

Assented to in Her Majesty's name and on Her Majesty's behalf this day of , 2014.

Mark Capes
Governor



**ST HELENA
NO. OF 2014**

Enacted.....
Date of Commencement.....
Published in the Gazette.....

**A BILL
FOR
AN ORDINANCE**

to make provision for the appointment and duties of Chief Coroner and Coroners and for matters relating to Coroners’ investigations and in relation to the presumed death of missing persons; and for purposes connected therewith or incidental thereto.

Enacted by the Governor of St Helena with the advice and consent of the Legislative Council of St Helena.

Citation and commencement

1. (1) This Ordinance may be cited as the Coroners and Presumption of Death Ordinance, 2014, and shall come into force on such date as the Governor may appoint by notice in the Gazette.

(2) A notice or notices issued under subsection (1) may appoint different dates for the purposes of different provisions or for different purposes of the same provision.

Interpretation

2. (1) In this Ordinance, unless the context otherwise requires—
“**body**” includes body parts;
“**Chief Coroner**” means a person appointed under section 15;
“**Coroner**” means a person appointed under section 15;
“**Coroners’ regulations**” means regulations under section 20;

“**Coroners’ rules**” means rules under section 21;

“**court of trial**” means—

- (a) in relation to an offence that is tried summarily, the Magistrates' Court by which the offence is tried; and
- (b) in relation to an offence tried on indictment, the Supreme Court;

“**Deputy Chief Coroner**” means a person appointed under section 15;

“**document**” includes information stored in an electronic form and any reference to producing or providing a document, in relation to information stored in an electronic form, is to be read as a reference to producing or providing a copy of the information in a legible form;

“**functions**” includes powers and duties;

“**homicide offence**” means—

- (a) murder, manslaughter or infanticide;
- (b) any other offence of causing, allowing, encouraging or assisting death under any of the provisions of the Laws of St Helena;

“**interest in property**” means an interest in property of any description, including an estate in land and a right over property;

“**interested person**” is to be read in accordance with section 22;

“**land**” includes premises;

“**medical examiner**” means a person appointed under section 13;

“**missing person**”, in relation to a declaration under this Ordinance or an application, determination or order made in connection with such a declaration, means the person who is or would be the subject of the declaration;

“**public authority**” includes—

- (a) a court, tribunal or commission; and
- (b) any person certain of whose functions are of a public nature;

“**Registrar**” means the Registrar-General appointed under section 2 of the Births and Deaths (Registration) Ordinance, Cap. 79;

“**related offence**”, in relation to homicide, means an offence that—

- (a) involves the death of the deceased, but is not a homicide offence; or
- (b) involves the death of a person other than the deceased (whether or not it is a homicide offence) and is committed in circumstances connected with the death of the deceased;

“**sibling**” means a sibling of the full blood or the half-blood;

“**St Helena**” extends to 200 nautical miles (measured from the baselines as established by articles 3 and 4 of the St Helena and Dependencies (Territorial Sea) Order 1989);

“**state detention**” means where a person is compulsorily detained by a public authority;

“**statutory provision**” means provision contained in, or in an instrument made under, any Ordinance (including this Ordinance);

“**trustee**” includes an executor, administrator or personal representative;

“**variation order**” has the meaning assigned in section 27.

(2) References in this Ordinance to a party to proceedings include a person intervening in the proceedings in accordance with section 33.

Duty to investigate certain deaths

3. (1) Subject to sections 4 and 5, a Coroner who is made aware that the body of a deceased person is within St Helena shall as soon as practicable conduct an investigation into the person's death if subsection (2) applies.

(2) This section applies if the Coroner has reason to suspect that—

- (a) the deceased died a violent or unnatural death;
- (b) the cause of death is unknown; or
- (c) the deceased died while in custody or otherwise in state detention.

(3) A Coroner shall report a matter to the Chief Coroner if he has reason to believe that—

- (a) a death has occurred in or near St Helena;
- (b) the circumstances of the death are such that there should be an investigation into it; and
- (c) the duty to conduct an investigation into the death under subsection (1) does not arise because of the destruction, loss or absence of the body.

(4) On receiving a report under subsection (3), the Chief Coroner may direct a Coroner (who does not have to be the one who made the report) to conduct an investigation into the death.

(5) The Coroner to whom a direction is given under subsection (4) shall, subject to section 5, conduct an investigation into the death as soon as practicable.

(6) A Coroner may make whatever investigations as seem necessary in order to decide—

- (a) whether the duty under subsection (1) arises;
- (b) whether the duty to report under subsection (3) arises.

Direction for other Coroner to conduct investigation

4. (1) The Chief Coroner may direct a Coroner to conduct an investigation into a person's death even though, apart from such direction, another Coroner would be under a duty to conduct it.

(2) Where a direction is given under this section, the Coroner so directed (and not such other Coroner) shall, subject to section 5 and any subsequent direction concerning the investigation given under this section, conduct the investigation and shall do so as soon as practicable.

(3) A reference in this section to conducting an investigation, in the case of an investigation that has already begun, is to be read as a reference to continuing to conduct the investigation.

Discontinuance where cause of death revealed by post-mortem examination

5. (1) A Coroner who is responsible for conducting an investigation into a person's death may discontinue the investigation if—

- (a) an examination under section 10 reveals the cause of death; and
- (b) the Coroner thinks that it is not necessary to continue the investigation.

(2) Subsection (1) does not apply if the Coroner has reason to suspect that the deceased—

- (a) died a violent or unnatural death; or
- (b) died while in custody or otherwise in state detention.

(3) Where a Coroner discontinues an investigation into a death under this section—

- (a) the Coroner need not hold an inquest into the death; and
- (b) no determination or finding under section 8(1) need be made in respect of the death:

Provided that this subsection does not prevent a fresh investigation from being conducted into the death.

(4) A Coroner who discontinues an investigation into a death under this section shall, if requested by an interested person in writing to do so, give to that person a written explanation as soon as practicable as to why the investigation was discontinued.

Matters to be ascertained

- 6. (1)** The purpose of an investigation into a person's death is to ascertain—
- (a) who the deceased was;
 - (b) how, when and where the deceased came by his or her death; and
 - (c) the particulars (if any) required by the Births and Deaths (Registration) Ordinance, Cap. 79, to be registered concerning the death.

(2) Where necessary in order to avoid a breach of any fundamental rights and freedoms of the individual within the meaning of the Constitution, the purpose mentioned in subsection (1)(b) is to be construed as including the purpose of ascertaining in what circumstances the deceased came by his or her death.

(3) Subject to paragraph 7 of Schedule 2, the Coroner conducting an investigation into a person's death shall not express any opinion on any matter other than—

- (a) the questions mentioned in subsection (1)(a) and (b), read with subsection (2) where applicable; and
- (b) the particulars mentioned in subsection 1)(c).

