
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).