

Births, Deaths and Marriages Registration (Fees) Amendment Regulations 2021

Regulatory Impact Statement

November 2021



Justice
and Community
Safety



Glossary

The BDMR Act	<i>Births, Deaths and Marriages Registration Act 1996</i>
BDMR Fees Regulations (The current Regulations)	Births, Deaths and Marriages Registration (Fees) Regulations 2019
The proposed Regulations	Births, Deaths and Marriages Registration (Fees) Amendment Regulations 2021
ABS	Australian Bureau of Statistics
BDM	The Registry of Births, Deaths and Marriages Victoria
RIS	Regulatory Impact Statement

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Summary

Proposed amendments to the Births, Deaths and Marriages (Fees) Regulations 2019

The *Births, Deaths and Marriages Registration Act 1996* (the BDMR Act) allows fees for legal certificates to be prescribed in Regulations. The fee is currently prescribed in the Births, Deaths and Marriages Registration (Fees) Regulations 2019 (BDMR Fees Regulations).

The Victorian Government has decided to increase the fee for a legal certificate in the BDMR Fees Regulations.

The Victorian Government is proposing to increase the fee for a legal certificate by 50 per cent, from \$34.30 to \$51.40, from 1 March 2022 (current target commencement date). This includes the fee for a legal birth, death or marriage certificate.

Table 1: Current and proposed fee for legal certificates

	Current Fee	Proposed Fee	% change
Fee for a legal certificate	2.28 fee units ¹ (\$34.30 in 2021-22)	3.42 fee units (\$51.40 in 2021-22)	50%

The increase in revenue from this change is estimated to be around \$1.4 million in 2021-22 (with the fee increase planned to take effect from 1 March 2022) and then around \$3.5 million per year.

The BDMR Fees Regulations need to be amended to give effect to the fee increase. Because of the size of the impact, this requires the preparation of a Regulatory Impact Statement (RIS). This means that, while the policy has been agreed, the implementation of the fee increase is subject to:

- preparation of a RIS that assesses the impacts of the increased fee and release of the RIS for public consultation
- release of the proposed amending Regulations required to give effect to the increased fee also for public comment
- consideration of all submissions from the public on the proposed increase before the Minister responsible for the BDMR Act, the Attorney-General, decides to formally make the amending Regulations.

Other fees prescribed in the BDMR Fees Regulations will not be changed.

Reasons for amending the Regulations

The Victorian Government has decided to increase the fee for BDM's legal certificates by 50 per cent from \$34.30 to \$51.40.

The increase in fees would bring Victoria's fees more in line with the corresponding fees in other jurisdictions. The Victorian fee for a legal certificate, such as a birth, death or marriage certificate, is the lowest across all states and territories. The current fee for legal certificates in Victoria is between 30 and 50 per cent below the corresponding fee charged in other states and territories,

¹ Fees in regulations are expressed in fee units. The value of one fee unit is \$15.03 in 2021-22. The value of a fee unit is generally increased from 1 July each year following a determination by the Treasurer.



and 40 per cent below the average fee. An increase in the fee for legal certificates would enable fees to more closely align with the Victorian Government's new *Pricing Principles*, in particular ensuring sustainable funding for BDM, better recovery of costs for BDM services, capturing value for taxpayers, and improving BDM's service delivery in the long run.

An amendment to the BDMR Fees Regulations is required to give effect to this decision.

The objective of the amending Regulations is to increase the fee for legal certificates in line with the Government's decision.

Scope of this RIS

The Victorian Government has decided to increase the fee for BDM's legal certificates by 50 per cent from \$34.30 to \$51.40 (with fees continuing to be subject to automatic indexation beyond 2021-22).

This decision was made by the Government as part of its budget processes during which a range of options are considered. This RIS is not intended to revisit the Government's decision or identify other revenue options across government.

As the Government has decided to increase the fee for legal certificates, subject to the processes associated with amending the BDMR Fees Regulations, this RIS has focused on assessing the impacts of the decision to assist the public to comment on the fee increase before the amending Regulations are formally made. This will assist in ensuring that all impacts of the fee increase are fully considered. Alternative options to the decision made by the Government are not assessed in this RIS as they would not be consistent with the Government's decision, and therefore would not meet the stated objective. The decision to make the amending Regulations is limited to implementing the Government's decision.

This RIS does consider the impact of actions taken by BDM outside of amending the BDMR Fees Regulations that may be relevant to informing stakeholder views on how the fee increase is implemented. In particular, in parallel with the fee increase, BDM will review its *Financial Hardship and Fee Waiver Policy* with a view to increasing access to fee waivers in the case of financial disadvantage or hardship, in particular for people experiencing vulnerability.

Assessment of impacts

The proposed Regulations will increase the legal certificate fee by 50 per cent (from \$34.30 to \$51.40 in 2021-22).

Compared to the base case, this will increase government revenue by approximately \$1.4 million in 2021-22 (with the fee increase planned to take effect from 1 March 2022) and then around \$3.5 million per year thereafter.

The increase will apply to any person who applies to BDM for a legal certificate.

Impact on equity and access to services

Victoria's price for legal certificates is considerably below all other states and territories (see **Appendix C**). Legislation providing for BDM services is largely similar across all jurisdictions, and the use of a legal certificate is largely identical across states and territories.

- This suggests that the willingness to pay, or the value that a person gets from being able to apply for a certificate is higher than the current Victorian price for a legal certificate. It suggests that issued legal certificates have a value that is not reflected in the current fee level.
- The comparison with other states and territories also suggests that the ability and capacity to pay for a legal certificate is higher than the current certificate fee in Victoria, subject to ensuring special arrangements are in place for financially disadvantaged groups.



On this basis and subject to ensuring special arrangements are in place for financially disadvantaged groups (such as BDM's *Financial Hardship and Fee Waiver Policy*), it is not anticipated that the increase in the fee for legal certificates will affect access to BDM services.

Section 49 of the BDMR Act provides that the Registrar may, in appropriate cases, remit whole or part of the fee under this Act. BDM already provides fee waivers in a limited number of circumstances. BDM has been working to increase the rates of birth registration and birth certificate possession among Victoria's Aboriginal and Torres Strait Islander communities, including through community engagement and fee waivers. There is evidence to suggest the level of non-registration of births is lower in the Aboriginal community than for the general Victorian population. BDM has continued to strengthen its engagement with the Aboriginal community in order to increase the rates and timeliness of birth registration and birth certificate possession among the community.