(4) A Coroner who conducts an investigation into a person's death may, but need not, hold an inquest into the death as part of the investigation.

Juries

- 7.** An inquest into a death shall be held without a jury.

Determinations and findings to be made

- 8. (1)** After concluding an investigation into a death, the Coroner shall—
- (a) make a determination as to the questions mentioned in section 6(1)(a) and (b), read with section 6(2) where applicable; and
 - (b) if particulars are required by the Births and Deaths (Registration) Ordinance, Cap. 79, to be registered concerning the death, make a finding as to those particulars.

(2) A determination under subsection (1)(a) may not be framed in such a way as to appear to determine any question of—

- (a) criminal liability on the part of a named person; or
- (b) civil liability.

Duty or power to suspend or resume investigations

- 9.** Schedule 1 makes provision about suspension and resumption of investigations.

Post-mortem examinations

10. (1) A Coroner may require a suitable practitioner to make a post-mortem examination of a body if—

- (a) the Coroner is responsible for conducting an investigation into the death of the person in question; or
- (b) a post-mortem examination is necessary to enable the Coroner to decide whether the death is one into which the Coroner has a duty under section 3(1) to conduct an investigation.

(2) A requirement under subsection (1) may specify the kind of examination to be made.

(3) For the purposes of subsection (1) a person is a “suitable practitioner” if he or she—

- (a) is a registered medical practitioner under the Medical Practitioners Ordinance, Cap. 50; or

(b) a person designated by the Chief Coroner as suitable to make examinations of that kind.

(4) Where the Coroner has reasonable grounds to suspect that a death was caused wholly or partly by the improper or negligent treatment of a registered medical practitioner or other person, that practitioner or other person shall not make, or assist at, an examination of the body under this section, but is entitled to be represented at such an examination:

Provided that this subsection has no effect as regards a post-mortem examination already made.

(5) A person who makes a post-mortem examination under this section shall, as soon as practicable, report the result of the examination to the Coroner in such form as the Coroner requires.

Power to remove body

11. (1) A Coroner may order a body to be removed to any suitable place (within St Helena or elsewhere), if such Coroner—

- (a) is responsible for conducting an investigation into a person's death; or
- (b) needs to request a post-mortem examination under section 10 in order to decide whether the death is one into which the Coroner has a duty under section 3(1) to conduct an investigation.

(2) The Coroner may not order the removal of a body under this section to a place provided by a person who has not consented to such body being removed there:

Provided that this subsection does not apply to a place within St Helena that is provided by the St Helena Government.

Notification by medical practitioner to Coroner

12. A registered medical practitioner or police officer shall notify a Coroner of all deaths in St Helena of which such practitioner or officer is aware.

Medical examiners

13. (1) The Governor, after consultation with the Chief Coroner, shall appoint suitably qualified and experienced persons as medical examiners to discharge the functions conferred on medical examiners by or under this Ordinance.

(2) The Governor in Council may by regulations make provision—

- (a) about the terms of appointment of medical examiners and about termination of appointment;
- (b) for the payment to medical examiners of remuneration, expenses and fees;
- (c) about the procedure to be followed in connection with the exercise of functions by medical examiners;
- (d) conferring functions on medical examiners.

(3) Nothing in this section, or in regulations under this section, gives the Governor in Council any role in relation to the way in which medical examiners exercise their professional judgment.

Medical certificate of cause of death

14. (1) The Governor in Council may by regulations make provision—

- (a) requiring a registered medical practitioner to prepare a certificate stating the cause of death to the best of the practitioner's knowledge and belief (referred to as a "practitioner's certificate");

- (b) requiring a copy of a practitioner's certificate to be given to a Coroner;
- (c) allowing a medical practitioner, if invited to do so by the Coroner, to issue a fresh practitioner's certificate superseding the existing one;
- (d) allowing a Coroner to refer a case to a medical examiner;
- (e) requiring a medical examiner to make whatever enquiries appear to be necessary in order to confirm or establish the cause of death;
- (f) requiring a medical examiner to whom a copy of a practitioner's certificate has been given—
 - (i) to confirm the cause of death stated on the certificate and to notify a Coroner that the cause of death has been confirmed; or
 - (ii) where the examiner is unable to confirm the cause of death, to refer the case to a Coroner;
- (g) requiring a medical examiner to whom a case has been referred by a Coroner to issue a certificate stating the cause of death to the best of the examiner's knowledge and belief (a "medical examiner's certificate") and for a medical examiner's certificate to be given to the Coroner;
- (h) allowing a medical examiner, if invited to do so by the Coroner, to issue a fresh medical examiner's certificate superseding the existing one;
- (i) requiring a medical examiner or someone acting on behalf of a medical examiner—
 - (i) to discuss the cause of death with some other person whom the medical examiner considers appropriate; and
 - (ii) to give some other person the opportunity to mention any matter that might cause a Coroner to think that the death should be investigated under section 3;
- (j) prescribing forms (including the form of a practitioner's certificate and of a medical examiner's certificate) for use by persons exercising functions under the regulations, and requiring the forms to be made available to those persons;
- (k) provision requiring the Coroner to issue guidance as to how certificates and other forms under the regulations are to be completed;
- (l) provision for certificates or other forms under the regulations to be signed or otherwise authenticated.
- (2) Regulations under subsection (1) imposing a requirement—
 - (a) may prescribe a period within which the requirement is to be complied with;
 - (b) may prescribe cases or circumstances in which the requirement does, or does not, apply.
- (3) Regulations under subsection (1) may provide for functions that would otherwise be exercisable by a specific registered medical practitioner to be performed by another registered medical practitioner.

Appointment etc of Coroners

15. (1) The Chief Magistrate shall be the Chief Coroner:

Provided that, if the office of Chief Magistrate is vacant, or otherwise unable to act, the Governor may, subject to the provisions of section 90(4) of the Constitution, appoint a suitable person to act as Chief Coroner.

(2) The Governor may, subject to the provisions of section 90(4) of the Constitution, appoint any person to be a Coroner in and for St Helena.

(3) It shall be lawful for the Governor to appoint an officer of the public service to be a Coroner if, but only if—

- (a) the Judicial Service Commission has certified that it is satisfied that such appointment would be consistent with the independence of the judiciary; and

(b) the Governor is satisfied that such appointment would be consistent with the efficiency of the public service,
but a person so appointed shall (unless the Governor, on the advice of the Judicial Service Commission, orders otherwise) be deemed to have resigned as a Coroner if he or she is appointed to a public office different from that which he or she held at the time of his or her appointment.

