

These notes relate to the Rights of Relatives to Damages (Mesothelioma) (Scotland) Act 2007 (asp 18) which received Royal Assent on 26 April 2007

RIGHTS OF RELATIVES TO DAMAGES (MESOTHELIOMA) (SCOTLAND) ACT 2007

EXPLANATORY NOTES

THE ACT

Section 1 – Mesothelioma: rights of relatives of a deceased person to damages

5. This section amends section 1 of the 1976 Act. Previously, section 1(2) of the 1976 Act prevented the deceased's immediate family from claiming damages for distress, grief and loss of society under section 1(4) of the 1976 Act where the deceased has settled his or her own claim while still alive. This amendment provides at section 1(2) of the Act for an exception to this rule. The amendment at section 1(3) inserts new subsections (2A) and (2B) which set out the parameters of the exception. Paragraph (b) of new subsection (2B) provides that where a mesothelioma sufferer settles his or her claim, or recovers damages, on or after 20 December 2006, the relatives have a right to damages under section 1(4) of the 1976 Act following his or her death. This right is exercisable after commencement. The transitional provision at section 1(4) of the Act provides that where a mesothelioma sufferer settles his or her claim, or recovers damages, on or after 20 December 2006 and dies before commencement, the rights of any relative who dies after the sufferer but before commencement are taken to have vested, for the purpose of section 1A of the 1976 Act, in the relative on the deceased's death. This means that the rights transfer to the relative's executor.