**SUPREME COURT INDICATOR ON THE ALLOWANCE OF COMMISSION IN DECEASED ESTATES UNDER**

**SECTION 70 OF *THE ADMINISTRATION AND PROBATE ACT 1919* AND SECTION 91 OF *THE TRUSTEE ACT 1936***

1. This is an Indicator, and not a scale, relating to the remuneration to be allowed to executors, administrators or trustees in relation to deceased estates, whether under s 70 of the *Administration and Probate Act 1919* or under s 91 of the *Trustee Act 1936*.

2. The Indicator:

(i) applies to deceased estates of $1m or less, and in which probate or letters of administration is granted on or after 1 July 2013;

(ii) does not fetter the discretion of the Court as to the amount of commission or other remuneration to be allowed under s 70 or s 91.

3. In estates in which the amount on which the commission is sought does not exceed $1m in total and in which there are no special or unusual circumstances, it is likely that the Court will exercise its discretion under s 70 or s 91 to allow commission on the value of the assets realised or distributed and the income received:

(i) of at least one per cent on the first $500,000; and

(ii) of at least half of one per cent on the balance.

4. If there are successive applications for commission, this Indicator will apply to the first $100,000 of the assets realised and income received.

5. The allowance in paragraph 3 will:

(i) apply irrespective of whether paid agents have been employed in the administration of the estate;

(ii) be payable to joint trustees collectively; and

(iii) be subject to the Court’s discretion to allow a higher or lower amount of commission having regard to the particular circumstances of the case.

6. Paragraph 3 will not apply if:

(i) a trustee receives remuneration for professional services rendered to the estate;

(ii) a trustee is a co‑trustee with the Public Trustee or a trust corporation as defined in the Probate Rules; or

(iii) the will provides for some remuneration or commission to be paid to a trustee.

7. In all other applications for commission under s 70 or s 91, the Court will exercise its discretion having regard to the circumstances of the particular case.