(4) The Chief Coroner may appoint any Coroner appointed under subsection (2) as Deputy Chief Coroner who may perform any functions of the Chief Coroner (excepting such functions conferred by section 39)—

(a) during a period when the Chief Coroner is absent or unavailable;

(b) at any other time, with the consent of the Chief Coroner,

and any reference to the Chief Coroner (excluding section 39) shall be construed, where appropriate, as including reference to a Deputy Chief Coroner.

(5) The Governor, acting in his discretion, may appoint a person to act as Clerk or Deputy Clerk to the Coroner:

Provided that, at any time when there is no subsisting appointment of a Clerk or Deputy Clerk, the duties of the Clerk may be performed by the Clerk of the Peace.

Powers of Coroners

16. Schedule 2 makes provision about powers of Coroners.

Offences

17. Schedule 3 makes provision about offences relating to witnesses and evidence.

Allowances, fees and expenses

18. Schedule 4 makes provision about allowances, fees and expenses.

Investigation by Chief Coroner

19. (1) The Chief Coroner may conduct an investigation into a person's death.

(2) Where the Chief Coroner is responsible for conducting an investigation by virtue of this section, the Chief Coroner has the same functions in relation to the body and the investigation as would be the case if he or she were a Coroner; and any reference in a statutory provision (whenever made) to a Coroner shall be construed, where appropriate, as including a reference to the Chief Coroner exercising functions by virtue of this paragraph.

Coroners' regulations

20. (1) The Governor in Council may make regulations (referred to as "Coroners' regulations")—

(a) for regulating the practice and procedure at or in connection with investigations;

(b) for regulating the practice and procedure at or in connection with examinations under section 10;

(c) for regulating the practice and procedure at or in connection with exhumations under paragraph 6 of Schedule 2.

(2) Without limiting the power in subsection (1), Coroners' regulations may make—

(a) provision for the discharge of an investigation (including provision as to fresh investigations following discharge);

(b) provision for or in connection with the suspension or resumption of investigations;

- (c) provision for the delegation by a Coroner of any of his or her functions;
 - (d) provision allowing information to be disclosed or requiring information to be given;
 - (e) provision giving to the Chief Coroner power to require information from Coroners;
 - (f) provision with respect to the preservation, retention, release or disposal of bodies (including provision with respect to reinterment and with respect to the issue of orders authorising burial);
 - (g) provision in relation to authorisations under paragraph 3 of Schedule 2 or entry and search under such authorisations;
 - (h) provision, in relation to the power of seizure conferred by paragraph 3(4)(a) of that Schedule;
 - (i) provision about reports under paragraph 7 of that Schedule.
- (3) Coroners' regulations may apply any provisions of Coroners' rules.
- (4) Where Coroners' regulations apply any provisions of Coroners' rules, those provisions—
- (a) may be applied to any extent;
 - (b) may be applied with or without modifications;
 - (c) may be applied as amended from time to time.

Coroners' rules

21. (1) The Chief Coroner may make rules (referred to as “Coroners' rules”) for regulating the practice and procedure at or in connection with inquests.

(2) Coroners' rules may make—

- (a) provision about evidence (including provision requiring evidence to be given on oath except in prescribed cases);
 - (b) provision for the discharge of an inquest;
 - (c) provision for or in connection with the adjournment or resumption of inquests;
 - (d) provision for a Coroner to have power to give a direction, in proceedings at an inquest, allowing or requiring a name or other matter not to be disclosed except to persons specified in the direction;
 - (e) provision for the delegation by a Coroner of any of his or her functions, except for functions that involve making judicial decisions or exercising any judicial discretion;
 - (f) provision with respect to the disclosure of information;
 - (g) provision for a Coroner to hold inquests when outside St Helena, if satisfied that—
 - (i) every party to the proceeding is able to participate, in person or through a legal representative, by teleconference or other means of electronic, oral or written communication;
 - (ii) no injustice will result; and
 - (iii) the course proposed is in the public interest, and
 - (h) provision for evidence to be provided by teleconference or other means of electronic, oral or written communication (including prerecorded video).
- (3)** Coroners' rules may make provision conferring power on a Coroner—
- (a) to give a direction excluding specified persons from an inquest, or part of an inquest, if the Coroner is of the opinion that the interests of national security so require;
 - (b) to give a direction excluding specified persons from an inquest during the giving of evidence by a witness under the age of 16, if the Coroner is of the opinion that doing so would be likely to improve the quality of the witness's evidence,

and in this subsection “specified persons” means persons of a description specified in the direction or all persons except those of a description specified in the direction.

- (4) Subsections (2) and (3) shall not be construed as limiting the power in subsection (1).
- (5) Coroners' rules may apply—
- (a) any provisions of Coroners' regulations; and
- (b) any other rules of court applicable in St Helena that relate to proceedings other than inquests.
- (6) Where any provisions or rules are applied by virtue of subsection (5), they may be applied—
- (a) to any extent;
- (b) with or without modifications;
- (c) as amended from time to time.
- (7) Practice directions may be given by the Chief Coroner on any matter that could otherwise be included in Coroners' rules.
- (8) Coroners' rules may, instead of providing for a matter, refer to provision made or to be made by practice directions under subsection (7).
- (9) In this section "rules of court" include any provision governing the practice and procedure of a court that is made by or under an enactment.

Meaning of "interested person"

22. (1) "Interested person", in relation to an investigation into a person's death, means—
- (a) a spouse, life partner, parent or guardian, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
- (b) a personal representative of the deceased;
- (c) a beneficiary under a policy of insurance issued on the life of the deceased;
- (d) the insurer who issued such a policy of insurance;
- (e) a person who may by any act or omission have caused or contributed to the death of the deceased, or whose employee or agent may have done so;
- (f) in a case where the death may have been caused by an injury or disease received in the course of an employment a representative of a trade union of which the deceased was a member at the time of death;
- (g) where subsection (2) applies, the Chief of Police;
- (h) a person appointed by the St Helena Government to attend an inquest into the death or to assist in, or provide evidence for the purposes of, an investigation into the death;
- (i) any other person who the Coroner thinks has a sufficient interest.
- (2) This subsection applies where it appears that a person has or may have committed—
- (a) a homicide offence involving the death of the deceased; or
- (b) a related offence.

Applying for declaration of presumed death

23. (1) This section applies where a person who is missing—
- (a) is thought to have died; or
- (b) has not been known to be alive for a period of at least seven years.
- (2) Any person may apply to the Supreme Court for a declaration that the missing person is presumed to be dead.
- (3) The Supreme Court has jurisdiction to hear and determine an application under this section only if—

- (a) the missing person was domiciled in St Helena on the day on which he or she was last known to be alive;
 - (b) the missing person had been habitually resident in St Helena throughout the period of one year ending with that day; or
 - (c) subsection (4) is satisfied.
- (4)** This subsection is satisfied if the application is made by—
- (a) a person whom the court considers to have a sufficient interest in the determination of the application; and
 - (b) the court considers such interest to have sufficient connection with St Helena.

