



Presumption of Death (Scotland) Act 1977

1977 CHAPTER 27

2 Decree in action of declarator and determination of incidental questions in other proceedings

- (1) In an action of declarator, the court, having heard proof and being satisfied on a balance of probabilities that the missing person—
- (a) has died, shall grant decree accordingly and shall include in the decree a finding as to the date and time of death:

Provided that where it is uncertain when, within any period of time, the missing person died, the court shall find that he died at the end of that period;
 - (b) has not been known to be alive for a period of at least seven years, shall find that the missing person died at the end of the day occurring seven years after the date on which he was last known to be alive and shall grant decree accordingly*
- (2) The court, in granting decree under subsection (1) above, shall have power to—
- (a) determine the domicile of the missing person at the date of his death;
 - (b) determine any question relating to any interest in property which arises as a consequence of the death of the missing person;
 - (c) appoint a judicial factor on the estate of the missing person notwithstanding (in relation to such an appointment by the sheriff) what the value of the estate may be.
- (3) Where, for the purpose of deciding any issue before it, a court or statutory tribunal has to determine any incidental question as to the death of a person, the court or tribunal may, if it thinks fit, determine that question (but for the purpose only of deciding that issue); and in the determination of that question the court or tribunal shall apply the criteria set out in subsection (1) above. '