



# Succession (Scotland) Act 1964

## 1964 CHAPTER 41

### PART IV

#### ADOPTED PERSONS

#### **23 Adopted person to be treated for purposes of succession etc. as child of adopter.**

(1) For all purposes relating to—

- (a) the succession to a deceased person (whether testate or intestate), and
- (b) the disposal of property by virtue of any *inter vivos* deed,

an adopted person shall be treated as the child of the adopter and not as the child of any other person.

In this subsection and in the following provisions of this Part of this Act any reference to succession to a deceased person shall be construed as including a reference to the distribution of any property in consequence of the death of the deceased person and any claim to legal rights or the prior rights of a surviving spouse out of his estate.

(2) In any deed whereby property is conveyed or under which a succession arises, being a deed executed after the making of an adoption order, unless the contrary intention appears, any reference (whether express or implied)—

- (a) to the child or children of the adopter shall be construed as, or as including, a reference to the adopted person;
- (b) to the child or children of the adopted person's natural parents or either of them shall be construed as not being, or as not including, a reference to the adopted person; and
- (c) to a person related to the adopted person in any particular degree shall be construed as a reference to the person who would be related to him in that degree if he were the child of the adopter and were not the child of any other person:

Provided that for the purposes of this subsection a deed containing a provision taking effect on the death of any person shall be deemed to have been executed on the date of death of that person.

*Status: Point in time view as at 01/08/1995.*

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- (3) Where the terms of any deed provide that any property or interest in property shall devolve along with a title, honour or dignity, nothing in this <sup>F1</sup>section or in the Children Act 1975 or in the Adoption (Scotland) Act 1978 shall prevent] that property or interest from so devolving.
- (4) Nothing in this section shall affect any deed executed, or the devolution of any property on, or in consequence of, the death of a person who dies, before the commencement of this Act.
- (5) In this Part of this Act the expression “adoption order”<sup>F1</sup> has the same meaning as in section 38 of the Adoption (Scotland) Act 1978 (whether the order took effect before or after the commencement of this Act); and “adopted” means adopted in pursuance of an adoption order]

#### Textual Amendments

**F1** Words substituted by [Adoption \(Scotland\) Act 1978 \(c. 28, SIF 49:11\)](#), s. 66, **Sch. 3 para. 4**

#### Modifications etc. (not altering text)

- C1** [S. 23](#) saved by [Legitimation \(Scotland\) Act 1968 \(c. 22\)](#), **ss. 2(6)**, 6(2)
- C2** [S. 23\(1\)](#) excluded by Law Reform (Miscellaneous Provisions)(Scotland) Act 1966 (c. 19), s. 5(1)
- C3** Definition in s. 23(5) applied (25.9.1991) by [Agricultural Holdings \(Scotland\) Act 1991 \(c. 55, SIF 2:3\)](#), **ss. 25(5)**, 89(2), **Sch. 2 Pt. III**, para.1 (with s. 45(3), [Sch. 12 para. 3](#))

## 24 Provisions supplementary to s. 23.

- (1) For the purposes of the law regulating the succession to any property and for the purposes of the construction of any such deed as is mentioned in the last foregoing section, an adopted person shall be deemed to be related to any other person, being the child or the adopted child of the adopter or (in the case of a joint adoption) of either of the adopters,
- (a) where he or she was adopted by two spouses jointly and that other person is the child or adopted child of both of them, as a brother or sister of the whole blood;
  - (b) in any other case, as a brother or sister of the half blood.
- <sup>F2</sup>(1A) Where, in relation to any purpose specified in section 23(1) of this Act, any right is conferred or any obligation is imposed, whether by operation of law or under any deed coming into operation after the commencement of the Children Act 1975, by reference to the relative seniority of the members of a class of persons, then, without prejudice to any entitlement under Part I of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968 of an illegitimate child who is adopted by one of his parents,
- (a) any member of that class who is an adopted person shall rank as if he had been born on the date of his adoption, and
  - (b) if two or more members of the class are adopted persons whose dates of adoption are the same, they shall rank as between themselves in accordance with their respective times of birth.]
- (2) Notwithstanding anything in the last foregoing section, a trustee or an executor may distribute any property for the distribution of which he is responsible without having ascertained that no adoption order has been made by virtue of which any person is or may be entitled to any interest therein, and shall not be liable to any such person of

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whose claim he has not had notice at the time of the distribution; but (without prejudice to section 17 of this Act) nothing in this subsection shall affect any right of any such person to recover the property, or any property representing it, from any person who may have received it.

(3) Where an adoption order is made in respect of a person who has been previously adopted, the previous adoption shall be disregarded for the purposes of the last foregoing section in relation to the devolution of any property on the death of any person dying after the date of the subsequent adoption order, and in relation to any deed executed after that date whereby property is conveyed or under which a succession arises.

(4) ..... F3

**Textual Amendments**

**F2** S. 24(1A) added by Children Act 1975 (c. 72, SIF 49:9, 10), s. 8(10), **Sch. 2 para. 5(3)**

**F3** S. 24(4) repealed by Adoption (Scotland) Act 1978 (c. 28, SIF 49:11), s. 66, **Sch. 4**

**Modifications etc. (not altering text)**

**C4** S. 24 saved by Legitimation (Scotland) Act 1968 (c. 22), **ss. 2(6), 6(2)**

**Status:**

Point in time view as at 01/08/1995.

**Changes to legislation:**

There are currently no known outstanding effects for the Succession (Scotland) Act 1964, Part IV.