Making declaration

24. (1) On an application under section 23, the Supreme Court must make the declaration if satisfied that the missing person—

- (a) has died; or
- (b) has not been known to be alive for a period of at least seven years.

(2) The Supreme Court must include in the declaration a finding as to the date and time of the missing person's death.

(3) Where the Supreme Court—

- (a) is satisfied that the missing person has died; but
- (b) is uncertain at which moment during a period the missing person died,

the finding must be that the missing person is presumed to have died at the end of that period.

(4) Where the Supreme Court—

- (a) is satisfied that the missing person has not been known to be alive for a period of at least seven years; but
- (b) is not satisfied that the missing person has died,

the finding must be that the missing person is presumed to have died at the end of the period of seven years beginning with the day after the day on which he or she was last known to be alive.

Effect of declaration

25. (1) A declaration under this Ordinance is conclusive of—

- (a) the missing person's presumed death; and
- (b) the date and time of the death.

(2) A declaration under this Ordinance is effective against all persons and for all purposes, including for the purposes of—

- (a) the acquisition of an interest in any property; and
- (b) the ending of a marriage or civil partnership to which the missing person is a party.

(3) Subsections (1) and (2) apply to a declaration only if—

- (a) it has not been appealed against and the period for bringing an appeal has ended; or
- (b) it has been appealed against and the appeal (and any further appeal) has been unsuccessful.

(4) For the purposes of subsection (3), an appeal has been unsuccessful if—

- (a) it has been dismissed or withdrawn; and
- (b) any period for bringing a further appeal has ended.

Other powers of court making declaration

26. (1) When making a declaration under this Ordinance, the Supreme Court may—

- (a) determine any question which relates to an interest in property and arises as a result of the declaration; and

- (b) determine the domicile of the missing person at the time of his or her presumed death.
- (2) When making a declaration under this Ordinance, the Supreme Court may make such order as is considered reasonable in relation to any interest in property acquired as a result of the declaration.
- (3) An order under subsection (2) may direct that the value of any interest in property acquired as a result of the declaration is not to be recoverable by virtue of an order made under section 29(2).
- (4) It may, in particular, direct that the value of the interest—
 - (a) is not to be recoverable in any circumstances; or
 - (b) is not to be recoverable where conditions specified in the order are met.

Varying and revoking declaration

- 27. (1)** On an application by any person, a declaration under this Ordinance may be varied or revoked by an order of the Supreme Court (a “variation order”).
- (2) The Supreme Court must refuse to hear an application for a variation order if it is considered that the applicant does not have a sufficient interest in the determination of the application.

Effect of variation order

- 28. (1)** Subject to section 29, a variation order does not affect an interest in property acquired as a result of a declaration under this Ordinance.
- (2) A variation order does not revive a marriage or civil partnership that was brought to an end by virtue of a declaration under this Ordinance.
- (3) Except as otherwise required by subsection (1) or (2)—
 - (a) where a variation order varies a declaration, section 25(1) and (2) have effect in relation to the declaration as varied by the order; and
 - (b) where a variation order revokes a declaration, those subsections cease to have effect in relation to the declaration.
- (4) Subsection (3) applies only if—
 - (a) the variation order has not been appealed against and the period for bringing an appeal has ended; or
 - (b) the variation order has been appealed against and the appeal (and any further appeal) has been unsuccessful.
- (5) For the purposes of subsection (4), an appeal has been unsuccessful if—
 - (a) it has been dismissed or withdrawn; and
 - (b) any period for bringing a further appeal has ended.

Other functions of Supreme Court making variation order

- 29. (1)** When making a variation order, the Supreme Court may—
 - (a) determine any question which relates to an interest in property and arises as a result of the variation order; and
 - (b) determine the domicile of the missing person at the time of his or her presumed death.
- (2) When making a variation order, the Supreme Court must make such further order (if any) as is considered reasonable in relation to any interest in property acquired as a result of the declaration varied or revoked by the order (“the original declaration”) (but see subsections (3), (5) and (6)).

(3) The Supreme Court must not make an order under subsection (2) if the application for the variation order was made after the end of the period of five years beginning with the day on which the original declaration was made, unless the Supreme Court considers that there are exceptional circumstances which make it appropriate to do so.

(4) In considering what order to make under subsection (2), the Supreme Court must, as far as practicable, have regard to the principles in section 30.

(5) An order under subsection (2) does not affect income that accrued in the period—

(a) beginning with the day on which the original declaration was made; and

(b) ending with the day on which the variation order was made.

(6) An order under subsection (2) does not affect or provide grounds to challenge—

(a) a related good faith transaction; or

(b) an interest in property acquired under such a transaction.

(7) A “related good faith transaction” is a transaction under which a person acquires an interest in the property that is the subject of the order (or any part of it) in good faith and for value from—

(a) a person who acquired an interest in the property (or any part of it) as a result of the original declaration; or

(b) a person who acquired an interest in the property (or any part of it) from a person described in paragraph (a), whether directly or indirectly.

(8) Where a person has entitlement under a trust by virtue of an order under subsection (2), the trustee is liable to that person for any loss suffered by that person on account of any breach of trust by the trustee in the administration or distribution of all or part of the property that is the subject of the order.

(9) Subsection (8) does not apply to the extent that the trustee’s liability is restricted under any enactment or by any provision in a deed regulating the administration of the trust.

(10) In subsection (9) “enactment” includes an enactment contained in an instrument made under an Act or Ordinance.

Principles

30. (1) These are the principles referred to in section 29(4).

(2) The first principle is relevant where property (“the relevant property”) is being or has been administered under a trust.

(3) The first principle is that—

(a) a person who, but for section 28(1), would have an interest in the relevant property by virtue of a variation order; and

(b) a person who, but for section 28(1), would have acquired an interest in the relevant property from a person described in paragraph (a),

should be entitled to have made over to him or her by the trustee in full satisfaction of that interest the things listed in subsection (4).

(4) For purposes of subsection (3), the things are—

(a) the interest in the relevant property or an equivalent interest in property representing the relevant property, to the extent that such property is still in the hands of the trustee when the variation order is made; and

(b) the value of the interest in the relevant property, to the extent that such property has been distributed.

(5) The second principle is relevant where an insurer has paid a capital sum as a result of a declaration varied or revoked by a variation order.

(6) The second principle is that the capital sum, or any part of the capital sum, should be repaid to the insurer if the facts in respect of which the variation order was made justify such repayment.