BDM recognises that increasing fees may be a financial concern for some people, particularly those cohorts experiencing disadvantage who may be discouraged from applying for a legal certificate, in particular, a birth certificate. BDM will address this risk through reviewing its *Financial Hardship and Fee Waiver Policy* to ensure that it provides an avenue to ameliorate the increase in legal certificate fees as much as possible and through direct outreach by BDM staff with cohorts and their representatives experiencing hardship. As part of the implementation of the proposed fee increase, BDM will work further with communities experiencing difficulties, to enable improved access to certificates. It is expected that the proportion of fee waivers will increase under the updated Policy.

Impact on cost recovery

While the additional revenue from the increase in fees is not retained by BDM, it is relevant to consider how fee revenue relates to the costs of BDM activities.

Appendix A sets out BDM fee revenue and expenses over the past two financial years.

Based on the actual expenses in 2020-21, BDM's annual expenses fall short of its fee revenue by just under \$7 million per annum.² This funding gap—which must be met by taxpayers through the state Budget—is expected to be around \$2.5 million higher, at over \$9 million per year from 2021-22.³

The cost of services which have previously been excluded from cost recovery through fees is over \$8 million per year. Some of this cost gap (around \$1.4 million) is offset by a surplus generated from the discretionary 'value-added' services,⁴ leaving a gap to be met by taxpayers of almost \$7 million per year. Recognising future costs outlined above, this funding gap is expected to be over \$9 million per year.

The gap is due to core functions of BDM that do not involve charging fees—notably the registration of births and deaths, and the costs of collecting and maintaining data in the Register as the source of accurate information. The BDMR Act does not allow the charging of fees for these services, and there are sound policy reasons for not doing so.

² Most of the fees collected by BDM are not retained directly by BDM, but go into general government revenue, with a separate appropriation from the state budget provided to the Department of Justice and Community Safety to fund BDM's core activities.

³ This is based on historical costs, plus known cost pressures going forward (i.e., the re-opening of BDM's call centre), which would mean that the amount of BDM costs not covered by fees is likely to be larger in the future, although the exact amount depends on a number of other strategies to manage costs and identify potential efficiencies.

⁴ A number of services are provided as commercial services or 'value-added' services beyond the core functions of BDM. These include wedding ceremonies (venue and celebrant), production of commemorative birth certificates, and copies of historical images and documents. Fees for these services are not set in Regulations but directly by the Registrar. BDM estimates that the cost of providing these services is around \$3 to \$3.5 million per year.



Nevertheless, the maintenance of the Register has both public value (as a source of aggregate data about the population) and private value (as a source of information that is used to provide services to individuals). Without the existence of a well-managed Register, services such as issuing legal certificates would not be possible, or would have diminished value.

BDM understands that at least some other states and territories are using legal certificate fees to recover other costs of registration, as they are self-funding agencies.

Recovering part of BDM's costs that have not previously been taken into account when setting fees, recognises that the unfunded component of BDM's costs has a private value and a public good component and it is appropriate to share these costs between users of BDM services and taxpayers generally.

The proposed increase in legal certificate fees is consistent with a number of principles in the Victorian Government's *Pricing for Value Guide*. In particular, the increase fee better reflects a fair and appropriate level of cost recovery, and supports sustainable use of public resources.

Impact on positive behaviours

Many people may apply for certificates to replace lost or stolen certificates, drawing on BDM resources that would not be needed if, at least in some cases, more care was taken to keep certificates safe. The number of certificates (particularly those that are lost or unaccounted for) can also be a source for fraud. It is well established that a person's identity can be stolen through theft or loss of identity credentials that are relied upon as evidence of identity. The four credentials most at risk of misuse are Medicare cards, passports, birth certificates and driver licences.⁵ For this reason BDM encourages people to return their original birth certificates when applying for a replacement certificate or a correction to their birth certificate.

A higher price for legal certificates may give a better signal of its value to the user, to encourage people to improve care and protection of certificates, reducing lost and stolen certificates, as well as opportunities for misuse.

Impact on competition and small business

As legal certificates are provided to individuals, the increase in fees will not have an impact on any businesses. Therefore, there is no material impact on competition or disproportional impact on small businesses associated with the proposed Regulations.

Impact on simplicity of fee arrangements

While there are different kinds of legal certificates (e.g., birth, marriage or death), they are largely identical in terms of their status and function, and involve similar resources from BDM to produce. It is preferred to keep pricing of products as simple as possible, as this assists with an efficient application process. As a small agency with relatively low revenue levels, but based on a high volume of transactions for which fees are charged, simplicity of fees is an important consideration.

The proposed increase in legal certificate fees does not affect the overall simplicity of BDM's fees, or its ability to collect fees (fees for legal certificates must be paid as part of the application process).

⁵ www.ag.gov.au/identitysecurity



Overall impact assessment

The following table summarises the impacts of the proposed Regulations.

Table 2: Impact assessment summary

Criterion	Assessment of proposed Regulations relative to the base case
Equity and access	Improves equity (through better reflecting value of service), and impact on access is expected to be minimal (noting review of BDM's <i>Financial Hardship and Fee Waiver Policy</i> to improve access to fee waivers)
Cost recovery	Improves the level of cost recovery
Positive behaviour	Improves positive behaviours
Competition and small business	No change. The proposed Regulations do not affect competition or small businesses
Simplicity	No change. The proposed Regulations maintain the same fee structure and charging systems

On this basis, this RIS supports the making of the proposed Regulations to implement the Government's decision to increase the fee for legal certificates by 50 per cent.

Implementation

The proposed increase in the fee for legal certificates will take effect for applications for certificates lodged from 1 March 2022 (current target commencement date). The BDM website will be updated to reflect this change.

BDM will communicate the fee change through existing stakeholder relationships with organisations who assist people to obtain/apply for legal certificates, such as Aboriginal organisations, funeral directors, and other government departments (e.g., Corrections Victoria).

Consultation

Parties affected by, or interested in, the proposed amendment to the BDMR Fees Regulations are invited to make a written submission on the proposed fee increase.

This RIS is designed to facilitate consultation with parties, by explaining the reasons for the proposed Regulations. Parties may wish to comment on the approach outlined in this RIS and its conclusions.

The Attorney-General is required to consider all submissions prior to making a final decision on the making of the proposed Regulations.

Details for making a submission, including the time period for submissions, can be found on the Engage Victoria website <https://engage.vic.gov.au>



1. Background

1.1 Scope of this Regulatory Impact Statement

The Victorian Government has decided to increase the fee for a legal certificate in the Births, Deaths and Marriages Registration (Fees) Regulations 2019 (BDMR Fees Regulations). The increase in revenue from this change is estimated at around \$3.5 million per year (full year impact), which requires the preparation of a Regulatory Impact Statement (RIS). This means that, while the policy has been agreed, the implementation of the fee increase is subject to:

- preparation of a RIS that assesses the impacts of the increased fee and release of the RIS for public consultation
- release of the proposed amending Regulations required to give effect to the increased fee also for public comment
- consideration of all submissions from the public on the proposed increase before the Minister responsible for the BDMR Act, the Attorney-General, decides to formally make the amending Regulations.

