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CHAIR:

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3rd SESSION, 67th GENERAL ASSEMBLY
Province of Prince Edward Island
4 CHARLES III, 2026

(Bill No. 8)

Presumption of Death Act

Hon. Bloyce Thompson
Minister of Justice and Public Safety and Attorney General

GOVERNMENT BILL

Andrea MacRae
Acting King's Printer
Charlottetown, Prince Edward Island



PRESUMPTION OF DEATH ACT

BILL NO. 8

2026

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

Interpretation

1. Definitions

In this Act,

- (a) **“court”** means the Supreme Court;
- (b) **“Director of Vital Statistics”** means the Director of Vital Statistics appointed under subsection 38(2) of the *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1;
- (c) **“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,
 - (ii) a person who holds property of the person in respect of whom an order is made or applied for, and
 - (iii) the Public Trustee;
- (d) **“personal representative”** means a personal representative as defined in the *Probate Act* R.S.P.E.I. 1988, Cap. P-21;
- (e) **“Public Trustee”** means the Public Trustee appointed under section 2 of the *Public Trustee Act* R.S.P.E.I. 1988, Cap. P-32.2, and on the coming into force of the *Public Guardian and Trustee Act* S.P.E.I. 2023, c.35, the Public Guardian and Trustee continued or appointed under section 3 of that Act;
- (f) **“Registrar”** means the Registrar of the Court of Appeal and the Supreme Court appointed, or deemed to be appointed, under subsection 28(1) of the *Judicature Act* R.S.P.E.I. 1988, Cap. J-2.1, and includes a deputy registrar appointed under section 29 of that Act.

Presumption of Death Order

2. Order of presumption of death

- (1) The court may, on the application of an interested person, make an order declaring that a person is presumed dead for all purposes, or for those purposes only that are specified in the order, where the court is satisfied that
- (a) the 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 specified day;
 - (b) the applicant has no reason to believe that the person is living; and
 - (c) reasonable grounds exist for supposing the person is dead.

Order shall state date

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

Application to vary, etc.

- (3) An interested person or a person declared to be presumed dead 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).

Effect of order

- (4) An order, or a certified copy of it, 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 those purposes.

Order shall be forwarded to Director of Vital Statistics

- (5) The Registrar shall forward to the Director of Vital Statistics an order made under subsection (1) or (3) within 30 days of the entry of the order.

Exception – Insurance Act

- (6) An order made under subsection (1) is not proof of the death of a person whose life is insured under a policy of insurance to which Part V of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4, applies for the purpose of claiming under that policy of insurance.

3. Duty of personal representative

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 the person's estate, and the personal representative of the person presumed to be dead subsequently believes or there are reasonable grounds to believe that the person is not in fact dead, the personal representative shall not deal after that with the estate or the remaining estate unless the presumption of death is further confirmed by a further order made under section 2.

4. Status of property where deceased in fact alive

- (1) Where a person who is presumed to be dead is, in fact, alive, any distribution of the person's property in reliance upon an order made under section 2, and not in contravention of section 3, is 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 by court

- (2) On application of an interested person, and subject to subsection (1), the court may, by order, give directions that the court considers appropriate respecting the property of the person presumed to be dead and its preservation and return, where the court is satisfied, based on evidence provided in support of the application, that the person presumed to be dead is, in fact, alive.

5. Status of property where deceased in fact dead

Where a person who is presumed to be dead is, in fact, dead, any of the person's property that has been distributed in reliance on an order made under section 2 is 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.

Absence Order**6. Absence order**

- (1) The court may, on the application of an interested person, make an order declaring that a person is absent and appoint a trustee to administer the person's property, with the terms and conditions the court considers appropriate, where the court is satisfied that
- (a) the 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 specified in the application;
 - (b) there is insufficient evidence to justify an order under section 2;
 - (c) the person has property in Prince Edward Island; and
 - (d) it is in the person's best interests to make the order.

Effect of application under section 2

- (2) Where an application has been made under section 2, the court may, with the concurrence of the applicant, treat the application as an application under subsection (1).