(7) The references in subsections (5) and (6) to a capital sum do not include a capital sum distributed by way of an annuity or other periodical payment.

Giving notice of application

31. (1) A person who makes an application under this Ordinance for a declaration or a variation order must send to the persons specified by the Supreme Court—

- (a) notice of the application; and
- (b) any other information specified by the Supreme Court.

(2) An application under this Ordinance for a declaration or a variation order must be advertised as specified by the Supreme Court.

(3) The Supreme Court must refuse to hear an application under this Ordinance for a declaration or a variation order if the requirements in this section have not been met.

Attorney General

32. (1) In proceedings on an application under this Ordinance for a declaration or a variation order, the Supreme Court may at any stage direct that papers relating to the matter be sent to the Attorney General.

(2) The Supreme Court may do so on the application of a party to the proceedings or without such an application being made.

(3) Where the Attorney General incurs costs in connection with an application under this Ordinance for a declaration or a variation order, the Supreme Court may make such order as is considered appropriate as to the payment of the costs by parties to the proceedings.

(4) Subsection (3) applies whether the costs are incurred by virtue of a direction under subsection (1), an intervention under section 33(2) or otherwise.

Right to intervene

33. (1) The missing person's spouse, life partner, parent, child or sibling may intervene in proceedings on an application under this Ordinance for a declaration or a variation order.

(2) The Attorney General may intervene in such proceedings, whether or not the Supreme Court directs papers relating to the application be sent to the Attorney General.

(3) Any other person may intervene in such proceedings only with the permission of the Supreme Court.

(4) References in this section to intervening in proceedings include—

- (a) arguing before the Supreme Court any question in relation to the application which the Supreme Court considers it necessary to have fully argued;
- (b) in proceedings on an application for a declaration under this Ordinance, seeking a determination or order under section 26; and
- (c) in proceedings on an application for a variation order, seeking a determination or order under section 29.

Information

34. (1) In proceedings on an application under this Ordinance for a declaration or a variation order, the Supreme Court may by order at any stage require a person who is not a party to the proceedings to provide it with specified information that it considers relevant to the question of whether the missing person is alive or dead.

(2) The Supreme Court may do so only where it is considered necessary for the purpose of disposing of the proceedings.

(3) The Supreme Court may do so on the application of a party to the proceedings or without such an application being made.

(4) The order may not require the provision of information—

(a) which is permitted or required by any rule of law to be withheld on grounds of public interest immunity;

(b) which any person would be entitled to refuse to provide on grounds of legal professional privilege; or

(c) whose provision might incriminate the person providing it, or that person's spouse of an offence.

(5) Before making an order under this section, the Supreme Court must send notice of such intention to make the order to any person who, in the Supreme Court's opinion, is likely to be affected by the order.

(6) The Supreme Court may discharge or vary an order made under this section on an application made by any person who, in the opinion of the Supreme Court, is affected by it.

(7) In this section "specified" means specified in an order under this section.

Insurance against claims: trustees

35. (1) If the Supreme Court so directs, the trustee of a trust affected by a declaration under this Ordinance must as soon as reasonably practicable take out an insurance policy in respect of any claim which may arise by virtue of an order under section 29(2).

(2) For the purposes of this section, a trust is affected by a declaration under this Ordinance if—

(a) it arises as a result of the declaration; or

(b) property held under the trust is affected by the declaration.

(3) A premium payable by the trustee in accordance with a direction under this section may be paid out of money or other property held under the trust.

Insurance against claims: insurers paying capital sums

36. (1) Before paying a capital sum to a person as a result of a declaration under this Ordinance, an insurer may require the person to take out an insurance policy in respect of any claim which the insurer may make in the event of a variation order being made.

(2) The policy must be taken out—

(a) in the person's own name; and

(b) for the benefit of the insurer.

(3) Subsection (1) does not apply—

(a) where the sum is paid in respect of an annuity or other periodical payment; and

(b) where the Supreme Court so orders at any time.

(4) In this section "insurer" means any person who provides for the payment of a benefit on a person's death.

Register of Presumed Deaths

37. (1) The Registrar must maintain a register which is to be called the Register of Presumed Deaths.

(2) The register must be maintained in the office of the Registrar.

(3) The register may be maintained in any form the Registrar considers appropriate.

(4) Schedule 5 (further provision about Register of Presumed Deaths) has effect.

Other determinations about death of missing person

38. (1) No declaration which may be applied for under section 23 may be made otherwise than under this Ordinance.

(2) Where a court or tribunal makes a declaration that a missing person is presumed to be dead (other than on an application under this Ordinance), section 24(2) to (4) applies to the court or tribunal as they apply to the Supreme Court when it makes a declaration under this Ordinance.

(3) Apart from subsections (1) and (2), nothing in the preceding provisions of this Ordinance affects any power or duty that a court or tribunal has other than under this Ordinance to determine a question relating to the death of a missing person.

Chief Coroner *ex officio* Judge of the Supreme Court

39. (1) The Chief Coroner shall be *ex officio* a judge of the Supreme Court in terms of section 84 of the Schedule of the Constitution to such extent that he has jurisdiction, powers, authority, privileges and immunities conferred on a judge of the Supreme Court in this Ordinance.

(2) The Chief Coroner shall only exercise the jurisdiction, powers, authority, privileges and immunities conferred on a judge of the Supreme Court in this Ordinance, when directed to do so by the Chief Justice

Power to amend periods of time

40. The Governor in Council may by regulations amend this Ordinance by increasing or reducing a period of time referred to in—

- (a) section 23(1)(b);
- (b) section 24(1) or (4); or
- (c) section 29(3).

Consequential and supplementary etc provision

41. (1) The Governor in Council may by regulations make consequential, supplementary, incidental, transitional, transitory or saving provision in relation to any provision of this Ordinance.

Application to Crown

42. This Ordinance binds the Crown.

Repeal and amendment of legislation

43. (1) The Coroners Ordinance, Cap 11, is repealed.

(2) The Juries Ordinance, Cap 20, is amended—

- (a) by deleting subsection (5) of section 8;
- (b) by deleting “, or, in the case of a Coroner’s inquest, the Coroner” in section 10(3); and
- (c) by deleting “Coroners, deputy coroners and assistant coroners” in Part 1 of the Schedule and substituting “Chief Coroner, Deputy Chief Coroner and Coroners” therefor.

SCHEDULE 1**DUTY OR POWER TO SUSPEND OR RESUME INVESTIGATIONS**

1. (1) A Coroner shall suspend an investigation into a person's death where the Attorney General requests the Coroner to suspend the investigation on the ground that a person may be charged with—

- (a) a homicide offence involving the death of the deceased; or
- (b) an offence that is alleged to be a related offence.

