

2014 No. 1810 (C. 79)

PRESUMPTION OF DEATH

**The Presumption of Death Act 2013 (Commencement and
Transitional and Saving Provision) Order 2014**

Made - - - -

8th July 2014

The Secretary of State for Justice makes the following Order in exercise of the power conferred by section 22(2) to (4) of the Presumption of Death Act 2013(a).

Citation

1. This Order may be cited as the Presumption of Death Act 2013 (Commencement and Transitional and Saving Provision) Order 2014.

Appointed day

2. The Presumption of Death Act 2013, so far as not already in force, comes into force on 1st October 2014.

Transitional and saving provision

3.—(1) The amendments made by Schedule 2 to the Presumption of Death Act 2013 have effect subject to paragraphs (2) and (3).

(2) Section 19 of the Matrimonial Causes Act 1973 (presumption of death and dissolution of marriage)(b) continues to have effect in relation to any petition presented to the court under subsection (1) of that section before 1st October 2014.

(3) Section 222 of the Civil Partnership Act 2004 (proceedings for presumption of death order)(c) continues to have effect, in relation to an application for a presumption of death order made before 1st October 2014, as if it had not been amended by paragraph 3 of Schedule 2 to the Presumption of Death Act 2013.

Signed by authority of the Secretary of State

8th July 2014

Edward Faulks
Minister of State
Ministry of Justice

(a) 2013 c. 13.

(b) 1973 c. 18. Section 19 was amended by the Domicile and Matrimonial Proceedings Act 1973 (c.45), section 17(2), Schedule 6, and by the Family Law Act 1996 (c. 27), section 66(1), Schedule 8.

(c) 2004 c. 33.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force those provisions of the Presumption of Death Act 2013 not already in force. By virtue of section 22(1) of the Act, the following provisions of the Act came into force on the day (26th March 2013) on which the Act was passed: sections 17 to 24; section 9 to the extent that it confers power to make rules; and section 15(4) and Schedule 1 to the extent that they confer power to make regulations.

The Act makes provision to introduce into the law of England and Wales a procedure to enable those left behind to obtain a declaration from the High Court that a missing person is to be presumed to have died. Such a declaration is conclusive as to the presumed death and effective for all purposes and against all persons; but the Act also makes provision enabling the making of a variation order should facts subsequently emerge which require the declaration to be revoked or varied.

The new procedure replaces, and repeals the legislation governing, more limited procedures enabling dissolution of a marriage or civil partnership on the grounds that one of the parties is presumed to have died, but transitional and saving provision is made so that proceedings under the repealed legislation which have been commenced before 1st October 2014 can continue to a conclusion, and any resulting declaration be valid, after that date.

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