



Presumption of Death Act 2013

2013 CHAPTER 13

Declaration of presumed death

1 Applying for declaration

- (1) This section applies where a person who is missing—
 - (a) is thought to have died, or
 - (b) has not been known to be alive for a period of at least 7 years.
- (2) Any person may apply to the High Court for a declaration that the missing person is presumed to be dead.
- (3) The court has jurisdiction to hear and determine an application under this section only if—
 - (a) the missing person was domiciled in England and Wales on the day on which he or she was last known to be alive,
 - (b) the missing person had been habitually resident in England and Wales throughout the period of 1 year ending with that day, or
 - (c) subsection (4) is satisfied.
- (4) This subsection is satisfied if the application is made by the spouse or civil partner of the missing person and—
 - (a) the applicant is domiciled in England and Wales on the day on which the application is made, or
 - (b) the applicant has been habitually resident in England and Wales throughout the period of 1 year ending with that day.
- (5) The court must refuse to hear an application under this section if—
 - (a) the application is made by someone other than the missing person's spouse, civil partner, parent, child or sibling, and
 - (b) the court considers that the applicant does not have a sufficient interest in the determination of the application.
- (6) This section has effect subject to section 21(2).

2 Making declaration

- (1) On an application under section 1, the court must make the declaration if it is satisfied that the missing person—
 - (a) has died, or
 - (b) has not been known to be alive for a period of at least 7 years.
- (2) It must include in the declaration a finding as to the date and time of the missing person's death.
- (3) Where the court—
 - (a) is satisfied that the missing person has died, but
 - (b) is uncertain at which moment during a period the missing person died,the finding must be that the missing person is presumed to have died at the end of that period.
- (4) Where the court—
 - (a) is satisfied that the missing person has not been known to be alive for a period of at least 7 years, but
 - (b) is not satisfied that the missing person has died,the finding must be that the missing person is presumed to have died at the end of the period of 7 years beginning with the day after the day on which he or she was last known to be alive.

3 Effect of declaration

- (1) A declaration under this Act is conclusive of—
 - (a) the missing person's presumed death, and
 - (b) the date and time of the death.
- (2) A declaration under this Act is effective against all persons and for all purposes, including for the purposes of—
 - (a) the acquisition of an interest in any property, and
 - (b) the ending of a marriage or civil partnership to which the missing person is a party.
- (3) But subsections (1) and (2) apply to a declaration only if—
 - (a) it has not been appealed against and the period for bringing an appeal has ended, or
 - (b) it has been appealed against and the appeal (and any further appeal) has been unsuccessful.
- (4) For the purposes of subsection (3), an appeal has been unsuccessful if—
 - (a) it has been dismissed or withdrawn, and
 - (b) any period for bringing a further appeal has ended.

4 Other powers of court making declaration

- (1) When making a declaration under this Act, the court may—
 - (a) determine any question which relates to an interest in property and arises as a result of the declaration, and

- (b) determine the domicile of the missing person at the time of his or her presumed death.
- (2) When making a declaration under this Act, the court may make such order as it considers reasonable in relation to any interest in property acquired as a result of the declaration.
- (3) An order under subsection (2) may direct that the value of any interest in property acquired as a result of the declaration is not to be recoverable by virtue of an order made under section 7(2).
- (4) It may, in particular, direct that the value of the interest—
 - (a) is not to be recoverable in any circumstances, or
 - (b) is not to be recoverable where conditions specified in the order are met.