(2) Subject to paragraphs 2 and 3, a suspension of an investigation under this paragraph shall be for—

- (a) a period of 28 days beginning with the day on which the suspension first takes effect; or
- (b) such longer period (beginning with that day) the Coroner specifies.

(3) The period referred to in sub-paragraph (2) may be extended or further extended at the further request of the Attorney General.

2. (1) Subject to sub-paragraph (2), a Coroner shall suspend an investigation into a person's death where—

- (a) the Coroner becomes aware that a person—
 - (i) has appeared or been brought before a Magistrates' Court charged with a homicide offence involving the death of the deceased; or
 - (ii) has been charged on an indictment with such an offence without having appeared or been brought before a Magistrates' Court charged with it.
- (b) the Attorney General informs the Coroner that a person—
 - (i) has appeared or been brought before a Magistrates' Court charged with an offence that is alleged to be a related offence; or
 - (ii) has been charged on an indictment with such an offence without having been sent for trial for it,

and the Attorney General requests the Coroner to suspend the investigation.

(2) The Coroner need not suspend the investigation—

- (a) under sub-paragraph (1)(a), if the Attorney General informs the Coroner that he or she has no objection to the investigation continuing; or
- (b) in any case, if the Coroner thinks that there is an exceptional reason for not suspending the investigation.

(3) In the case of an investigation that is already suspended under paragraph 1—

- (a) a suspension imposed by virtue of that paragraph comes to an end if, in reliance of sub-paragraph (2)(b), the Coroner decides not to suspend the investigation;
- (b) a reference in this paragraph to suspending an investigation is to be read as a reference to continuing the suspension of an investigation;
- (c) if the suspension of the investigation is continued under this paragraph, the investigation is to be treated for the purposes of paragraphs 1(3), 7 and 8 of this Schedule as suspended under this paragraph (and not as suspended under paragraph 1).

3. (1) Subject to sub-paragraph (2), a Coroner shall suspend an investigation into a person's death if the Governor requests the Coroner to do so on the ground that the cause of death is likely to be adequately investigated by an inquiry under the Commission of Enquiry Ordinance, Cap. 16, that is being or is to be held,

(2) The Coroner need not suspend the investigation if there appears to be an exceptional reason for not doing so.

(3) In the case of an investigation that is already suspended under paragraph 1—

- (a) a reference in this paragraph to suspending the investigation is to be read as a reference to continuing the suspension of the investigation;
 - (b) if the suspension of the investigation is continued under this paragraph, the investigation is to be treated for the purposes of paragraphs 1(3), 7 and 9 of this Schedule as suspended under this paragraph (and not as suspended under paragraph 1).
- 4. (1) This paragraph applies where an investigation is suspended under paragraph 3 on the basis that the cause of death is likely to be adequately investigated by an inquiry under the Commission of Enquiry Ordinance, Cap. 16.
 - (2) The terms of reference of the inquiry shall be such that it has as its purpose, or among its purposes, the purpose set out in section 6(1) (read with section 6(2) where applicable); and the Commission of Enquiry Ordinance, Cap. 16 has effect accordingly.
- 5. A Coroner may suspend an investigation into a person's death in any case if it appears to the Coroner that it would be appropriate to do so.
- 6. Where an investigation is suspended under this Schedule, the Coroner shall adjourn any inquest that is being held as part of the investigation.
- 7. An investigation that is suspended under paragraph 1 shall be resumed once the period under paragraph 1(2), or as the case may be the extended period under paragraph 1(3), has ended.
- 8. (1) An investigation that is suspended under paragraph 2 may not be resumed unless, but shall be resumed if, the Coroner thinks that there is sufficient reason for resuming it.
 - (2) Subject to sub-paragraph (3)—
 - (a) an investigation that is suspended under paragraph 2 may not be resumed while proceedings are continuing before the court of trial in respect of a homicide offence involving the death of the deceased;
 - (b) an investigation that is suspended by virtue of paragraph 2(1)(a) or (b) may not be resumed while proceedings are continuing before the court of trial in respect of the offence referred to in that sub-paragraph.
 - (3) The investigation may be resumed while the proceedings in question are continuing if in the case of an investigation suspended by virtue of 2(2)(a), the Attorney General informs the Coroner that it has no objection to the investigation being resumed.
 - (4) In the case of an investigation resumed under this paragraph, a determination under section 6(1)(a) may not be inconsistent with the outcome of—
 - (a) the proceedings in respect of the charge (or each charge) by reason of which the investigation was suspended;
 - (b) any proceedings that, by reason of sub-paragraph (2), had to be concluded before the investigation could be resumed.
- 9. (1) Where an investigation is suspended under paragraph 3—
 - (a) it may not be resumed unless, but shall be resumed if, the Coroner thinks that there is sufficient reason for resuming it;
 - (b) it may not be resumed before the end of the period of 28 days beginning with the relevant day;
 - (c) where sub-paragraph (4), (6), (8) or (10) applies, it may be resumed only in accordance with that sub-paragraph (and not before the end of the 28-day period mentioned in paragraph (b)).
 - (2) In sub-paragraph (1)(b) “the relevant day” means—

- (a) if the Governor gives the Coroner notification under this paragraph, the day on which the inquiry concerned is concluded;
- (b) otherwise, the day on which the findings of that inquiry are published.

(3) Sub-paragraph (4) applies where, during the suspension of the investigation, the Coroner—

- (a) becomes aware that a person has appeared or been brought before a Magistrates' Court charged with a homicide offence involving the death of the deceased; or
- (b) becomes aware that a person has been charged on an indictment with such an offence without having appeared or been brought before a Magistrates' Court charged with it.

(4) The Coroner shall not resume the investigation until after the conclusion of proceedings before the court of trial in respect of the offence in question, unless the Attorney General informs the Coroner that he or she has no objection to the investigation being resumed before then.

(5) Sub-paragraph (6) applies where, during the suspension of the investigation, the Attorney General informs the Coroner that a person—

- (a) has appeared or been brought before a Magistrates' Court charged with an offence that is alleged to be a related offence; or
- (b) has been charged on an indictment with such an offence without having been sent for trial for it.

(6) If the Attorney General requests the Coroner not to resume the investigation until after the conclusion of proceedings before the court of trial in respect of the offence in question, the Coroner shall not do so.

(7) In the case of an investigation resumed under this paragraph, a determination under section 6(1)(a) may not be inconsistent with the outcome of—

- (a) the inquiry under the Commissions of Enquiry Ordinance, Cap. 16, by reason of which the investigation was suspended;
- (b) any proceedings that, by reason of sub-paragraph (4) and (6) had to be concluded before the investigation could be resumed.

10. An investigation that is suspended under paragraph 5 may be resumed at any time if the Coroner thinks that there is sufficient reason for resuming it.

