

**1988 No. 425 (C.11)**

**FAMILY LAW**

**The Family Law Reform Act 1987  
(Commencement No. 1) Order 1988**

*Made - - - - 3rd March 1988*

The Lord Chancellor, in exercise of the powers conferred on him by section 34(2) of the Family Law Reform Act 1987(a), hereby makes the following Order:-

1. This Order may be cited as the Family Law Reform Act 1987 (Commencement No.1) Order 1988.

2. The provisions of the Family Law Reform Act 1987 set out in the first column of the Schedule and its Appendices (which relate to the matters specified in the second columns thereof) to this Order shall come into force on 4th April 1988.

Dated 3rd March 1988

*Mackay of Clashfern, C.*

## SCHEDULE

(1)	(2)
<i>Provisions of the Act</i>	<i>Subject matter of provisions</i>
Section 1	General principle
Section 18	Succession on intestacy
Section 19	Dispositions of property
Section 20	No special protection for trustees and personal representatives
Section 21	Entitlement to grant of probate etc.
Section 22	Declarations of parentage
Section 26	Re-registration after declaration of parentage
Section 27	Artificial insemination
Section 28	Children of void marriages
Section 29	Evidence of paternity in civil proceedings
Section 31	Interpretation
Section 33, only in so far as it provides for the amendments specified in Appendix A, the transitional provisions specified in Appendix B and the repeals specified in Appendix C.	Amendments, transitional provisions, savings and repeals
Section 34	Short title, commencement and extent

## APPENDIX A TO THE SCHEDULE

(1)	(2)
<i>Provisions in Schedule 2 to the Act</i>	<i>Enactments amended</i>
Paragraph 2	Section 33 of the Trustee Act 1925(a)
Paragraph 3	Section 50 of the Administration of Estates Act 1925(b)
Paragraph 4	Section 52 of the Administration of Estates Act 1925
Paragraph 9	Sections 3, 16 and 28 and Schedule 2 to the Marriage Act 1949(c)
Paragraph 10	Sections 78 of the Marriage Act 1949
Paragraph 11	Schedule 2 to the Marriage Act 1949
Paragraph 16(c)	Section 14(1)(c) of the Births and Deaths Registration Act 1953(d)
Paragraph 19	Section 2 of the Domestic and Appellate Proceedings (Restriction of Publicity) Act 1968(e)
Paragraph 59	Section 25 of the Social Security Act 1975(f)
Paragraph 73	Schedule 1 to the Interpretation Act 1978(g)
Paragraph 74	Paragraph 4 of Schedule 2 to the Interpretation Act 1978
Paragraph 96	Section 60(2)(c) of the Family Law Act 1986(h)

- (a) 1925 c.19.  
 (b) 1925 c.23.  
 (c) 1949 c.76.  
 (d) 1953 c.20.  
 (e) 1968 c.63.  
 (f) 1975 c.14.  
 (g) 1978 c.30.  
 (h) 1986 c.55.

## APPENDIX B TO THE SCHEDULE

(1)	(2)
<i>Paragraphs in Schedule 3 to the Act</i>	<i>Subject matter of paragraphs</i>
Paragraph 1	Applications pending under amended or repealed enactments
Paragraph 8 to 10	Property rights

## APPENDIX C TO THE SCHEDULE

(1)	(2)
<i>Provisions repealed in Schedule 4 to the Act</i>	<i>Subject matter</i>
In Section 2(1) of the Domestic and Appellate Proceedings (Restrictions of Publicity) Act 1968, the word "and" following paragraph (c)	Declarations of parentage
Sections 14, 15 and 17 of the Family Law Reform Act 1969(a)	Property rights
In paragraph 4 of Schedule 2 to the Interpretation Act 1978, the words "earlier than the commencement of this Act"	Interpretation

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force on 4th April 1988 the provisions of the Family Law Reform Act 1987 which are indicated in the Schedule.

The effect of these provisions is as follows:—

- (a) section 1 lays down the general principle that, in the absence of a contrary intention, a relationship between two persons is to be construed without regard to whether either of them, or any person through whom the relationship is deduced, is or is not legitimate. This principle is applied to the provisions of the 1987 Act and to all future enactments and instruments;
- (b) section 18 deals with rights of succession to property on intestacy. Illegitimacy is not to be taken into consideration in determining the rights of succession of an illegitimate person, the rights of succession to the estate of an illegitimate person and the rights of succession through an illegitimate relationship;
- (c) section 19 effects reforms benefitting illegitimate persons in relation to succession under wills and other dispositions (including entailed interests);
- (d) section 20 removes a special protection for trustees and personal representatives which concerns the claims of potential illegitimate claimants under a will;
- (e) section 21 creates for the purposes of obtaining a grant of probate or administration a rebuttable presumption that the deceased left no surviving illegitimate relatives, or relations whose relationship is traced through an illegitimate person;
- (f) section 22 provides for the making of declarations of parentage;
- (g) section 26 provides for the re-registration of a birth after a declaration of parentage;
- (h) section 27 provides that a child born to a married woman after artificial insemination from a donor is to be treated in law as the legitimate child of his mother and her husband and as a child of their marriage. Such legitimation will only occur if the mother's husband has consented to the insemination;

(a) 1969 c.46.

- (i) section 28 provides that, if a marriage is void, there is a presumption that at least one of the parties believed the marriage to be valid: in such a case a child of the marriage will be treated as legitimate. The section also makes clear that a mistake of law as to the validity of the marriage does not prevent such a belief from being reasonable so as to make the child legitimate;
- (j) section 29 amends section 12 of the Civil Evidence Act 1968 (c.64) so that an adjudication of paternity made in the course of all proceedings brought under the Guardianship of Minors Act 1971 (c.3) and of proceedings brought by public bodies should constitute *prima facie* evidence of paternity.
- (k) section 31 is the interpretation section;
- (l) section 33 deals with amendments, transitional provisions, savings and repeals;
- (m) section 34 deals the short title of the 1987 Act, its commencement and extent.

This Order also brings into force the amendments, transitional provisions and repeals contained in Appendices A, B and C respectively. These provisions are brought into force consequentially upon the bringing into force of the sections of the 1987 Act set out in the Schedule to this Order.

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