Legitimacy Act (Northern Ireland) 1928 [F1]

1928 CHAPTER 5

An Act to amend the law relating to children born out of wedlock. [4th June 1928]

F1 1961 c.5 (NI)

[F2A1. Legitimacy of children of civil partners

(1) A child is legitimate by virtue of a civil partnership between the natural parents of the child if, had the civil partnership been a marriage (and all other circumstances were the same), the child would have been legitimate at common law by virtue of the marriage.

(2) Subsection (1) applies to a child born on or after 13th January 2020.]

F2 S. A1 inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(2)** (with regs. 6-9)

1 Legitimation by subsequent marriage [F3or civil partnership] of parents.

(1) Subject to the provisions of this section, where the [F4mother and father] of an illegitimate person marry or have married one another, whether before or after the commencement of this Act, the marriage shall, if the father of the illegitimate person was or is at the date of the marriage domiciled in Northern Ireland, render that person, if living, legitimate from the commencement of this Act, or from the date of the marriage, whichever last happens.

[F5(1ZA) Where—

(a) the mother and father of an illegitimate person become civil partners of one another on or after 13th January 2020, and

(b) the father of the illegitimate person is, at the date of the formation of the civil partnership, domiciled in Northern Ireland,

the civil partnership renders that person, if living (and whether born before, on or after 13th January 2020), legitimate from the date of the formation of the civil partnership.]

[F6(1A) Subject to subsection (3), where—

(a) a person ("the child") has a parent ("the female parent") by virtue of section 43 of the Human Fertilisation and Embryology Act 2008 (treatment provided to woman who agrees that second woman to be parent);

(b) at the time of the child's birth, the female parent and the child's mother are **[**F7neither married nor**]** civil partners of each other;

(c) the female parent and the child's mother subsequently **[**F8marry or**]** enter into a civil partnership; and

(d) the female parent is at the date of **[**F9the marriage or**]** the formation of the civil partnership domiciled in Northern Ireland,

the civil partnership **[**F10the marriage or**]** shall render the child, if living, legitimate from the date of **[**F11the marriage or**]** the formation of the civil partnership.**]**

Subs. (2) rep. by 1961 c. 5 (NI)

(3) The legitimation of a person under this Act does not enable him or his spouse, children or remoter issue to take any interest in real or personal property save as is hereinafter in this Act expressly provided.

Subs. (4) rep. by SLR 1976

F3 S. 1: words in heading inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68(2), **Sch. 6 para. 57(2)**; S.I. 2009/479, **art. 6(d)(f)** (with art. 7, Sch. 1)

F4 Words in s. 1(1) substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(a)** (with regs. 6-9)

F5 S. 1(1ZA) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(b)** (with regs. 6-9)

F6 S. 1(1A) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68(2), **Sch. 6 para. 57(3)**; S.I. 2009/479, **art. 6(d)(f)** (with art. 7, Sch. 1)

F7 Words in s. 1(1A)(b) substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(c)(i)** (with regs. 6-9)

F8 Words in s. 1(1A)(c) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(c)(ii)** (with regs. 6-9)

F9 Words in s. 1(1A)(d) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(c)(iii)** (with regs. 6-9)

F10 Words in s. 1(1A) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(c)(iv)** (with regs. 6-9)

F11 Words in s. 1(1A) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(3)(c)(v)** (with regs. 6-9)

S. 2 rep. with saving by 1989 NI 4; SR 1989/306

3 Rights of legitimated persons, etc., to take interests in property.

(1) Subject to the provisions of this Act, a legitimated person and his spouse **[**F12or civil partner**]** , children or remoter issue shall be entitled to take any interest—

(a) in the estate of an intestate dying after the date of legitimation;

(b) [F13] under any disposition coming into operation after the date of legitimation;

(c) by descent under a disposition whereby an estate tail has been created after the date of legitimation;

in like manner as if the legitimated person had been born legitimate.

