

**Government Response to
Report of the Petitions Committee
on
Petition of Kiwilaw Probate and Estates Ltd: Raise the threshold for
requiring probate or letters of administration**

Presented to the House of Representatives

In accordance with Standing Order 256

Government response to Report of the Petitions Committee on the Petition of Kiwilaw Probate and Estates Ltd: Raise the threshold for requiring probate or letters of administration

Introduction

- 1 The Government has carefully considered the Petitions Committee's (the Committee) report on the Petition of Kiwilaw Probate and Estates Ltd: Raise the threshold for requiring probate or letters of administration (the Report).
- 2 The Report was presented to the House of Representatives on 7 May 2024. The Government responds to the Report in accordance with Standing Order 256.

Background

- 3 The Administration Act 1969 (the Act) allows banks and certain other entities such as superannuation providers to pay out money, up to a threshold of \$15,000, to specified relatives of a deceased person without requiring probate or letters of administration (together, grants of administration).
- 4 The threshold of \$15,000 is set out in the Administration (Prescribed Amounts) Regulations 2009 (the Regulations). This relatively low threshold allows small estates to be distributed efficiently, without incurring court fees or legal costs. It reflects that requiring applications for grants of administration for small estates would involve costs out of proportion to the value of assets.
- 5 The threshold is set low to provide safeguards, through Court oversight, against potential dishonesty and fraud. It also protects the executor of a will from potential personal liability provided any payment or distribution was made in good faith in accordance with the will.

The Petition

- 6 The *Petition of Kiwilaw Probate and Estates Ltd: Raise the threshold for requiring probate or letters of administration* (the Petition) was submitted by Kiwilaw Probate and Estates Ltd, a law firm that practices in the areas of wills and estates.
- 7 The petitioner requests that the House of Representatives "*raise the financial threshold from \$15,000 to \$25,000 for requiring probate or letters of administration before estate funds can be released by a financial institution.*"
- 8 The petitioner noted that in 2009, the threshold was increased from \$11,000 to \$15,000 to reflect inflation between 1998 and 2009. It requested an increase to \$25,000 to reflect inflation since 2009 and to prevent the need for a further adjustment in the coming years.
- 9 The petitioner raised concerns about the costs of applying for grants of administration, both legal and court fees. Legal or factual complications can

add increased costs in the thousands of dollars, even for small estates only just above the \$15,000 threshold.

The Petitions Committee's report and recommendation

- 10 The Committee found there was merit in the petitioner's suggestion that the threshold is increased in response to inflation. It noted previous calls for an increase to the threshold by the Law Commission and New Zealand Law Society and acknowledged that lifting the threshold could provide immediate relief to bereaved families and would benefit those with the smallest estates.
- 11 Rather than the petitioner's proposed increase to \$25,000, the Committee's recommendation was that the threshold is increased to reflect inflation as soon as possible, and in the future.
- 12 The Committee recommended to the Government that: "*...an adjustment be made as soon as possible to the threshold for grants of administration that matches inflation since 2009, and that a mechanism be established that would regularly adjust the threshold for inflation in future years.*"
- 13 It stated that the regular adjustment for inflation could be introduced either by amending the regulation-making power in the Act, or by requiring the Minister of Justice to undertake a regular review of the prescribed amounts and then recommend whether or not, and by how much, the threshold should be adjusted.

Government response

- 14 The Government thanks both the petitioner for its advocacy on this issue, and the Committee for their careful consideration of the matters raised in the Petition.
- 15 The Government acknowledges the Committee's recommendation and agrees that work on the threshold is warranted. The Ministry of Justice has begun work to increase the threshold in the Regulations.
- 16 The second part of the Committee's recommendation, introducing a mechanism to regularly adjust for inflation, would require a change to the Act, which is a significantly lengthier process than changing regulations. This recommendation will be considered as priorities, and opportunities across the Justice portfolio for amending primary legislation, allow.