



2009 CHAPTER 6

Declarations of presumed death

Making of declaration of presumed death

2.—(1) Where on an application for a declaration under section 1 the truth of the proposition to be declared is proved to its satisfaction, the High Court must make that declaration and—

- (a) where the Court is satisfied that the missing person has died, the Court must include in the declaration a finding as to the date and time of death and, where it is uncertain when, within any period of time, the missing person died, the Court must find that he or she died at the end of that period;
- (b) where the Court is satisfied that the missing person has not been known to be alive for a period of at least 7 years, the Court must include in the declaration a finding that the missing person died at the end of the day occurring 7 years after the date on which he or she was last known to be alive.

(2) The High Court, on the dismissal of an application for a declaration under section 1, may not make any declaration for which an application has not been made.

(3) No declaration which may be applied for under section 1 may be made otherwise than under section 1 by any court or tribunal.

(4) Where, for the purpose of deciding any issue before it, a court or tribunal has to determine any incidental question relating to the death of a person, the court or tribunal may determine that question (but only for the purpose of deciding that issue), and in the determination of that question, the court or tribunal must apply the criteria set out in subsection (1).