The increases in the fee for legal certificates will also apply to certificates issued under the *Relationships Act 2008*, for which the fee is prescribed under the Relationships (Fees) Regulations 2019. However, the increase in revenue attributable to the amendment to those Regulations is very small (around \$100,000 per year based on the number of applications), and hence no RIS is required to support the amendment to those Regulations.

1.2 Births, Deaths and Marriages Victoria

The Registry of Births, Deaths and Marriages Victoria (BDM) has been recording significant life events for Victorians since 1853.

BDM is responsible for:

- registering all births, adoptions, marriages and deaths in Victoria
- registering all domestic and caring relationships in Victoria
- registering name changes for those born in Victoria, or overseas born and living in Victoria
- registering record of sex changes for those born or living in Victoria
- issuing certificates for all the above
- offering a civil marriage service through the Victorian Marriage Registry.

The functions of BDM are fundamental to the organisation of society and underpin many important social and economic activities. Each year BDM registers around 80,000 births and 40,000 deaths. In 2020-21, BDM issued around 230,000 legal certificates.

BDM offers some of its records to people looking to trace their family history, and also provides data services to government agencies, universities and other organisations for research and planning.

BDM is part of the Department of Justice and Community Safety. BDM is headed by the Registrar, which is a statutory role under the BDMR Act.

1.3 Legislative framework for registering significant life events

The primary legislation that applies to the Register is the BDMR Act.

The BDMR Act sets out the main requirements associated with registering births, marriages and deaths, and for obtaining information from the Register. The Births, Deaths and Marriages Registration Regulations 2019 set out the information required to be included in a birth



registration statement, a Medical Certificate of Cause of Death (MCCD) provided by a doctor, and a Death Registration Statement (DRS) provided by a funeral director.

BDM also has functions under the Relationships Act to record and maintain a register of registrable relationships. BDM also has other functions under a range of other legislation (e.g., *Adoption Act 1984* and the *Marriage Act 1961* (Cth)).

1.4 BDM's key users

The following figure summarises the key users of BDM's services and/or those that BDM works closely with in delivering its core services.

Figure 1: Users of BDM services

User group	Use
General public (individuals)	Register births, marriages, registrable relationships Provide information to update Register (e.g., corrections, change of name) Obtain certificates for use as evidence of identity, relationship status or death Other services (e.g., commemorative birth certificates, research of family history, ceremony services).
Medical practitioners	Completes BDM's MCCD for the person whose medical care they had responsibility for immediately before the person's death. It is a statutory requirement for medical practitioners to notify the Registrar of the person's death.
Hospitals and Independent Midwives	Completes a notice of birth for a child born. It is a statutory requirement to notify the Registrar of the birth.
Funeral directors	Completes BDM's DRS for the person they have arranged a funeral for. It is a statutory requirement for funeral directors to notify the Registrar of the person's death.
Marriage Celebrants	Submit marriage documentation to BDM so a marriage may be registered.
Government, Universities, Commercial organisations, Law enforcement agencies (including Victoria Police)	Access to data held in the Register for administration, research or as authorised by legislation.
Organisations supporting people experiencing homelessness; Aboriginal and Torres Strait Islander community organisations; Legal practitioners; Adoption agencies; Maternal and Child Health Services; Justice Service Centres; State Trustees; Corrections Victoria; Department of Families, Fairness and Housing; Department of Health	Support clients to register life events/access legal certificates.
Marriage Celebrant Associations; Australian Funeral Directors Association; National Funeral Directors Association of Australia (independent and small funeral business); Australian Medical Association; Genealogical Society of Victoria	Advocate for their members who use BDM services.



2. The need to amend the BDMR Fees Regulations

2.1 Fees collected by BDM

BDM collects a number of fees for the services it provides under its legislation. These fees are set out in various places:

- Some fees relating to changing information in the Register and issue of certificates under the BDMR Act are set out in the BDMR Fees Regulations
- Other fees for services provided by BDM are determined by the Registrar under section 51 of the BDMR Act (discretionary fees)
- Fees relating to registering or revoking a relationship under the Relationships Act are set out in the Relationships (Fees) Regulations 2019.

Table 3 below shows the current fees.

Table 3: Current fees collected by BDM

	Current fee
<i>BDMR Regulations Fees</i>	
Change of name registration – adult	\$77.90
Change of name registration – child	\$77.90
Alteration of record of sex in the Victorian birth register (adult)	\$77.90
Alteration of record of sex in the Victorian birth register (child)	\$77.90
Application for document acknowledging person's identity (births outside Victoria)	\$112.30
Application for document acknowledging child's identity (births outside Victoria)	\$112.30
Fee to add information to a Victorian birth record	\$77.90
Search of the Register	nil
Fee for a legal birth, death, marriage, change of name or single status certificate	\$34.30
<i>Relationships Act Fees</i>	
Relationship registration	\$231.50
Revocation of a relationship	\$77.90
Add information to the Register	\$77.90
Search of Register	nil
Issue of certificate	\$34.30
<i>Discretionary fees (fees set by Registrar under section 51 of the BDMR Act)</i>	
Commemorative certificate	\$60.00
Copy of the original registration document	\$95.30
Fax fee	\$31.90
Verification letter	\$34.30
Postage	various
Wedding and relationship ceremony fees	various
Historical certificate	\$34.30
Historical image	\$20.00



The BDMR Act allows the Registrar to reduce or waive fees if it is considered appropriate.

Fees set in Regulations are expressed in terms of ‘fee units’, which increase automatically when the Treasurer changes the value of a fee unit under the *Monetary Units Act 2004*. The above fee amounts are for 2021-22, where the value of each fee unit is \$15.03.

