994 (dispositions of property).

- (2) Subsection (1) applies for example where—
- (a) a testator (“T”) dies in 2017 bequeathing a legacy to T’s eldest grandchild living at a specified time;
 - (b) T’s unmarried daughter has a child in 2018 who is the first grandchild;
 - (c) T’s married son has a child in 2019;
 - (d) subsequently T’s unmarried daughter adopts her child as sole adoptive parent.

In that example the status of the daughter’s child as T’s eldest grandchild is not affected by the events described in paragraph (c) and (d).

Commencement Information

I5 S. 69 not in operation at Royal Assent, see [s. 160\(1\)](#)

Property devolving with peerages etc.

70.—(1) An adoption does not affect the descent of any peerage or dignity or title of honour.

(2) An adoption does not affect the devolution of any property limited (expressly or not) to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour.

(3) Subsection (2) applies only if and so far as a contrary intention is not expressed in the instrument, and has effect subject to the terms of the instrument.

Commencement Information

I6 S. 70 not in operation at Royal Assent, see [s. 160\(1\)](#)

Protection of trustees and personal representatives

71.—(1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether any adoption has been effected or revoked if that fact could affect entitlement to the property.

(2) A trustee or personal representative is not liable to any person by reason of a conveyance or distribution of the property made without regard to any such

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fact if the trustee or personal representative has not received notice of the fact before the conveyance or distribution.

(3) This section does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person, other than a purchaser, who has received it.

Commencement Information

17 S. 71 not in operation at Royal Assent, see [s. 160\(1\)](#)

Meaning of disposition

72.—(1) This section applies for the purposes of this Chapter.

(2) A disposition includes the conferring of a power of appointment and any other disposition of an interest in or right over property (including a disposition by the creating of an entailed interest); and in this subsection a power of appointment includes any discretionary power to transfer a beneficial interest in property without the furnishing of valuable consideration.

(3) This Chapter applies to an oral disposition as if contained in an instrument made when the disposition was made.

(4) The date of death of a testator is the date at which a will or codicil is to be regarded as made.

(5) The provisions of the law of intestate succession applicable to the estate of a deceased person are to be treated as if contained in an instrument executed by the deceased (while of full capacity) immediately before the deceased died.

Commencement Information

18 S. 72 not in operation at Royal Assent, see [s. 160\(1\)](#)

Miscellaneous

73.—(1) Section 66 does not apply for the purposes of Articles 68 and 69 of the Sexual Offences (Northern Ireland) Order 2008 (sex with an adult relative) but nothing in this subsection is to be read as preventing the application of section 66 for the purposes of Article 68(3)(a) or 69(3)(a) of that Order.

(2) Section 66 does not apply for the purposes of Article 18 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 or Schedule 12 to the Civil Partnership Act 2004 (prohibited degrees of relationship).

(3) Section 66 does not apply for the purposes of any provision of—

(a) the British Nationality Act 1981;

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- (b) the Immigration Act 1971;
- (c) any instrument having effect under a provision within paragraph (a) or (b); or
- (d) any other provision of the law for the time being in force which determines British citizenship, British overseas territories citizenship, the status of a British National (Overseas) or British Overseas citizenship.

Commencement Information

I9 S. 73 not in operation at Royal Assent, see [s. 160\(1\)](#)

Pensions

74. Section 66(3) does not affect entitlement to a pension which is payable to or for the benefit of a person and is in payment at the time of the person's adoption.

Commencement Information

I10 S. 74 not in operation at Royal Assent, see [s. 160\(1\)](#)

Insurance

75.—(1) 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, then—

- (a) the rights and liabilities under the policy are by virtue of the adoption transferred to the adoptive parents; and
- (b) for the purposes of the statutory provisions relating to such societies and companies, the adoptive parents are to be treated as the person who took out the policy.

(2) Where the adoption is effected by an order made by virtue of section 48(2), the references in subsection (1) to the adoptive parents are to be read as references to the adopter and the adopter's partner.

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I11 S. 75 not in operation at Royal Assent, see [s. 160\(1\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by S.I. 2018/412, Sch. 3 (as substituted) by [2022 c. 18 \(N.I.\) Sch. 3 para. 83](#)