

# **PRESUMPTION OF DEATH ACT 2013**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 6: Effect of variation order***

25. **Section 6** is about the effect of a variation order. A variation order does not of itself affect property acquired as a result of the declaration (*subsection (1)*): this protects those coming into possession of property in good faith (see further in section 7(2) and (6), explained below). Nor does a variation order revive any marriage or civil partnership ended by the declaration (*subsection (2)*): this ensures that subsequent marriages or civil partnerships of the missing person's spouse or civil partner are not invalidated.
26. These matters apart, the result of making a variation order is set out in *subsection (3)*. It provides that where the variation order varies a declaration, the declaration as varied will be conclusive of the missing person's presumed death and the date and time of that presumed death and will be effective for all purposes and against all persons. Where, on the other hand, the variation order revokes a declaration, the declaration will cease to be so conclusive and effective (*subsection (3)(b)*).
27. However, the consequences specified in *subsection (3)* only take effect if either the period for making an appeal against the decision of the court to make the variation order has expired without an appeal being made or, if an appeal was made, the appeal (and any further appeal) was dismissed or withdrawn and any period for a further appeal has expired (*subsection (4)*).