

29 April 2019

Mr James Lawson
Registrar
The Registry of Births, Deaths and Marriages Victoria
595 Collins St
MELBOURNE VIC 3000

Dear Mr Lawson

REGULATORY IMPACT STATEMENT FOR BIRTHS, DEATHS AND MARRIAGES REGISTRATION (FEES) REGULATIONS 2019

I would like to thank your staff at the Registry of Births, Deaths and Marriages Victoria (BDM) for working with our team to prepare the Regulatory Impact Statement (RIS) for the *Births, Deaths and Marriages Registration (Fees) Regulations 2019*.

As you know, under section 10 of the *Subordinate Legislation Act 1994*, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of all RISs prepared in Victoria. The Commissioner's role is to advise on the adequacy of the analysis presented in the RIS. A RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about assumptions made, and is proportionate to the proposal's expected effects. The RIS also needs to be clearly written so it can be a suitable basis for public consultation.

I am pleased to advise that the final version of the RIS received by us on 26 April 2019 meets the adequacy requirements of the *Subordinate Legislation Act 1994*.

Background

BDM and its antecedents have been recording significant life events for Victorians since 1853. The purpose of the *Births, Deaths and Marriages Registration Act 1996* (the Act) is to provide for the registration of births, deaths and marriages in Victoria. This includes providing for the keeping of registers to preserve information in perpetuity, access to information in registers, and the issue of certified and uncertified information from the registers.

The Births, Deaths and Marriages Registration Regulations 2008 (the current Regulations) prescribe fees for some of the services that BDM provides and prescribe information to be provided to it.

BDM intends to split the current Regulations into:

- the *Births, Deaths and Marriages Registration (Fees) Regulations 2019* (the proposed Regulations); and
- the *Births, Deaths and Marriages Registration (Prescribed Information) Regulations 2019* (the Information Regulations).

The RIS only considers the proposed Regulations and does not consider the Information Regulations. BDM notes the Information Regulations will not have a significant impact based on its analysis and initial consultation with stakeholders, and, therefore, a RIS is not required.

The Act requires that the Registrar of Births, Deaths and Marriages (the Registrar) be notified about certain events. The Information Regulations will set out information to be provided related to these events: by parents in a Birth Registration Statement; by medical practitioners when notifying the Registrar of the cause of death; and funeral directors when notifying the Registrar of the disposal of human remains. Only minor revisions are proposed to the information provisions in the current Regulations.

Fees and the level of cost recovery

Under the Act, regulations can be made to prescribe fees for accessing or searching the Register, the issuing of a certificate and for additional services provided by the Registrar (e.g. marriage ceremonies). Fees cannot be prescribed for the actual registering of life events (births, deaths and marriages) with BDM.

The proposed Regulations prescribe fees for:

- issuing a certificate (e.g. a birth certificate)
- altering an entry in the Register (e.g. change of name); and
- applying for a document acknowledging identity.

Fees for additional services are outside of the scope of the proposed Regulations and so are not analysed in the RIS. Under the Act, the Registrar also has discretion to set fee levels for additional services.

In the RIS, BDM explores different levels of cost recovery for the proposed Regulations. It explores zero, partial and full cost recovery, and argues that fees should be set at full cost recovery. Full cost recovery is consistent with government policy on setting fees, part of which means people using BDM services pay the costs of the services they demand. This also leads to the efficient use of BDM resources by encouraging people to take care of their certificates, and thereby limiting the burden on BDM of reissuing lost certificates.

BDM has developed a new online business system, which went live on 19 February 2019. The system will enable people to register life events online and enables service partners to provide information to BDM online. This will improve data security and enhance quality assurance.

BDM notes setting fees at full cost recovery is preferred, and undertook an activity-based costing exercise of its current costs of delivering these services to inform the proposed fee levels.

BDM acknowledges that the costs of the services may change in the medium to longer term as a consequence of the new online system. Therefore BDM proposes to continue the current fees (in fee unit amounts) for two years until the costs of the new system are reviewed and, if appropriate, the fees can be updated again.

Further fee design choices

In the RIS, three further design choices (beyond the level of cost recovery) for the design of fees are explored.

Whether to charge a uniform fee for all types of alterations to the register, or different fees depending on the type

BDM argues that a single uniform fee for different types of alterations to the Register is preferable because it makes administration simple and efficient, and the cost differences are small.

Whether to charge a uniform fee for online and offline applications for certificates, or a discounted fee for online applications

Issuing a certificate for online applications is between \$2 and \$4 cheaper than for paper-based applications. However, BDM argues that having a uniform fee for applications is preferable because having a higher fee for paper-based applications would penalise those who cannot, for reasons beyond their control, make online applications. BDM also argues that a uniform fee is simpler, and the degree of cross subsidisation is minimal.

Whether to charge a combined fee for a search of the register and the issuing a certificate, or separate fees for each activity.

Currently, separate fees are charged for searching the Register and issuing a certificate (\$16.50 each). In practice, these activities always occur together. BDM argues that a combined fee is preferred because it simplifies the fees' administration, avoids artificial separation of costs, reflects practice and causes no significant impacts.

In response to these issues, BDM proposes: to charge a uniform fee across different types of alterations; to charge a uniform fee for online and paper-based applications; and to combine the fees for searching the register and issuing a certificate.

Implementation and Evaluation

As the fees are proposed to continue at their current levels (in terms of fee units), BDM will ensure the fees published on its website and that printed documents reflect the fees in the proposed Regulations.

BDM notes that it is not yet possible to estimate how costs will change in the medium to longer term with the introduction of BDM's new online system and, as a result, the level of fees will be reviewed within the next two years. Any changes to the fees resulting from that review will be subject to appropriate regulatory scrutiny, including a further RIS if they are expected to cause a significant impact.

It is government practice that this letter be published with the RIS when it is released for public consultation.

Should you wish to discuss any issues raised in this letter, or require any assistance with the future review, please do not hesitate to contact my office on (03) 9092 5800.

Yours sincerely



Anna Cronin
Commissioner for Better Regulation

