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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 436**

**SUCCESSION**

**The Prior Rights of Surviving Spouse  
and Civil Partner (Scotland) Order 2011**

<i>Made</i>	- - - -	<i>7th December 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th December 2011</i>
<i>Coming into force</i>	- -	<i>1st February 2012</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 8(1) and (3) and 9(1) of the Succession (Scotland) Act 1964(1) and all other powers enabling them to do so.

**Citation and Commencement**

1. This Order may be cited as the Prior Rights of Surviving Spouse and Civil Partner (Scotland) Order 2011 and comes into force on 1st February 2012.

**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 in the corresponding entry in column 3(2).

**Revocation**

3. The Prior Rights of Surviving Spouse (Scotland) Order 2005(3) is revoked.

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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) and the Civil Partnership Act 2004 (c.33), Schedule 28, Part 1, paragraphs 4 and 5; relevant amendments were made to section 9 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 the Scotland Act 1998 (c.46), section 53.

(2) The previous amounts were fixed by S.S.I. 2005/252.

(3) S.S.I. 2005/252.

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**Status:** This is the original version (as it was originally made).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

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St Andrew's House,  
Edinburgh  
7th December 2011

*R CUNNINGHAM*  
Authorised to sign by the Scottish Ministers

## SCHEDULE

<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)	£473,000	£300,000
Section 8(3)(a) and (b)	£29,000	£24,000
Section 9(1)(a)	£50,000	£42,000
Section 9(1)(b)	£89,000	£75,000

## EXPLANATORY NOTE

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

Where a person dies intestate leaving a spouse or civil partner, the surviving spouse or civil partner'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 or civil partner was ordinarily resident, the surviving spouse or civil partner has a prior right—

- (a) where the value of the interest does not exceed £300,000, to the interest (or in certain cases to a sum equal to its value); or
- (b) in any other case, to the sum of £300,000.

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

- (a) where the value of the furniture and plenishings does not exceed £24,000, to the whole of the furniture and plenishings; or
- (b) in any other case, to such part of the furniture and plenishings, to a value not exceeding £24,000, as the surviving spouse or civil partner may choose.

(3) The surviving spouse or civil partner has a prior right—

- (a) where the deceased left issue, to the sum of £42,000; or
- (b) where the deceased left no issue, to the sum of £75,000.

This Order increases the two amounts of £300,000 mentioned at (1) above to £473,000. It increases the two amounts of £24,000 mentioned at (2) above to £29,000. It increases the amounts of £42,000 and £75,000 mentioned at (3) above to £50,000 and £89,000 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).

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