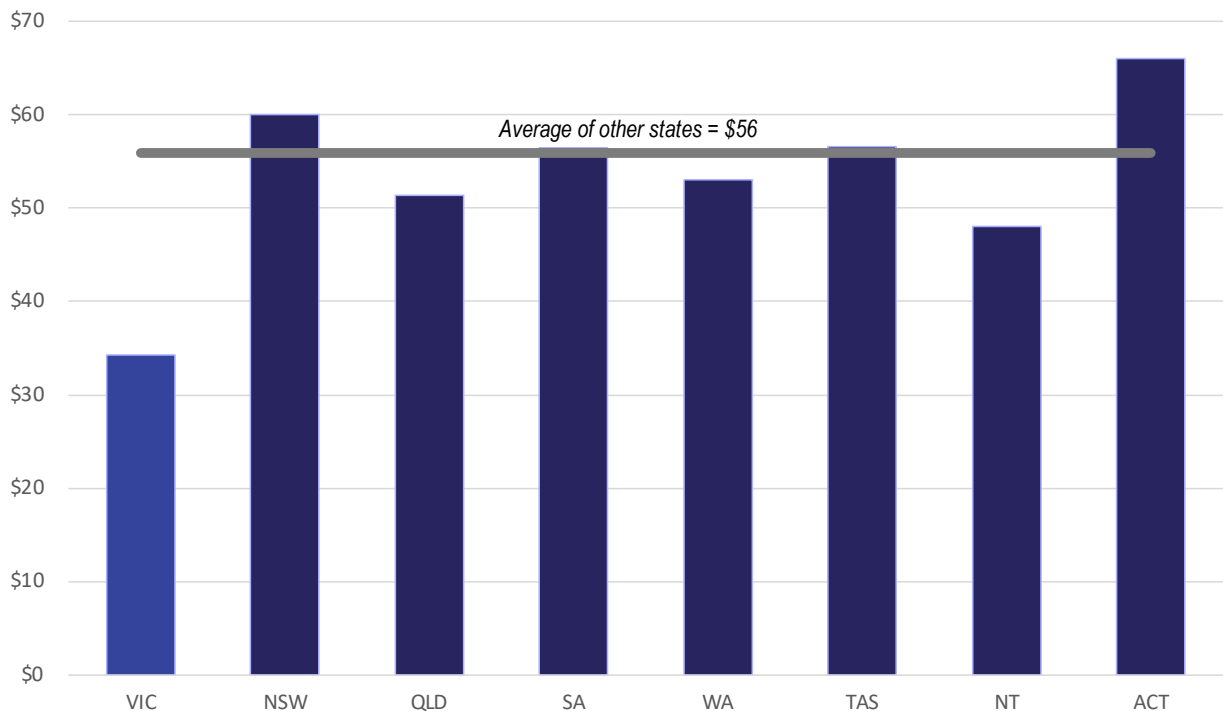
In 2020-21, the fees collected by BDM (both statutory and discretionary) were around \$15.5 million. The majority of the revenue raised by fees is not retained by BDM, but paid into the government consolidated fund. A separate budget appropriation is provided to BDM each year for its core services. See **Appendix A** for further information on fee revenue.

2.2 Government decision to increase fees

The Victorian fee for a legal certificate, such as a birth, death or marriage certificate, is the lowest across all states and territories.

The current fee for legal certificates in Victoria is between 30 and 50 per cent below the corresponding fee charged in other states and territories, and 40 per cent below the average fee.

Figure 2: Legal certificate price in Australian states and territories (as at 1 July 2021)



The Victorian Government has decided to increase the fee for BDM’s legal certificates by 50 per cent from \$34.30 to \$51.40 to bring Victoria’s fees more in line with the corresponding fees in other jurisdictions.

Regulations to amend the BDMR Fees Regulations are required to give effect to this decision.

2.3 Overall objective of the proposed Regulations

The objective of the proposed Regulations is to increase the fee for legal certificates in line with the Government’s decision.

The impacts of the proposed increase are outlined in the following chapter.



3. Assessment of impacts

3.1 Base case (status quo)

The base case is the continuation of current fees without change, including fees for legal certificates. All prescribed fees under the BDMR Fees Regulations and Relationships Act (see Table 3 above) will continue to be subject to automatic indexation in line with the Treasurer's annual determination for fee increases across Government. The discretionary fees set by the Registrar will continue to be reviewed on an annual basis.

3.2 Feasible options

The Victorian Government has decided to increase the fee for BDM's legal certificates by 50 per cent from \$34.30 to \$51.40 (with fees continuing to be subject to automatic indexation beyond 2021-22).

This decision was made by the Government as part of its budget processes during which a range of options are considered. This RIS is not intended to revisit the Government's decision or identify other revenue options across government.

As the Government has decided to increase the fee for legal certificates, subject to the processes associated with amending the BDMR Fees Regulations, this RIS has focused on assessing the impacts of the decision to assist the public to comment on the fee increase before the amending Regulations are formally made. This will assist in ensuring that all impacts of the fee increase are fully considered. Alternative options to the decision made by the Government are not assessed in this RIS as they would not be consistent with the Government's decision, and are therefore would not meet the stated objective. The decision to make the amending Regulations is limited to implementing the Government's decision.

This RIS does consider the impact of actions taken by BDM outside of amending the BDMR Fees Regulations that may be relevant to informing stakeholder views on how the fee increase is implemented. In particular, in parallel with the fee increase, BDM will review its *Financial Hardship and Fee Waiver Policy* with a view to increasing access to fee waivers in the case of financial disadvantage or hardship, in particular for people experiencing vulnerability.

3.3 Impacts of increase in fees for legal certificates

This section considers the impact of the proposed Regulations against a number of criteria. Some of these criteria have been informed by the Victorian Government's new *Pricing for Value Guide*, which since July 2021 has replaced the *Cost Recovery Guidelines*.

A key feature of the new *Pricing for Value Guide* is a principles-based approach to identify opportunities to set government charges in better ways. These principles, and further information about the Guide, is outlined at **Appendix D**.

Relevant for this RIS, the proposed Regulations can be assessed in terms of how well the increase in legal certificate fees aligns to the principles. BDM considers the relevant pricing principles for the purpose of this RIS are:

Principle 1: Agencies should aim to recover the full costs of service provision to promote efficient consumption

Principle 2: The cost of service provision should be borne by those who benefit from the service

Principle 3: Services creating broad benefits for the community should be priced to support efficient consumption



Principle 5: The price of services should not limit access to those with lower ability to pay

Principle 8: Pricing should support positive behaviours

Principle 9: Pricing should ensure sustainable usage of public services

Principle 11: Pricing structures should be easy to understand and simple to administer

These principles are considered below in the context of the overall impact assessment.

Direct financial impacts

The proposed Regulations will increase the legal certificate fee by 50 per cent (from \$34.30 to \$51.40 in 2021-22).

Compared to the base case, this will increase government revenue by around \$1.4 million in 2021-22 (with the fee increase planned to take effect from 1 March 2022) and then around \$3.5 million per year thereafter.

The increase will apply to any person who applies for a legal certificate.

Impact on equity and access to services

Victoria's price for legal certificates is considerably below all other states and territories (see Figure 2 above and **Appendix C**). Legislation providing for BDM services is largely similar across all jurisdictions, and the use of a legal certificate is largely identical across states and territories.

- This suggests that the willingness to pay, or the value that a person gets from being able to apply for a certificate is higher than the current Victorian price for a legal certificate. It suggests that issued legal certificates have a value that is not reflected in the current fee level.
- The comparison with other states and territories also suggests that the ability and capacity to pay for a legal certificate is higher than the current certificate fee in Victoria, subject to ensuring special arrangements are in place for financially disadvantaged groups.