Powers and duties of trustee

- (3) Subject to the terms of the order under subsection (1), the powers and duties of a trustee with respect to the estate of a person declared to be absent are the same, with any necessary modifications, as those of
- (a) a committee under the *Public Trustee Act*; or
 - (b) on the coming into force of the *Adult Guardianship and Trusteeship Act R.S.P.E.I. 1988, Cap. A-4.2*, a trustee under that Act.

Authority to spend money on search, etc.

- (4) Subject to the direction of the court, a trustee appointed under this section has the authority to expend money out of the property of a person declared to be absent for the purpose of attempting to trace that person's whereabouts and to ascertain whether the person is alive or deceased.

Further order

- (5) On application by an interested person or a person declared to be absent, the court may, by order

- (a) give directions that the court considers appropriate respecting the property administered by the trustee and its preservation and return to the person declared to be absent; and
- (b) set aside the order declaring the person absent, except as to the acts or things done respecting the property of the person while the order was in force.

General

7. Definition, “extra-provincial order”

- (1) In this section, “**extra-provincial order**” means an order declaring a person to be presumed dead that is made in a jurisdiction outside of Prince Edward Island, if the order is made in accordance with legislation substantially similar to this Act.

Confirmation of extra-provincial order

- (2) An extra-provincial order may be confirmed on an order of the court and, on being confirmed, the extra-provincial order is of the same force and effect as if it were issued by the court.

Duplicate or copy, effect of

- (3) A duplicate of an extra-provincial order sealed with the seal of the tribunal or body that sealed it, or a copy of an extra-provincial order certified by or under the direction of the tribunal or body that granted it, is as effective as the original.

Condition respecting confirmation

- (4) The court may not confirm an extra-provincial order under this section until a certificate has been issued by the registrar, clerk or other officer of the tribunal or body that issued the extra-provincial order to the effect that the order is wholly unrevoked and of full effect.

8. Appeal

An interested person may appeal an order made under this Act to the Court of Appeal.

Consequential Amendments, Commencement

9. Marriage Act

- (1) The *Marriage Act* R.S.P.E.I. 1988, Cap. M-3, is amended as provided by this section.
- (2) Section 21 of the Act is repealed and the following substituted:

21. Presumption of death order

- (1) In this section, “**order**” means an order made under the *Presumption of Death Act* R.S.P.E.I. 1988, Cap. P-19.001, declaring that a person is presumed to be dead
 - (a) for all purposes;
 - (b) for the purpose of allowing the spouse of that person to obtain a marriage license or to be party to the ceremony of marriage; or
 - (c) for purposes that include the purpose referred to in clause (b).

Copy of order and affidavit to be deposited

- (2) Where an order has been obtained, the person whose spouse is presumed dead under the order may obtain a license upon depositing a copy of the order with the person issuing the license together with the affidavit in the form approved by the Director.

10. Probate Act

- (1) The *Probate Act* R.S.P.E.I. 1988, Cap. P-21, is amended as provided by this section.
- (2) Subsections 38(2) and (3) of the Act are repealed.

11. Vital Statistics Act

- (1) The *Vital Statistics Act* R.S.P.E.I. 1988, Cap. V-4.1, is amended as provided by this section.
- (2) Section 22 of the Act is repealed and the following substituted:

22. Registration of death

- (1) On receipt, within one year after a death, of the form and certificate under section 21, the division registrar, if satisfied as to the truth and sufficiency of the form, shall register the death.

Registration of death - court order

- (2) On receiving a court order made under the *Presumption of Death Act* R.S.P.E.I. 1988, Cap. P-19.001, that declares a person to be presumed dead for all purposes, the Director shall register the death.

12. Commencement

This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

(Bill No. 8)

Presumption of Death Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	March 26, 2026
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Dr. Wassim Salamoun, Lieutenant Governor

Honourable Brad Trivers, Speaker

Joseph Jeffrey, Clerk

Hon. Bloyce Thompson
Minister of Justice and Public Safety and Attorney General

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