

Possible changes to the probate threshold

Introduction

The Ministry of Justice is considering raising the threshold for distributing someone's assets after death without the need for probate or letters of administration (probate). We are seeking your feedback to help set a new probate threshold.

Currently, the Administration Act 1969 (the Act) allows an estate to be administered without probate if there are only financial assets and none of the individual assets exceed \$15,000 in value. This includes funds held by banks and superannuation providers.

This threshold amount of \$15,000 for each financial asset was set in July 2009 and has not changed since then. For example, a significant development in the last 15 years has been the growth of KiwiSaver. We want to understand the impact of KiwiSaver and any other relevant factors on estate sizes.

We want your feedback about the probate threshold

We are seeking your feedback on the following questions:

1. How often are you making payments without the need for probate or letters of administration relying on the Administration Act 1969?
2. Do you have any data about the average size of assets people hold with you when they die? For example, the number of people who die that have assets less than \$15,000? Less than \$25,000, \$35,000, or \$45,000?
3. How easy or difficult do you find navigating the current system when deciding whether to pay out? What changes would you need to make if the threshold changed?
4. In your experience, are you aware of any situations where accounts above \$15,000 are unclaimed?
5. What do you think would be an appropriate new threshold and why?
6. Is there any other feedback you would like to provide?

Please send your feedback to CivilLaw@justice.govt.nz by 5pm on Thursday 28 November 2024.

If you would like to meet to discuss your feedback, please contact us at CivilLaw@justice.govt.nz as soon as possible.

Background information

The Administration Act 1969 (the Act) provides rules around how to deal with deceased estates. This includes when a grant of probate or letters of administration are needed to distribute assets, and how to distribute an estate if someone dies without a will.

The Administration (Prescribed Amounts) Regulations 2009 (the Regulations) sets out a monetary threshold for how much banks and other entities can distribute without probate. The current threshold is \$15,000.

This allows small estates to be distributed efficiently, without incurring court fees or legal costs. Requiring applications for grants of administration for small estates would involve costs out of proportion to the value of assets.

The limit 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 limit applies per asset, meaning that there might be several assets under \$15,000 that could all be paid out by different entities, resulting in a total estate value well above the limit.

Why are we looking at this?

The probate threshold was set in July 2009. It has not been adjusted for inflation, or to respond to other factors like KiwiSaver that may change the makeup of estates.

There have also been several calls to look at the probate threshold. [The Law Commission recommended](#) we look at this threshold in 2021. In 2024, the [Petitions Committee recommended](#) the probate threshold be raised to adjust for inflation. This would give a new limit of around \$22,000.

We want to hear from you to inform our work to set new amounts in the Regulations.

What happens to your feedback?

We'll use your feedback to help advise the Government on changing the probate threshold and statutory legacy amount.

We may also release your feedback after an Official Information Act 1982 (OIA) request. If you do not want us to release your feedback, please state this clearly when you send it to us and explain why. For example, some information may be commercially sensitive or personal. We'll take your views into account when we respond to OIA requests.