On this basis and subject to ensuring special arrangements are in place for financially disadvantaged groups (such as BDM's *Hardship and Fee Waiver Policy*), it is not anticipated that the increase in the fee for legal certificates will affect access to BDM services.

Section 49 of the BDMR Act provides that the Registrar may, in appropriate cases, remit whole or part of the fee under this Act. BDM already provides fee waivers in a limited number of circumstances. BDM has been working to increase the rates of birth registration and birth certificate possession among Victoria's Aboriginal and Torres Strait Islander communities, including through community engagement and fee waivers. There is evidence to suggest the level of non-registration of births is lower in the Aboriginal community than for the general Victorian population. BDM has continued to strengthen its engagement with the Aboriginal community in order to increase the rates and timeliness of birth registration and birth certificate possession among the community.

BDM recognises that increasing fees may be a financial concern for some people, particularly those cohorts experiencing disadvantage who may be discouraged from applying for a legal certificate, in particular, a birth certificate. BDM will address this risk through reviewing its *Financial Hardship and Fee Waiver Policy* to ensure that it provides an avenue to ameliorate the increase in legal certificate fees as much as possible and through direct outreach by BDM staff with cohorts and their representatives experiencing hardship. As part of the implementation of the proposed fee increase, BDM will work further with communities experiencing difficulties, to enable improved access to certificates. It is expected that the proportion of fee waivers will increase under the updated Policy.



Impact on cost recovery

While the additional revenue from the increase in fees is not retained by BDM, it is relevant to consider how fee revenue relates to the costs of BDM activities.

Appendix A sets out BDM fee revenue and expenses over the past two financial years.

Based on the most recent actual expenses (2020-21), BDM's annual expenses fall short of its fee revenue by just under \$7 million per annum.⁶ This funding gap—which must be met by taxpayers through the state Budget—is expected to be around \$2.5 million higher, at over \$9 million per year from 2021-22.⁷

The core service of BDM is to register significant life events. For births and deaths, there is no fee charged to register these events, as there is a clear 'public good' value associated with the Register being as comprehensive and accurate as possible, and as such fees for registration may discourage or delay registration. See **Appendix B** for discussion of the public good benefits of facilitating registration of life events.

The cost of services which have previously been excluded from cost recovery through fees is over \$8 million per year. Some of this cost gap (around \$1.4 million) is offset by a surplus generated from the discretionary 'value-added' services,⁸ leaving a gap to be met by taxpayers of almost \$7 million per year. Recognising future costs outlined above, this funding gap is expected to be over \$9 million per year.

The gap is due to core functions of BDM that do not involve charging fees—notably the registration of births and deaths, and the costs of collecting and maintaining data in the Register as the source of accurate information. The BDMR Act does not allow the charging of fees for these services, and there are sound policy reasons for not doing so.

Nevertheless, the maintenance of the Register has both public value (as a source of aggregate data about the population) and private value (as a source of information that is used to provide services to individuals). Without the existence of a well-managed Register, services such as issuing legal certificates would not be possible, or would have diminished value.

The fee for certificates has historically been based on the direct costs of producing the certificate itself, and not the costs associated with maintenance of the Register which makes production of certificates possible. The current statutory fees (last set in 2019) were based on a 'bottom up' calculation of the incremental costs associated with BDM providing each individual transaction service (i.e., the direct costs of its activities to make changes to the Register and issue legal certificates). The current statutory fees do not include any costs related to the existence of the Register itself, or the costs of registering births and deaths on the Register, as these were considered to be entirely of public good value, and hence the BDMR Act does not allow charging of fees for registration. While there is a benefit to the public of having a central Register of life events of its population, there is also a benefit of the Register itself to other users who require specific services, for instance, genealogist undertaking family history research or users of BDM's data services. That is, the 'private value' to the individual of obtaining a legal certificate is not only the work involved in producing the certificate, but should also reflect (at least in part) the costs of

⁶ Most of the fees collected by BDM are not retained directly by BDM, but go into general government revenue, with a separate appropriation from the state budget provided to the Department of Justice and Community Safety to fund BDM's core activities.

⁷ This is based on historical costs, plus known cost pressures (i.e., the re-opening of BDM's call centre), which would mean that the amount of BDM costs not covered by fees is likely to be larger in the future, although the exact amount depends on a number of other strategies to manage costs and identify potential efficiencies.

⁸ A number of services are provided as commercial services or 'value-added' services beyond the core functions of BDM. These include wedding ceremonies (venue and celebrant), production of commemorative birth certificates, and copies of historical images and documents. Fees for these services are not set in Regulations but directly by the Registrar. BDM estimates that the cost of providing these services is around \$3 million to \$3.5 million per year.



maintaining the Register that enables the production of a recognised primary identification document and other key life event certificates, which are required to access services.

BDM understands that at least some other states and territories are using legal certificate fees to recover other costs of registration, as they are self-funding agencies.

Recovering part of BDM's costs that have not previously been taken into account in setting fees recognises that the unfunded component of BDM's costs has a private value and a public good component and it is appropriate to share these costs between users of BDM services and taxpayers generally.

The proposed Regulations would generate an additional \$3.5 million year (in a full year), relative to the projected \$9 million or more per year of BDM's costs that would need to be met from the taxpayers in coming years (in net terms).

Therefore, the proposed increase in legal certificate fees is consistent with a number of principles in the *Pricing for Value Guide*. In particular, the increased fee better reflects a fair and appropriate level of cost recovery, and supports the sustainable use of public resources.

Impact on positive behaviours

For many people a legal certificate will be needed at some stage in their lives. It is unlikely that the price of a certificate will affect their decision about whether or not to obtain a certificate. However, BDM considers that issued legal certificates have a value that is not reflected in the fee. A key principle of fee setting includes promoting optimal use of resources.

Many people may apply for certificates to replace lost or stolen certificates, drawing on BDM resources that would not be needed if, at least in some cases, more care was taken to keep certificates safe. The number of certificates (particularly those that are lost or unaccounted for) can also be a source for fraud. It is well established that a person's identity can be stolen through theft or loss of identity credentials that are relied upon as evidence of identity. The four credentials most at risk of misuse are Medicare cards, passports, birth certificates and driver licences.⁹ For this reason BDM encourages people to return their original birth certificates when applying for a replacement certificate or a correction to their birth certificate.

A higher price for legal certificates may give a better signal of its value to the user, to encourage people to improve care and protection of certificates, reducing lost and stolen certificates, as well as opportunities for misuse.

The proposed increase in the legal certificate fee is consistent with promoting positive behaviours and avoiding the need for replacement certificates.

