

## Supporting notes for guidance on completing a petition for a presumption of death decree/order and dissolution of the marriage/civil partnership

### Important

#### Effect of a presumption of death and dissolution decree/order on inheritance

If the decree/order is granted it will dissolve (end) your marriage/civil partnership in the same way as a divorce/dissolution decree/order would do. This will affect your right to inherit from your former spouse/civil partner's will or intestacy (where there is no will). Where your spouse/civil partner left a will, and appointment of you as executor or trustee and any gift made to you shall be revoked (cancelled) unless contrary intention appears in the will. If your former spouse/civil partner did not leave a will the intestacy procedures will apply. In these cases you will not be entitled to the entitlements of a spouse/civil partner.

This decree/order on its own will not be sufficient for anyone to obtain probate or letters of administration in relation to your spouse/civil partner's estate. Further steps will be required before an application for probate or letters of administration can be made; the nature of these steps will depend upon the circumstances surrounding the presumed death.

If you need to find out more details on the consequences of obtaining this decree/order or any other options available to you, please seek legal advice.

#### Applications for financial orders

Due to the presumed death of your spouse/civil partner you will not be able to apply for any financial orders against them, unless they are later found to be alive. If they are found to be alive after the decree/order is granted you can apply for a financial order against them in the same way as you can in divorce/dissolution proceedings. For more details please see leaflet **D190 – I want to apply for a Financial Order**.

#### Before completing the form

You should complete this form if you wish to apply to the court to dissolve the marriage or civil partnership between you and your spouse or civil partner due to their presumed death. You can apply for a presumption of death and dissolution of your marriage/civil partnership if your spouse/civil partner has gone missing and you believe that reasonable grounds exist for presuming their death. An application may be made at any time after your spouse/civil partner went missing providing you have sufficient evidence to signify that death has actually taken place. A solicitor will be able to advise you on the evidence you will need to provide. If you do not have sufficient evidence, you may have to wait for a period of seven years after your spouse/civil partner went missing to make an application.

If you are attaching any order of the High Court or a county court to your petition, it must be a sealed copy of the order (that is, a copy that has been stamped with the seal of the court). If you are attaching an order made by a Family Proceedings Court/magistrates' court, it must be a certified copy (a copy certified by a court officer to be a true copy of the original order), or a copy that has been stamped with the seal of the originating court. If you are in any doubt about what is needed, please contact the court where you are applying for assistance.