

Status: This version of this provision is prospective.

Changes to legislation: Adoption and Children Act (Northern Ireland) 2022, Section 68 is up to date with all changes known to be in force on or before 13 June 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

CHAPTER 4

Status of adopted children

PROSPECTIVE

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.

(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”.

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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

- II** S. 68 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](#)