Impact on competition and small business

As legal certificates are provided to individuals, the increase in fees will not have a direct impact on any businesses. Therefore, there is no material impact on competition or disproportional impact on small businesses associated with the proposed Regulations.

Impact on simplicity of fee arrangements

While there are different kinds of legal certificates (e.g., birth, marriage or death), they are largely identical in terms of their status and function, and involve similar resources from BDM to produce. It is preferred to keep pricing of products as simple as possible, as this assists with an efficient application process. As a small agency with relatively low revenue levels, but based on a high

⁹ www.ag.gov.au/identitysecurity



volume of transactions for which fees are charged, simplicity of fees is an important consideration for BDM.

The proposed increase in legal certificate fees does not affect the overall simplicity of BDM's fees, or its ability to collect fees (fees for legal certificates must be paid as part of the application process).

3.4 Overall impact assessment

The following table summarises the impacts of the proposed Regulations. On this basis, this RIS supports the making of the proposed Regulations to implement the Government's decision to increase the fee for legal certificates by 50 per cent.

Table 4: Impact assessment summary

Criterion	Assessment of proposed Regulations relative to the base case
Equity and access	Improves equity (through better reflecting value of service), and impact on access is expected to be minimal (noting review of BDM's <i>Financial Hardship and Fee Waiver Policy</i> to improve access to fee waivers)
Cost recovery	Improves the level of cost recovery
Positive behaviour	Improves positive behaviours
Competition and small business	No change. The proposed Regulations do not affect competition or small businesses
Simplicity	No change. The proposed Regulations maintain the same fee structure and charging systems



4. Implementation and evaluation

4.1 Implementation

There is no new implementation strategy required, as there are already processes in place to advertise the relevant fees (on the BDM website and in various printed documents), and to collect payments upon application. No new steps are necessary to communicate any changes, beyond the existing processes (e.g., update online and paper forms to change the price of certificates, and other services that are combined with a certificate, as already happens when fee amounts increase each year in line with automatic indexation of fees).

The fee increase is planned to begin from 1 March 2022, allowing sufficient time to communicate the changes.

BDM will communicate the fee change through existing stakeholder relationships with organisations who assist people to obtain/apply for legal certificates, such as Aboriginal organisations, funeral directors, and other government departments (e.g., Corrections Victoria).

BDM will review its *Financial Hardship and Fee Waiver Policy* to ensure that it supports people experiencing vulnerability or financial hardship to access legal certificates. BDM will also provide additional support through direct outreach by BDM staff. BDM will work further with communities experiencing vulnerability to enable improved access to certificates.

4.2 Evaluation

BDM will continue to collect data on the number of transactions, with particular emphasis on the channels through which transactions are initiated (online, paper forms).

The BDMR Fee Regulations will sunset in 2029, at which time all fees will be reviewed and reassessed. A RIS will be prepared and released before the Regulations are remade.



Appendix A: Information on BDM activities

Fee revenue

The fees collected by BDM in 2020-21 were around \$15.5 million, slightly lower than the \$15.7 million collected in 2019-20.

The following table sets out the revenue collected through fees (both statutory and discretionary) over the past two years.

Table 5: Revenue collected by fees, 2019-20 and 2020-21 (\$)

	2019-20	2020-21
Fees under the BDMR Fees Regulations	9,638,882	8,918,410
Fees under the Relationships (Fees) Regulations 2019	1,638,605	1,818,680
Fees set by the Registrar	4,463,344	4,741,742
Total Fees Revenue	15,740,831	15,478,832

The slight decrease in revenue collected in 2020-21 reflects fewer births being registered resulting in fewer applications for birth certificates, slightly offset by an increase in change of name applications. Some other services decreased due to the impact of Covid-19 requiring BDM to close its service centre.

Around \$6.5 million in fees revenue collected (from the discretionary fees set by the Registrar and revenue collected under the Relationships Fees Regulations) is retained directly by BDM under section 29 of the *Financial Management Act 1994*. Revenue collected under the BDMR Fees Regulations is not retained by BDM, instead forms part of consolidated revenue of the State.

BDM's costs of services

BDM's costs are shown in the following table.

Table 6: BDM expenses, 2019-20 and 2020-21 (\$)

	2019-20	2020-21
Employee Related	11,354,352	13,143,431
Operating Expenses		
Bank Fees	264,990	313,052
Post & Communications	226,269	128,507
Postage recoup	0	-634,389
Contractors	3,225,018	157,347
IT	2,106,821	2,609,120
Other Operation expenses	104,099	59,967
Outsourced Contract	328,869	139,068
Printing/Stationery	510,961	166,175
Commercial Rent	209,083	122,726



	2019-20	2020-21
Repairs & Maintenance	73,781	40,748
Staff Training	59,245	16,224
Travel & Personal Expenses	19,441	6,417
Total Operating Expenses	7,128,577	3,124,962
Office Rent and Property Services	1,269,760	1,746,009
Depreciation and Amortisation	3,432,042	4,202,625
Total Expenses	23,184,731	22,217,027

Note: the results for 2020-21 are preliminary and subject to audit and adjustment.

The decrease in expenses in 2020-21 in part reflected reduced services during Covid-19 public health orders, which saw the closure of BDM's Customer Service Centre (counter) for 2020-21 and the Call Centre for most of 2020-21, having re-opened in May 2021. The cost of running BDM's re-opened call centre at \$2.5 million per annum is a budget pressure not fully reflected in the above costs.

BDM staff are currently operating at above capacity, which is not sustainable; meaning that the true cost of delivering consistently high-quality services to the public are likely higher than the current expenses. In 2020-21, BDM costs of employees¹⁰ increased by almost 16 per cent, mostly reflecting a shift in reliance from contractor staff to public service employees.¹¹ However, BDM estimates that the sustainable level of service would involve a further 30 full-time equivalent (FTE) in the Operations team—currently the FTE has increased by a further 10 FTE due to the re-opening of the call centre and will remain at this level for 2021-22. BDM is continuing to identify opportunities to work more efficiently.

A key consideration to ease pressure on further increases of fees for BDM services is to optimise processing times. BDM's processing times for registering most life events (apart from death registrations and issuing of death certificates) are currently between 28 and 49 days. The processing time for deaths registrations and issuing of death certificates which is a priority service is 7 days. The processing time for certificate applications is currently at 18 days. These processing times are comparable to those of NSW BDM. BDM's processing times are updated periodically on BDM's website. For current processing times go to www.bdm.vic.gov.au/contact-us-1/certificate-turnaround-times

BDM is continually identifying ways to innovate *how* services are delivered (i.e., including moving service delivery online as much as possible, regionalisation of service delivery channels through Justice Service Centres).

