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SCOTTISH STATUTORY INSTRUMENTS

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**2011 No. 268 (C. 20)**

**DAMAGES**

**The Damages (Scotland) Act 2011 (Commencement,  
Transitional Provisions and Savings) Order 2011**

<i>Made</i>	- - - -	<i>15th June 2011</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>17th June 2011</i>
<i>Coming into force</i>	- -	<i>7th July 2011</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 19(3) and (4) of the Damages (Scotland) Act 2011<sup>(1)</sup> and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Damages (Scotland) Act 2011 (Commencement, Transitional Provisions and Savings) Order 2011 and comes into force on 7th July 2011.

**Interpretation**

2. In this Order—
- “the Act” means the Damages (Scotland) Act 2011; and
  - “the 1976 Act” means the Damages (Scotland) Act 1976<sup>(2)</sup>.

**Appointed day**

3. The appointed day for the coming into force of the provisions of the Act, in so far as they are not already in force, is 7th July 2011.

**Transitional and savings provisions**

- 4.—(1) In relation to any death occurring before 4th May 2006, the Act applies—
- (a) under omission of section 4(5) and the definition of “relative” in section 14(1); and
  - (b) instead with—

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(1) 2011 asp 7.  
(2) 1976 c.13.

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**Status:** This is the original version (as it was originally made).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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- (i) any reference to a relative in relation to a person being construed in accordance with Schedule 1 to the 1976 Act; and
- (ii) any reference to a person's immediate family being construed in accordance with section 10(2) of the 1976 Act as read with that Schedule;

that is, as those provisions of the 1976 Act had effect immediately before their repeal by the Act but as if they had not been modified by section 35(4) and (5)(b) to (d) of the Family Law (Scotland) Act 2006<sup>(3)</sup>.

(2) In relation to any death occurring on or after 4th May 2006 and before the appointed day, paragraph (d) of the definition of "relative" in section 14(1) of the Act has effect as if the words from "accepted the" to the end of that paragraph were omitted.

St Andrew's House,  
Edinburgh  
15th June 2011

*R CUNNINGHAM*  
Authorised to sign by the Scottish Ministers

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(3) [2006 asp 2. S.S.I. 2006/212](#), article 8 provides that section 35 does not apply in respect of deaths which occurred before 4th May 2006.

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## EXPLANATORY NOTE

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

This Order brings into force those provisions of the Damages (Scotland) Act 2011 (“the Act”) that are not already in force, and makes certain transitional and saving provisions.

The Act received Royal Assent on 7th April 2011 and sections 18 and 19 came into force on the following day. The remaining provisions of the Act come into force on 7th July 2011.

Article 4(1) gives continued effect to certain transitional provisions applying to section 35 of the Family Law (Scotland) Act 2006 (“the 2006 Act”), which amended the Damages (Scotland) Act 1976 (“the 1976 Act”). The effect is that, in respect of deaths that occurred before 4th May 2006, the categories of person entitled to claim damages in respect of the death of a relative continues to be determined by reference to the 1976 Act, as if that Act had not been amended by the 2006 Act.

Article 4(2) restricts the application of changes made to the definition of ‘relative’ (from that previously contained in the 1976 Act) to deaths occurring on or after the appointed day.