(2) [F13] Where the right to any property, real or personal, depends on the relative seniority of the children of any person, and those children include one or more legitimated persons, the legitimated person or persons shall rank as if he or they had been born on the day when he or they became legitimated by virtue of this Act, and if more than one such legitimated person became legitimated at the same time, they shall rank as between themselves in order of seniority.

(3) Where property real or personal or any interest therein is limited in such a way that, if this Act had not been passed, it would (subject or not to any preceding limitations or charges) have devolved (as nearly as the law permits) along with a dignity or title of honour, then nothing in this Act shall operate to sever the property or any interest therein from such dignity, but the same shall go and devolve (without prejudice to the preceding limitations or charges aforesaid) in like manner as if this Act had not been passed. This sub-section applies, whether or not there is any express reference to the dignity or title of honour and notwithstanding that in some events the property, or some interest therein, may become severed therefrom.

(4) This section applies only if and so far as a contrary intention is not expressed in the disposition, and shall have effect subject to the terms of the disposition and to the provisions therein contained.

F12 Words in s. 3(1) inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(4)** (with regs. 6-9)

F13 1977 NI 17

4 Succession on intestacy of legitimated persons and their issue.

Where a legitimated person or a child or remoter issue of a legitimated person dies intestate in respect of all or any of his real or personal property, the same persons shall be entitled to take the same interests therein as they would have been entitled to take if the legitimated person had been born legitimate.

5 Application to illegitimate person dying before marriage [F14, or civil partnership, of mother and father] .

Where an illegitimate person dies after the commencement of this Act and before the marriage [F15or civil partnership] of his [F16mother and father] leaving any spouse [F17, civil partner] , children or remoter issue living at the date of such marriage [F15or civil partnership] , then, if that person would, if living at the time of the marriage [F15or civil partnership] of his [F16mother and father] , have become a legitimated person, the provisions of this Act with respect to the taking of interests in property by, or in succession to, the spouse [F18or civil partner] , children and remoter issue of a legitimated person (including those relating to the rate of death duties) shall apply as if such person as aforesaid had been a legitimated person and the date of the marriage [F15or civil partnership] of his [F16mother and father] had been the date of legitimation.

F14 Words in s. 5 heading substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(5)(e)** (with regs. 6-9)

F15 Words in s. 5 inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(5)(a)** (with regs. 6-9)

F16 Words in s. 5 substituted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(5)(b)** (with regs. 6-9)

F17 Words in s. 5 inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(5)(c)** (with regs. 6-9)

F18 Words in s. 5 inserted (13.1.2020) by The Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019 (S.I. 2019/1514), regs. 1(2), **23(5)(d)** (with regs. 6-9)

6 Personal rights and obligations of legitimated persons.

(1) A legitimated person shall have the same rights, and shall be under the same obligations in respect of the maintenance and support of himself or of any other person, as if he had been born legitimate, and, subject to the provisions of this Act, the provisions of any Act relating to claims for damages, compensation, allowance, benefit, or otherwise by or in respect of a legitimate child shall apply in like manner in the case of a legitimated person.

Subs. (2) rep. by SLR (NI) 1952

7 Death duties.

Where a legitimated person or any relative of a legitimated person takes any interest in real or personal property, any…[F19] duty which becomes leviable after the date of legitimation shall be payable at the same rate as if the legitimated person had been born legitimate.

F19 1949 c.15 (NI); 1975 c.7

8 Provisions as to persons legitimated by extraneous law.

(1) Where the **[**[F20]mother and father**]** of an illegitimate person marry or have married one another, whether before or after the commencement of this Act, and the father of the illegitimate person was or is, at the time of the marriage, domiciled in a country, other than Northern Ireland, by the law of which the illegitimate person became legitimated by virtue of such subsequent marriage, that person, if living, shall in Northern Ireland be recognised as having been so legitimated from the commencement of this Act or from the date of the marriage, whichever last happens, notwithstanding that his father was not at the time of the birth of such person domiciled in a country in which legitimation by subsequent marriage was permitted by law.

[[F21](1ZA) Where—

(a) the mother and father of an illegitimate person become civil partners of one another on or after 13th January 2020,