

Uniform Presumption of Death Act

(1976 Proceedings, page 225)

1. In this Act

Interpretation

- (a) "court" means the (name of superior court of the jurisdiction);
- (b) "interested person" means any person who is or would be affected by an order made under this Act and includes,
 - (i) the next of kin of the person in respect of whom an order is made or applied for, and
 - (ii) a person who holds property of the person in respect of whom an order is made or applied for.

2. (1) Where, upon the application of an interested person by originating notice of motion, the court is satisfied that

Order of presumption of death

- (a) a person has been absent and not heard of or from by the applicant, or to the knowledge of the applicant by any other person, since a day named;
- (b) the applicant has no reason to believe that the person is living; and
- (c) reasonable grounds exist for supposing that the person is dead,

the court may make an order declaring that the person shall be presumed to be dead for all purposes, or for such purposes only as are specified in the order.

(2) An order made under subsection (1) shall state the date on which the person is presumed to have died.

Date of presumed death

(3) Any interested person may, with leave of the court, apply to the court for an order to vary, amend, confirm or revoke an order made under subsection (1).

Order to vary, amend, confirm or revoke

(4) An order, or a certified copy thereof, declaring that a person shall be presumed to be dead for all purposes or for the purposes specified in the order is proof of death in all matters requiring proof of death for such purposes.

Certificate of order as evidence

3. Where an order has been made declaring that a person shall be presumed to be dead for all purposes or for the purpose of distributing his estate, and the personal repre-

Duty of personal representative

sentative of the person presumed to be dead believes or there are reasonable grounds for him to believe that the person is not in fact dead, the personal representative shall not thereafter deal with the estate or remaining estate unless the presumption of death is confirmed by an order made under section 2(3).

Distribution
where in fact
alive

4. (1) Where a person who is presumed to be dead is, in fact, alive, any distribution of his property that has been made in reliance upon an order made under section 2, and not in contravention of section 3, shall be deemed to be a final distribution and to be the property of the person to whom it has been distributed as against the person presumed to be dead.

Directions for
preservation
and return of
property

(2) Where a person who is presumed to be dead is found by the court to be alive, the court may, upon the application of any interested person and subject to subsection (1), by order give such directions as the court considers appropriate respecting the property of the person found to be alive and its preservation and return.

Distribution
where in fact
dead

5. Where a person who is presumed to be dead is in fact found to be dead, any distribution of his property that has been made in reliance upon an order made under section 2 shall be deemed to be a final distribution and to be the property of the person to whom it has been distributed as against any person who would otherwise be entitled if the order made under section 2 had not been made.

Appeal

6. Any interested person may appeal an order made under this Act to the (*appropriate appellate court*).
