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EXPLANATORY MEMORANDUM

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ADMINISTRATION AND PROBATE (AMENDMENT) BILL 1991

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Issued by authority of Attorney-General, Bernard Collaery MLA

EXPLANATORY MEMORANDUM

Administration and Probate (Amendment) Bill 1991

Outline

The Administration and Probate (Amendment) Bill 1991 provides for an increase from \$5,000 to \$20,000 of the value of estates which can be administered by the Public Trustee without probate, letters of administration or an election to administer.

The Bill also increases from \$30,000 to \$100,000 the value of estates for which the Public Trustee may file an election to administer.

In order to avoid inconsistencies within the legislation, the value of estates classified as small estates and dealt with in Part IV is also increased from \$30,000 to \$100,000.

The increases are to take account of inflation over the period since the values were last adjusted.

Financial Consideration

The implementation of these measures will assist in increasing the financial viability of the Office of the Public Trustee.

Notes on Clauses

Clause 1 provides that the Act may be cited as the Administration and Probate (Amendment) Act 1991.

Clause 2 states that the Principal Act is the *Administration and Probate Act 1929*.

Clause 3 amends section 75 of the Principal Act by substituting \$100,000 for \$30,000. This increase is to take account of inflation and to

ensure consistency in classification of estates as small estates throughout the Act.

Clause 4 amends section 77 of the Principal Act by substituting \$100,000 for \$30,000 in paragraph 1(b). Like clause 3 this provision is to increase the value of small estates in accordance with inflation.

Clause 5 amends section 87B of the Principal Act by inserting \$20,000 in paragraph 1(a) in place of \$5,000. This increase is to take account of inflation since the value of very small estates, which can be dealt with under section 87B, was set.

Under section 87B the Public Trustee may administer a very small estate without the need to obtain a grant of probate or letters of administration, or file an election to administer.

The effect of inflation had reduced the number of these estates, and the amendment will increase the numbers again.

Clause 6 amends section 87C of the Principal Act by inserting in paragraph 1(b) and sub-section (8) \$100,000 in place of \$30,000.

This amendment is also to take account of inflation.

Section 87C allows the Public Trustee to file an election to administer a small estate. As with section 87B, the effect of inflation has been to diminish the number of small estates able to be dealt with under those provisions, as estates are, under the Act, classified according to monetary value. The amendment will make this procedure available to a larger number of estates.