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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 252**

**SUCCESSION**

**The Prior Rights of Surviving Spouse (Scotland) Order 2005**

<i>Made</i>	- - - -	<i>9th May 2005</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>10th May 2005</i>
<i>Coming into force</i>	- -	<i>1st June 2005</i>

The Scottish Ministers, in exercise of the powers conferred by sections 8(1) and (3) and 9(1) of the Succession (Scotland) Act 1964(1) and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Prior Rights of Surviving Spouse (Scotland) Order 2005 and shall come into force on 1st June 2005.

**Amendment of the Succession (Scotland) Act 1964**

2. The amounts fixed in the provisions of the Succession (Scotland) Act 1964 that are specified in column 1 of the Schedule to this Order shall be the amounts specified in the corresponding entry in column 2 instead of the amounts specified opposite thereto in column 3(2).

**Revocation**

3. The Prior Rights of Surviving Spouse (Scotland) Order 1999(3) is hereby revoked.

St Andrew's House, Edinburgh  
9th May 2005

*CATHY JAMIESON*  
A member of the Scottish Executive

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(1) 1964 c. 41; sections 8 and 9 were amended by the Succession (Scotland) Act 1973 (c. 25), section 1(1); section 9 was relevantly amended by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55), section 4. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).  
(2) The previous amounts were fixed by S.I.1999/445.  
(3) S.I. 1999/445.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Article 2

<i>1</i> <i>Provision of the Succession</i> <i>(Scotland) Act 1964</i>	<i>2</i> <i>New Amount</i>	<i>3</i> <i>Old Amount</i>
Section 8(1)(a) and (b)	£300,000	£130,000
Section 8(3)(a) and (b)	£24,000	£22,000
Section 9(1)(a)	£42,000	£35,000
Section 9(1)(b)	£75,000	£58,000

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

Where a person dies intestate leaving a spouse, the surviving spouse's prior rights in terms of section 8 and 9 of the Succession (Scotland) Act 1964 are at present as follows—

(1) Where the deceased had an interest as owner or tenant in a dwellinghouse in which the surviving spouse was ordinarily resident, the surviving spouse has a prior right—

- (a) where the value of the interest does not exceed £130,000, to the interest (or in certain cases to a sum equal to its value); or
- (b) in any other case, to the sum of £130,000.

(2) Where the deceased owned the furniture and plenishings of a dwellinghouse in which the surviving spouse was ordinarily resident, the surviving spouse has a prior right—

- (a) where the value of the furniture and plenishings does not exceed £22,000, to the whole furniture and plenishings; or
- (b) in any other case, to such part of the furniture and plenishings, to a value not exceeding £22,000, as the surviving spouse may choose.

(3) The surviving spouse has a prior right—

- (a) where the deceased left issue, to the sum of £35,000; or
- (b) where the deceased left no issue, to the sum of £58,000.

This Order increases the two amounts of £130,000 mentioned at (1) above to £300,000. It increases the two amounts of £22,000 mentioned at (2) above to £24,000. It increases the amounts of £35,000 and £58,000 mentioned at (3) above to £42,000 and £75,000 respectively.

This Order takes effect only in relation to the estate of any person dying after the coming into force of the Order, in accordance with section 9A of the Succession (Scotland) Act 1964 (as inserted by section 4 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980).