

# **PRESUMPTION OF DEATH ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 4: Other powers of court making declaration***

22. **Section 4** enables the court making a declaration of presumed death to decide, when doing so, the domicile of the missing person (see *subsection (1)(b)* and section 1 above) at the time of presumed death, and any question relating to an interest in property arising as a result of the declaration (*subsection (1)(a)*); and also to make any order it considers reasonable in relation to any interest in property acquired as a result of the declaration (*subsection (2)*). *Subsection (3)* provides that in making an order under subsection (2) the court may specify (subject to conditions or generally (*subsection (4)*)) that the value of an asset acquired as a result of the declaration cannot in due course be recovered under an order made by the court when varying or revoking a declaration (see sections 5 and 7(2)).
23. The term “interest in property” is defined in section 20(1) to be an interest in property of any description, including a freehold or leasehold estate in land and a right over property. The term “an interest” is not specifically defined but refers to a right of ownership of some kind over the whole or part of the property in question.