¹⁰ Includes salaries and other employee-related costs such as superannuation, allocation for leave.

¹¹ BDM staff increased from 112.6 in 2019-20 to 129.8 in 2020-21 (full time equivalent), while cost of contractors decreased by around \$3.1 million.



Service and operations data

Table 7: Births, deaths and marriages registered 2010-2020 (calendar years)

	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010
Births	74,620	79,597	79,726	83,493	84,404	74,846	75,378	75,153	78,748	72,491	71,688
Marriages	16,623	28,917	29,999	26,317	26,290	25,487	29,739	29,279	29,901	27,503	28,525
Deaths	41,143	41,387	39,640	40,770	40,015	39,955	38,948	36,512	36,238	36,733	35,764

Table 8: Events registered 2011-2020 (financial years)

Registrable event	2020-21	2019-20	2018-19	2017-18	2016-17	2015-16	2014-15	2013-14	2012-13	2011-12
Births	71,957	79,626	77,390	80,118	81,210	83,989	73,530	76,357	77,701	75,188
Change of name	8,077	12,777	9,411	11,897	12,260	11,419	10,320	11,277	11,240	12,485
Marriages	17,756	25,598	28,712	28,698	27,176	27,131	28,709	29,257	29,378	28,956
Deaths	40,947	42,114	39,482	40,620	40,269	41,328	37,671	37,086	36,201	36,147
Registered relationships	5,281	6,079	4,216	3,930	3,421	1,391	1,164	1,077	877	496
Revoked relationships	465	667	288	278	163	108	86	53	32	12

Table 9: Services attracting fees

Certificates issued	2020-21	2019-20	2018-19	2017-18	2016-17	2015-16	2014-15	2013-14	2012-13	2011-12
Legal certificates	230,894	291,174	297,326	293,423	287,120	277,179	245,999	245,284	266,280	273,082
Change of name	14,254	16,802	19,991	20,221	21,067	18,332	na	na	na	na
Change of sex	615	172								
Recognised Details certificates	89	20	43	38	31	33	27	27	43	30
Correct/amend Register	14,412	23,092	17,902	10,195	10,439	8,453	na	na	na	na
Commemorative certificates	31,145	29,332	28,698	31,769	30,224	33,759	35,636	35,573	38,291	38,552
Historical certificates	1,966	1,817	11,198	16,373	15,187	15,367	13,938	13,884	16,043	15,889
Historical images	75,113	61,376	54,525	55,210	57,629	55,540	66,304	66,302	76,404	96,309
Marriage ceremonies	1,432	2,710	3,688	3,661	3,294	3,163	na	na	na	na
Registered relationship ceremonies	0	8	14	17	1	0	na	na	na	na

na = data not available

Table 10: BDM customer service

Events	2020-2021	2019-2020
Online applications received	387,927	408,823
Calls answered by BDM Call Centre	13,742	205,519
Mail applications received	1,302	1,379
Customer services at BDM's Service Centre	0*	15,335**
Applications received through Justice Service Centres	556	5,308

* Services centres were closed due to Covid-19 requirements.

**Figure is from 2/01/2020-27/03/2020



Appendix B: Benefits of recording significant life events

The recording of significant life events, such as births, deaths and marriages, in a central register, has benefits for both government (as the agent for the community as a whole) and its individual citizens.

‘Public good’ aspects of registration

Registration provides a public good to the community because registration gives governments useful information, which is used to benefit the broader community beyond direct benefits to individuals being registered.

Before the formal systematic use of civil registration of births, deaths and marriages, only churches recorded such details, albeit often in inconsistent and incomplete ways. Progressively, parliaments recognised the need for broader accurate records, initially to guide decisions on matters such as voting, defence and taxation.¹² In the Westminster system, a formal system of civil registration of birth, marriages and deaths came into force across England and Wales in 1837. Victoria commenced its civil register in 1853, although the first nationwide register was instituted in Sweden in 1631.¹³

A single central and comprehensive register is vital for effective state planning. The civil registration records of births and deaths are necessary for countries to compile accurate, complete and timely vital statistics, which, along with population censuses, are central to estimating population size – especially for small areas. Similarly, the cause of death data from civil registration systems are vital for pinpointing the diseases and injuries that are cutting lives short and for planning preventive services to avoid premature mortality. Cause of death data are also useful to inform governments about outbreaks of fatal disease.¹⁴

One of the key functions of BDM is the collection and dissemination of statistical information. This information is used by a wide range of organisations to inform their decision making. Like all state and territory Registries, BDM provides some of the data regarding births and deaths to the Australian Bureau of Statistics (ABS).

Birth statistics are an essential component in the calculation of Australia's estimated resident population. They are also used in determining the number of seats in the House of Representatives for each state and territory, as well as in the distribution of Australian Government funds to state, territory and local governments. Statistics are also critical for measuring trends in fertility and for use in population projections.

Population projections are used to develop policy and operational responses to a large range of issues including those associated with virtually all aspects of modern society such as housing, schooling and child care, health services and environmental planning.

For example, the Causes of Death report released by the ABS provides insights into diseases and other factors contributing to reduced life expectancy. Cause of death statistics are one of the oldest and most comprehensive set of health statistics available in Australia. BDM and other states and territory Registries provide the cause of death data to the ABS.

According to the World Health Organization (WHO), countries need to know how many people are born and die each year – and the main causes of their deaths – in order to have well-

¹² The Telegraph, “When did Parliament introduce registration of births, deaths and marriages?”, published 1 July 2016.

¹³ Ibid.

¹⁴ Lene Mikkelsen, Alan Lopez and David Phillips, “Why birth and death registration really are “vital” statistics for development” *United Nations Development Programme Human Development Reports*, 14 April 2015.



functioning health systems. The only way to count everyone and to track all births and deaths is through civil registration.

Civil registration provides the basis for an individual's legal identity but also allows countries to identify their most pressing health issues.¹⁵

Without the information collected through birth and death registrations, it would be significantly more difficult and more costly to manage a range of social functions. Again, if the integrity of the data held by BDM was diminished, the credibility of the information upon which these important decisions are made would be questioned. Consequently, decision makers would need to seek this information from alternative sources which would be more costly and burdensome to obtain.

Therefore, the existence of a register, and the relevant requirements to register births, deaths, marriages and other life events, is of value to the state itself.

In recent years, BDM has been working to increase the rates of birth registration and birth certificate possession amongst Victoria's Aboriginal and Torres Strait Islander communities, including through community engagement and fee waivers. There is evidence to suggest the level of non-registration of births is lower in the Aboriginal community than for the general Victorian population. Not having access to a birth certificate because a person's birth is not registered can have profound impacts on a person's social participation and life chances, for instance, difficulties accessing education and training; obtaining tax file numbers, passports and driver licences; and accessing some government services and payments. BDM has continued to strengthen its engagement with the Aboriginal community in order to increase the rates and timeliness of birth registration and birth certificate possession amongst the community. BDM has worked (and will continue to do so) with Aboriginal community organisations and other stakeholders to deliver BDM services, in particular assistance with registering births, and applying for birth (and other) certificates at a community level.

