



Presumption of Death Act 2013

2013 CHAPTER 13

Further provision about declarations and orders

9 Giving notice of application

- (1) A person who makes an application under this Act for a declaration or a variation order must send to the persons specified by rules of court—
 - (a) notice of the application, and
 - (b) any other information specified by rules of court.
- (2) An application under this Act for a declaration or a variation order must be advertised in accordance with rules of court.
- (3) The court must refuse to hear an application under this Act for a declaration or a variation order if the requirements in this section have not been met.

10 Attorney General

- (1) In proceedings on an application under this Act for a declaration or a variation order, the court may at any stage direct that papers relating to the matter be sent to the Attorney General.
- (2) It may do so on the application of a party to the proceedings or without such an application being made.
- (3) Where the Attorney General incurs costs in connection with an application under this Act for a declaration or a variation order, the court may make such order as it considers appropriate as to the payment of the costs by parties to the proceedings.
- (4) Subsection (3) applies whether the costs are incurred by virtue of a direction under subsection (1), an intervention under section 11(2) or otherwise.

11 Right to intervene

- (1) The missing person's spouse, civil partner, parent, child or sibling may intervene in proceedings on an application under this Act for a declaration or a variation order.

- (2) The Attorney General may intervene in such proceedings, whether or not the court directs papers relating to the application to be sent to the Attorney General.
- (3) Any other person may intervene in such proceedings only with the permission of the court.
- (4) References in this section to intervening in proceedings include—
 - (a) arguing before the court any question in relation to the application which the court considers it necessary to have fully argued,
 - (b) in proceedings on an application for a declaration under this Act, seeking a determination or order under section 4, and
 - (c) in proceedings on an application for a variation order, seeking a determination or order under section 7.

12 Information

- (1) In proceedings on an application under this Act for a declaration or a variation order, the court may by order at any stage require a person who is not a party to the proceedings to provide it with specified information that it considers relevant to the question of whether the missing person is alive or dead.
- (2) It may do so only where it considers it necessary for the purpose of disposing of the proceedings.
- (3) It may do so on the application of a party to the proceedings or without such an application being made.
- (4) The order may not require the provision of information—
 - (a) which is permitted or required by any rule of law to be withheld on grounds of public interest immunity,
 - (b) which any person would be entitled to refuse to provide on grounds of legal professional privilege, or
 - (c) whose provision might incriminate the person providing it, or that person's spouse or civil partner, of an offence.
- (5) Before making an order under this section, the court must send notice of its intention to make the order to any person who, in its opinion, is likely to be affected by the order.
- (6) The court may discharge or vary an order made under this section on an application made by any person who, in the opinion of the court, is affected by it.
- (7) In this section “specified” means specified in an order under this section.

13 Insurance against claims: trustees

- (1) If the court so directs, the trustee of a trust affected by a declaration under this Act must as soon as reasonably practicable take out an insurance policy in respect of any claim which may arise by virtue of an order under section 7(2).
- (2) For the purposes of this section, a trust is affected by a declaration under this Act if—
 - (a) it arises as a result of the declaration, or
 - (b) property held under the trust is affected by the declaration.

- (3) A premium payable by the trustee in accordance with a direction under this section may be paid out of money or other property held under the trust.

14 Insurance against claims: insurers paying capital sums

- (1) Before paying a capital sum to a person as a result of a declaration under this Act, an insurer may require the person to take out an insurance policy in respect of any claim which the insurer may make in the event of a variation order being made.
- (2) The policy must be taken out—
- (a) in the person's own name, and
 - (b) for the benefit of the insurer.
- (3) Subsection (1) does not apply where the sum is paid in respect of an annuity or other periodical payment.
- (4) In this section "insurer" means any person who provides for the payment of a benefit on a person's death.