



Clarifying the Rights of Individuals Related by Marriage and Half-Relations

From time to time, we encounter situations where the rights of step-children (or other individuals related by marriage) are questioned.

For the purposes of Part II of the *Succession Law Reform Act*, which addresses rights on an intestacy, a “child” is defined as including “a child conceived before and born alive after the parent’s death, and a child conceived and born alive after the parent’s death, if the conditions in subsection 1.1(1) [which outlines guidelines for the use of genetic materials in the posthumous conception of a child] are met.” Individuals who are born outside of marriage are also noted to have the same rights as those born to parents married to one another (at subsection 1(3)).

Based on this definition, while other factors might apply to the interpretation of a Will or Codicil, the use of the word “child” or “issue” generally will not be implied as including step-children and a step-child or step-sibling will have no automatic rights in their step-parent or step-siblings’ estates on an intestacy, unless they have been formally adopted by the step-parent. The issue of adoption was previously reviewed in one of our Solicitor’s Tips available [here](#).

However, a step-child may nevertheless qualify as a dependant under Part V of the *Succession Law Reform Act*, under which Part the definition of “child” is expanded to include “a grandchild and a person whom the deceased has demonstrated a settled intention to treat as a child of his or her family” (subsection 57(1)).

Unlike with step-children, who would not normally fall under the definition of “child” under Parts I to IV of the *Succession Law Reform Act*, the legislation does not distinguish between individuals who are biologically related through only one parent. Accordingly, half-siblings (or other degrees of relation) have the same rights as a fully biologically-related sibling does, subject to any wording of a testamentary document to the contrary.

In light of the increase in blended families and the difficulties that an individual related by marriage alone may face in asserting an interest in a step-parent’s estate, it is important that intentions to benefit (or exclude) step-relatives are reviewed with estate planning clients and clearly documented. Similarly, if it is not intended that a half-sibling or other relation benefit to the same degree as their half-siblings, it is important that this is clarified to avoid any ambiguity.