BDM is also working with organisations supporting people experiencing homelessness, to assist these people to register births and access birth certificates.

'Private good' aspects of civil registration

Civil registration brings multiple benefits to individuals. An individual's right to be counted at both extremes of life is fundamental to social inclusion.¹⁶

The existence of a centralised civil register has provided an ancillary benefit; namely, the ability for individuals to use information from the register to provide official (i.e., state-endorsed) evidence of certain life events. While reliance on a civil register may not have always been strictly necessary to provide such evidence, its prevalence as the basis for many transactions has now embedded the register as fundamental to enjoying other rights. A birth certificate is a cardinal identity document in Australia, which underpins the ability to obtain a passport and driver licence.

The registration of births is consistent with the United Nations *Convention on the Rights of the Child*¹⁷ that states that every child should be registered immediately after birth. In almost all societies, a birth registration and the right to obtain a birth certificate is a basic legal right that gives identity to a child, and automatically bestows a number of rights such as the right to health

¹⁵ WHO, "Civil registration: why counting births and deaths is important" 30 May 2014. The World Health Organisation (WHO) receives cause-of-death statistics regularly from about 100 member states. However, globally, two-thirds (38 million) of 56 million annual deaths are still not registered and every year, almost half of the world's children go unregistered.

¹⁶ WHO, "Civil registration: why counting births and deaths is important" 30 May 2014. [ibid]

¹⁷ United Nation (1989) Treaty Series, 1577, 3. (General Assembly resolution 44/25 of 20 November 1989.)



care, nationality, schooling, passport, property ownership, voting, formal employment, or access to banking services.¹⁸

The importance of birth registration has been highlighted by UNICEF's continued focus on birth registration for all children. A UNICEF report comments that "... a name and a nationality are human rights. Children whose births are unregistered may not be able to claim the services and protections due to them on a full and equal basis with other children."¹⁹

The ongoing integrity of the Victorian Register is vital for upholding this right.

Equally important to birth registrations is the integrity of information regarding the identity of a deceased person. A death certificate is a necessary document for the management of a deceased person's estate. Without proof that a person has died, executors and next of kin are unable to distribute property and meet associated administrative requirements such as applying for probate. For the family of the deceased, a death certificate ensures their right to inherit property, to access business and financial entitlements, and to claim any available insurance benefits.²⁰ In the absence of insurance or inheritance, death registration and certification are often required prerequisites for burial, remarriage, or the resolution of criminal cases.²¹

¹⁸ Lene Mikkelsen, et al., op cit

¹⁹ UNICEF, *Progress For Children: A World Fit For Children Statistical Review*, Number 6, December 2007.

²⁰ Lene Mikkelsen, et al., op cit.

²¹ WHO, "Civil registration: why counting births and deaths is important" 30 May 2014.



Appendix C: Comparison of fees with other states and territories

Victoria's fees are generally well below those set in other states and territories.

Table 11: Comparisons of fees across other states and territories (as at 1 July 2021)

	VIC	NSW	QLD	SA	WA	TAS	NT	ACT
BDM Act								
Issue of a certificate of the results of a search	\$34.30	\$60.00	\$51.30	\$56.50	\$53.00	\$56.55	\$48.00	\$66.00
Register a change of name	\$77.90	\$195.00*	\$194.20*	\$270.50#	\$185.00	\$205.05*	\$96.00*	\$195.00*
Alter a person's sex	\$77.90	\$135.00*	\$119.00	\$113.00	\$53.00	\$199.65#	\$48.00	\$114.00*
Add registrable information to an entry	\$77.90	\$73.00	\$20.65	—	\$53.00	\$54.45	\$48.00	—
Document acknowledging name and sex	\$112.30	\$135.00	\$119.00	\$327.00	—	—	—	—
Relationships Act								
Register a relationship	\$231.50	\$223.00	\$158.90	\$125.00	—	\$199.65	—	—
Revoke a registration of relationship	\$77.90	\$82.00	\$40.25	\$125.00	—	\$82.50	—	—
Issue of certificate	\$34.30	\$41.00	\$ 51.30	\$56.50	—	\$56.55	—	\$66.00

— indicates no separate fee is prescribed for that transaction, or the type of activity is not provided for in that jurisdiction.

* Includes a certificate # Includes a certificate if original is surrendered



Appendix D: Pricing for Value Guide

The setting of fees in the BDMR Fees Regulations 2019 was based on the Victorian Government's *Cost Recovery Guidelines*, which provided an approach to measuring the cost of services and determining appropriate fees.

From 1 July 2021, the *Pricing for Value Guide* has replaced the *Cost Recovery Guidelines*. The new guide is intended to improve consistency and capability in price-setting across government. It updates pricing principles to align with current best practice.

The guide helps departments and agencies use pricing to recover the costs of regulating and delivering services, and as a tool to support wider policy objectives.

Further information about the *Pricing for Value Guide* can be found on the website www.dtf.vic.gov.au.

The new guide provides practical step-by-step guidance for undertaking pricing reviews. However, a full pricing review is not required in all situations. The elements of the guide should be tailored to the particular situation. For the changes to fees proposed in this RIS, a full pricing review was not necessary.

A key feature of the new *Pricing for Value Guide* is a principles-based approach to identify opportunities to set government charges in better ways. The principles are as follows:

- 1 Agencies should aim to recover the full costs of service provision to promote efficient consumption
- 2 The cost of service provision should be borne by those who benefit from the service
- 3 Services creating broad benefits for the community should be priced to support efficient consumption
- 4 The cost of interagency services should be borne by the user agency
- 5 The price of services should not limit access to those with a lower ability to pay
- 6 Users should pay for differentiated service based on the value created by that differentiation
- 7 The public should share in the value generated by pricing based on user differentiation
- 8 Pricing should support positive behaviours
- 9 Pricing should ensure sustainable usage of public services and reflect the value of natural resources
- 10 Where services are in competition with the private sector, pricing should be relative to market prices
- 11 Pricing structures should be easy to understand and simple to administer
- 12 Pricing arrangements should be monitored annually and reviewed periodically

While the previous *Cost Recovery Guidelines* focused on cost considerations, the new pricing principles go beyond cost recovery to identify a range of potential benefits. Cost recovery remains one principle among a broader range of principles. Some principles support setting prices below cost recovery, while some principles support setting prices above cost recovery.