

DAMAGES (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 12: Limitation of total amount of liability

66. Section 12 re-enacts section 6 of the 1976 Act.
67. It deals with limitation of the defender's ("B's") liability in cases where the victim ("A") has died from personal injuries and A's executor seeks damages in respect of the injuries suffered by A or A's relative (or the executor of such a relative) seeks damages in respect of A's death.
68. Subsection (2) provides that, where A had agreed before A's death to limit the damages payable by the defender, or where there is a statutory limitation on such damages, nothing in the Act entitles the executor or relative to recover damages of more than the permitted amount.
69. Subsection (3) provides that, where there is a multiplicity of pursuers, any damages to which each would have been entitled by virtue of this Act will be reduced *pro rata* if required in order to bring the total sum of damages within the permitted amount.
70. Subsection (4) makes provision for conjoined actions.