11. Where an investigation is resumed under this Schedule, the Coroner shall resume any inquest that was adjourned under paragraph 6.

SCHEDULE 2**POWERS OF CORONERS**

1. (1) A Coroner may by notice require a person to attend at a time and place stated in the notice and to give evidence at an inquest.

(2) A Coroner who is conducting an investigation may by notice require a person, within such period as the Coroner thinks reasonable—

- (a)* to provide information to the Coroner, about any matters specified in the notice, in the form of a written statement;
- (b)* to produce any documents in the custody or under the control of the person which relate to a matter that is relevant to the investigation; or
- (c)* to produce for inspection, examination or testing any other thing in the custody or under the control of the person which relates to a matter that is relevant to the investigation.

(3) A Coroner who is conducting an investigation may order a member of the emergency services, medical practitioner or an undertaker to collect, examine or test anything which relates to a matter that is relevant to the investigation (including from the body of a deceased person) at any location and in such time scales as the Coroner directs and to report on the same to the Coroner.

(4) A notice under sub-paragraph (1), (2) or (3) shall—

- (a)* explain the possible consequences, under Schedule 3, of not complying with the notice;
- (b)* indicate what the recipient of the notice should do if he or she wishes to make a claim under sub-paragraph (5).

(5) A claim by a person that—

- (a)* he or she is unable to comply with a notice under this paragraph; or
- (b)* it is not reasonable in all the circumstances to require him or her to comply with such a notice, is to be determined by the Coroner, who may revoke or vary the notice on that ground.

(6) In deciding whether to revoke or vary a notice on the ground mentioned in sub-paragraph (5)(b), the Coroner shall consider the public interest in the information in question being obtained for the purposes of the investigation, having regard to the likely importance of the information.

(7) For the purposes of this paragraph a document or thing is under a person's control if it is in the person's possession or if he or she has a right to possession of it.

2. (1) A person may not be required to give, produce or provide any evidence or document under paragraph 1 if he or she could not be required to do so in civil proceedings in a court in St Helena.

(2) The rules of law under which evidence or documents are permitted or required to be withheld on grounds of public interest immunity apply in relation to an investigation as they apply in relation to civil proceedings in a court in St Helena.

3. (1) A Coroner conducting an investigation, if authorised—

- (a)* by the Chief Coroner; or
- (b)* by another Coroner nominated by the Chief Coroner to give authorisation,

may enter and search any land specified in the authorisation.

(2) An authorisation may be given only if—

- (a)* the Coroner conducting the investigation has reason to suspect that there may be anything on the land which relates to a matter that is relevant to the investigation; and

- (b) any of the conditions in sub-paragraph (3) are met.
- (3) Those conditions are—
 - (a) that it is not practicable to communicate with a person entitled to grant permission to enter and search the land;
 - (b) that permission to enter and search the land has been refused;
 - (c) that the Coroner has reason to believe that such permission would be refused if requested;
 - (d) that the purpose of a search may be frustrated or seriously prejudiced unless the Coroner can secure immediate entry to the land on arrival.
- (4) A Coroner conducting an investigation who is lawfully on any land—
 - (a) may seize anything that is on the land;
 - (b) may inspect and take copies of any documents.

4. (1) The person by whom an authorisation under paragraph 3(1) is given shall make a record—

- (a) setting out the reasons for the suspicion referred to in paragraph 3(2)(a);
- (b) specifying which of the conditions in paragraph 3(3) is met.

(2) Where the authorisation is given by a Coroner nominated under paragraph 3(1)(b), that Coroner shall give the record made under this paragraph to the Chief Coroner.

5. (1) A power under paragraph 3(4) is not exercisable unless the person exercising the power has reasonable grounds for believing—

- (a) that its exercise may assist the investigation; and
- (b) in the case of the seizure of anything, that the seizure is necessary to prevent the thing being concealed, lost, damaged, altered or destroyed.

(2) The power under paragraph 3(4)(b) includes power to require any information that is stored in an electronic form and is on, or accessible from, the land to be produced in a form—

- (a) in which it can be taken away; and
- (b) in which it is legible or from which it can readily be produced in a legible form.

(3) A power under paragraph 3(4) does not apply to any item that the person by whom the power is exercisable has reasonable grounds for believing to be subject to legal privilege.

(4) Anything that has been seized or taken away under paragraph 3 may be retained for so long as is necessary in all the circumstances.

(5) A person on whom a power is conferred by virtue of paragraph 3 may use reasonable force, if necessary, in the exercise of the power.

(6) In this paragraph “subject to legal privilege”, in relation to an item, has the meaning given by section 9 of the Police and Criminal Evidence Ordinance, Cap. 29.

6. (1) A Coroner may order the exhumation of a person's body if sub-paragraph (2) or (3) applies.

- (2)** This sub-paragraph applies if—
 - (a) the body is buried in St Helena; and
 - (b) the Coroner thinks it necessary for the body to be examined under section 10.
- (3)** This sub-paragraph applies if—
 - (a) the body is buried within St Helena; and
 - (b) the Coroner thinks it necessary for the body to be examined for the purpose of any criminal proceedings that have been instituted or are contemplated in respect of—
 - (i) the death of the person whose body it is; or
 - (ii) the death of another person who died in circumstances connected with the death of that person.

7. (1) Where—
- (a) a Coroner has been conducting an investigation into a person's death;
 - (b) anything revealed by the investigation gives rise to a concern that circumstances creating a risk of other deaths will occur, or will continue to exist, in the future; and
 - (c) in the Coroner's opinion, action should be taken to prevent the occurrence or continuation of such circumstances, or to eliminate or reduce the risk of death created by such circumstances, the Coroner shall report the matter to a person who the Coroner believes may have power to take such action.
- (2) A person to whom a Coroner makes a report under this paragraph shall give the Coroner a written response to it.
- (3) A copy of a report under this paragraph, and of the response to it, shall be sent to the Chief Coroner.

