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STATUTORY INSTRUMENTS

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**1988 No. 633 (S.73)**

**SUCCESSION, SCOTLAND**

**The Prior Rights of Surviving Spouse (Scotland) Order 1988**

|                               |         |                        |
|-------------------------------|---------|------------------------|
| <i>Made</i>                   | - - - - | <i>24th March 1988</i> |
| <i>Laid before Parliament</i> |         | <i>8th April 1988</i>  |
| <i>Coming into force</i>      | - -     | <i>1st May 1988</i>    |

The Secretary of State, in exercise of the powers conferred upon him by sections 8, 9 and 9A of the Succession (Scotland) Act 1964 (1) and of all other powers enabling him in that behalf, hereby makes the following Order:

1.—(1) This Order may be cited as the Prior Rights of Surviving Spouse (Scotland) Order 1988 and shall come into force on 1st May 1988.

(2) This Order shall extend to Scotland only.

2. For the purposes of each of the provisions of the Succession (Scotland) Act 1964 specified in column 1 of the Schedule to this Order, there is hereby fixed the amount specified opposite thereto in column 2 of the said Schedule.

3. The Prior Rights of Surviving Spouse (Scotland) Order 1981 (2) is hereby revoked.

New St Andrew's House,  
Edinburgh  
24th March 1988

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State, Scottish  
Office

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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 amended and section 9A was inserted, by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c. 55), section 4; section 9 was also amended by the Law Reform (Parent and Child) (Scotland) Act 1986 (c. 9), Schedule 2.

(2) S.I.1981/806

**Status:** This is the original version (as it was originally made).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

| 1<br><i>Provision of the Succession (Scotland) Act 1964</i> | 2<br><i>Amount</i> |
|---|--------------------|
| Section 8(1)(a)   | £65,000            |
| Section 8(1)(b)   | £65,000            |
| Section 8(3)(a)   | £12,000            |
| Section 8(3)(b)   | £12,000            |
| Section 9(1)(a)   | £21,000            |
| Section 9(1)(b)   | £35,000            |

**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 sections 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 £50,000, to the interest (or in certain cases to a sum equal to its value); or
- (b) in any other case, to the sum of £50,000.

(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 £10,000, 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 £10,000, as the surviving spouse may choose.

(3) The surviving spouse has a prior right—

- (a) where the deceased left issue, to the sum of £15,000; or
- (b) where the deceased left no issue, to the sum of £25,000.

This Order increases the two amounts of £50,000 mentioned at (1) above to £65,000. It increases the two amounts of £10,000 mentioned at (2) above to £12,000. It increases the amounts of £15,000 and £25,000 mentioned at (3) above to £21,000 and £35,000 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.