

These notes refer to the Presumption of Death Act (Northern Ireland) 2009 (c.6) which received Royal Assent on 2 July 2009

Presumption of Death Act (Northern Ireland) 2009

EXPLANATORY NOTES

BACKGROUND AND POLICY OBJECTIVES

3. “The disappeared” is the name given to those people abducted and killed by terrorist groups during the course of the Troubles up to April 1998 whose bodies have never been found. While the *Independent Commission for the Location of Victims’ Remains* continues its work to find the graves of the disappeared, the remains of 8 of them have yet to be discovered.
4. In recent years some of the families of the disappeared have raised with Ministers their disappointment that the deaths of the disappeared cannot be registered in the absence of their physical remains. In response to calls for some change to the law to be made the Department began, in early 2007, an examination of the current legislative framework for death registration with a view to determining how best to provide a mechanism whereby the deaths of the disappeared in Northern Ireland could be registered and certificates of death provided for their families.
5. In examining this issue it became clear that any new piece of legislation should aim to address not only the needs of the families of the disappeared for a death certificate, but also aim to provide a procedure whereby the cases of other missing persons who are presumed to have died could be addressed.
6. At the same time as the Department was considering the introduction of new legislation addressing the issue of missing persons, the Council of Europe began an examination of “*Missing persons, presumption of death and commorientes following, in particular, terrorist attacks and natural disasters*”. The Working Party examining this issue has been mandated to develop a draft recommendation for approval by the Committee of Ministers. The Working Party published its draft recommendation in February 2009. In addition, the Law Reform Commission of Ireland announced in December 2007 that it would soon be commencing a new project on the “*Civil Law Aspects of the Law of Missing Persons*”. In January 2009 a Private Member’s Bill, modelled on the new Northern Ireland legislation, was introduced in the House of Commons by Tim Boswell MP to address the issue of missing people in England & Wales. That Bill, however, will make no further progress this Parliamentary Session 2008 – 2009.

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7. In taking forward this work the Department has modelled this Act on the Presumption of Death (Scotland) Act 1977, which provides a comprehensive procedure for declaring that a missing person from Scotland may be declared to have died.