SCHEDULE 3

OFFENCES

1. A Coroner may impose a fine not exceeding £1000 on a person who fails without reasonable excuse to do anything required by a notice or order under paragraph 1 and 2 of Schedule 2.
2. (1) It is an offence for a person to do anything that is intended to have the effect of—
- (a) distorting or otherwise altering any evidence, document or other thing that is given, produced or provided for the purposes of an investigation; or
 - (b) preventing any evidence, document or other thing from being given, produced or provided for the purposes of such an investigation,
- or to do anything that the person knows or believes is likely to have that effect.
- (2) It is an offence for a person—
- (a) intentionally to suppress or conceal a document that is, and that the person knows or believes to be, a relevant document; or
 - (b) intentionally to alter or destroy such a document.
- (3) For the purposes of sub-paragraph (2) a document is a “relevant document” if it is likely that a person conducting an investigation would (if aware of its existence) wish to be provided with it.
- (4) A person does not commit an offence under sub-paragraph (1) or (2) by doing anything that is authorised or required—
- (a) by a Coroner; or
 - (b) by virtue of paragraph 2 of Schedule 2 or any privilege that applies.
- (5) Proceedings for an offence under sub-paragraph (1) or (2) may be instituted only by the Attorney General.
- (6) A person guilty of an offence under sub-paragraph (1) or (2) is liable to a fine not exceeding £20,000, or to imprisonment for a term not exceeding five years, or to both.
3. (1) It is an offence for a person, in giving unsworn evidence at an inquest by virtue of section 21(2)(a), to give false evidence in such circumstances that, had the evidence been given on oath, he or she would have been guilty of perjury.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding £20,000, or to imprisonment for a term not exceeding five years, or to both.

4. (1) The powers of a Coroner under paragraph 1 are additional to, and do not affect, any other power the Coroner may have—
- (a) to compel a person to appear before him or her;
 - (b) to compel a person to give evidence or produce any document or other thing;
 - (c) to punish a person for contempt of court for failure to appear or to give evidence or to produce any document or other thing.
- (2) But a person may not be fined under paragraph 1 and also be punished under any such other power.

SCHEDULE 4

ALLOWANCES, FEES AND EXPENSES

1. (1) Regulations, under section 20, may prescribe the allowances that may be paid by (or on behalf of) Coroners—
- (a) to witnesses;
 - (b) to persons who produce documents or things by virtue of paragraph 1(1), (2) or (3) of Schedule 2;
 - (c) to persons who provide evidence in the form of a written statement by virtue of paragraph 1(2)(a) of that Schedule.
- (2) In this paragraph “witness” means a person properly attending before a Coroner to give evidence at an inquest or in connection with the possibility of doing so (whether or not the person actually gives evidence), but does not include—
- (a) a police officer, attending in his or her capacity as such;
 - (b) an officer of an institution to which the Gaols Ordinance Cap 133 applies in his or her capacity as such;
 - (c) a prisoner in respect of an occasion on which he or she is conveyed in custody to appear before a Coroner.
2. Regulations may prescribe the fees and allowances that may be paid by (or on behalf of) Coroners to persons who make examinations under section 10.
3. Fees payable to Coroners for supplying copies of documents in their custody relating to investigations or inquests that they are conducting or have conducted shall be such sum as the Coroner considers reasonable.
4. (1) Regulations, under section 20, may make provision for or in connection with meeting or reimbursing expenses incurred by Coroners.

SCHEDULE 5

REGISTER OF PRESUMED DEATHS

1. (1) When a declaration under this Ordinance satisfies section 25(3)(a) or (b), the Supreme Court must send to the Registrar General —
- (a) a copy of the declaration; and
 - (b) any prescribed information.
- (2) On receipt of a copy of a declaration in accordance with sub-paragraph (1), the Registrar General must—

- (a) make an entry in the Register of Presumed Deaths containing the name of the missing person and such other information as may be prescribed in relation to that person's presumed death;
 - (b) secure that the entry made in the Register of Presumed Deaths is included in the index of the registers of deaths; and
 - (c) make traceable the connection between the entry in the Register of Presumed Deaths and the index of the registers of deaths.
 - (3) In this paragraph "prescribed" means prescribed by the Registrar General with the approval of the Chief Coroner.
2. (1) When a variation order satisfies section 28(4)(a) or (b), the Supreme Court must send to the Registrar General—
 - (a) a copy of the order; and
 - (b) any prescribed information.(2) Where the variation order varies a declaration, on receipt of a copy of the order in accordance with sub-paragraph (1), the Registrar General must—
 - (a) amend the entry in the Register of Presumed Deaths in relation to the missing person; and
 - (b) amend any entry relating to that person made in the index of the registers of deaths in accordance with paragraph 1(2)(b).(3) Where the variation order revokes a declaration, on receipt of a copy of the order in accordance with sub-paragraph (1), the Registrar General must—
 - (a) cancel the entry in the Register of Presumed Deaths relating to the missing person; and
 - (b) cancel any entry relating to that person made in the index of the registers of deaths in accordance with paragraph 1(2)(b).(4) In this paragraph "prescribed" means prescribed by the Registrar General with the approval of the Chief Coroner.
3. (1) Any right to search the index of the registers of deaths includes the right to search entries included in it in accordance with paragraph 1(2)(b).
 - (2) Any person is entitled to have a certified copy of an entry in the Register of Presumed Deaths (but see paragraph 6).
 - (3) The Registrar General must cause a certified copy of an entry in the Register of Presumed Deaths to be sealed or stamped with the seal of the General Register Office.
 - (4) No certified copy of an entry in the Register of Presumed Deaths is to be of any force or effect unless it is sealed or stamped in accordance with sub-paragraph (3).
4. A certified copy of an entry in the Register of Presumed Deaths in relation to a person is to be received as evidence of the person's death, without further or other proof, if it purports to be sealed or stamped in accordance with paragraph 3(3).
5. (1) Where it appears to the Registrar General that there is a clerical error in the Register of Presumed Deaths, the Registrar General may authorise a person to correct the error.
 - (2) Where it appears to the Supreme Court that there is an error in the Register of Presumed Deaths, the Supreme Court may direct the Registrar General to secure that the error is corrected.
 - (3) The Registrar General may annotate, or cancel the annotation of, any entry in the Register of Presumed Deaths.
 - (4) Sub-paragraph (5) applies where it appears to the Registrar General that the death of a missing person to whom an entry in the Register of Presumed Deaths relates—

- (a) has been registered in a register of deaths made under the Births and Deaths (Registration) Ordinance, Cap. 79; or
- (b) has been recorded in a register kept or maintained under the law of a country or territory outside St Helena corresponding in nature to a register described in paragraph (a).

(5) The Registrar General must annotate the relevant entry in the Register of Presumed Deaths accordingly.

6. (1) A fee of a prescribed amount is payable to the Registrar General for a certified copy of an entry in the Register of Presumed Deaths.

(2) The Registrar General may refuse to provide such a copy until the prescribed fee is paid, except as otherwise prescribed.

(3) In this paragraph “prescribed” means prescribed by the Registrar General with the approval of the Chief Coroner.

7. In this Schedule “the index of registers of deaths” means the index kept in the General Register Office of certified copies of entries in the registers of deaths made under the Births and Deaths (Registration) Ordinance Cap 79.

EXPLANATORY NOTE

(This note does not form part of the Ordinance)

The purpose of this Ordinance is to review the provisions relating to Coroners and presumption of death.