

DAMAGES (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 13: Amendment of section 9 of Administration of Justice Act 1982

71. **Section 13** amends section 9 of the Administration of Justice Act 1982 (“the 1982 Act”).
72. Section 9(1) of the 1982 Act entitles the victim to claim damages in respect of the victim’s inability to render personal services. Paragraph (a) inserts a new subsection (1A) in section 9 of the 1982 Act which provides that, in assessing damages under subsection (1) in cases where the victim’s expectation of life has been reduced, the court is to assume that the victim would have lived until the victim’s notional date of death had the injuries not been sustained. This provision makes it clear that damages under section 9 of the 1982 Act are payable in respect of the lost period. It is new and reflects section 1(5) of the Act. It gives effect to the Commission’s recommendation 5(b).
73. Paragraphs (b) to (d) make amendments to section 9 of the 1982 Act in consequence of section 6 which re-enacts section 9(2) of the 1982 Act. Paragraph (b) repeals section 9(2); paragraph (c) deletes the reference to subsection (2) in subsection (3), and paragraph (d) amends subsection (4) by substituting, for the reference to subsection (2), a reference to section 6(1) of the Act.