

# **PRESUMPTION OF DEATH ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 3: Effect of declaration***

20. **Section 3** is about the effect of a declaration of presumed death made under the Act. A declaration is to be conclusive proof of the missing person's presumed death and the time and date of that presumed death (*subsection (1)*). *Subsection (2)* confirms that the declaration is effective for all purposes and against all persons, and that the effect of the declaration extends to matters of property ownership (*subsection (2)(a)*) and the ending of the missing person's marriage or civil partnership (*subsection (2)(b)*). However, a declaration is only conclusive and effective as described in *subsection (1)* and *(2)* if it is final in the sense of being no longer subject to appeal. Either the period for making an appeal against the decision of the court to make the declaration must have expired without an appeal being made or, if an appeal was made, the appeal (and any further appeal) must have been dismissed or withdrawn and any period for a further appeal must have expired (*subsections (3) and (4)*).
21. The period for an appeal will be specified in rules of court. See Civil Procedure Rules, part 52. The standard period for making an appeal is 21 days (CPR r 52.4(2)(b)).