



**Regulatory Impact Statement –
Associations Incorporation Reform
Regulations 2023**

Department of Government Services

August 2023

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Executive summary

Context

In Victoria, a not-for-profit organisation may incorporate as an association, enabling the organisation to become a legal entity distinct from any individual member of the organisation.

As an incorporated association, the legal structure provides the organisation with specific protections (in terms of legal and financial liabilities) and provides authority for the association (as a distinct entity) to enter directly into contracts. Consumer Affairs Victoria (CAV) is the government authority responsible for oversight of incorporated associations and maintains the register of incorporated associations, which numbered 41,590 in 2021-22.

The *Associations Incorporation Reform Act 2012* (the Act) provides the legal basis for an incorporated association's business structure. The *Associations Incorporation Reform Regulations 2012* (the Regulations) prescribe a range of requirements for the establishment, operation, and cancellation of an incorporated association, along with prescribing fees relating to applications for associations to become established and for annual reporting and administrative management.

The Regulations are due to sunset on 19 November 2023 and require a Regulatory Impact Statement (RIS) to support development of the *Associations Incorporation Reform Regulations 2023* (the proposed Regulations).

Problem

Prior to the introduction of the incorporated association business structure, associations were able to be recognised as a legal body under other legislation (such as under the *Corporations Act 2001*), however, these other types of legal entities often did not meet the needs of an association and had limited options available. Consequently, associations often did not establish legal entities and this created several challenges that impacted the operation of associations. These challenges included the inability:

- to enter into any contracts in their own right
- to own or dispose of property
- for a third party to enter into a contract with an association,
- of members of an association to limit their personal liabilities over debts or legal obligations that an association may incur
- to invest or borrow money.

The Act, in conjunction with the Regulations provided associations the ability to incorporate and gain legal recognition as a body corporate, and by extension enter contracts or legal proceedings in its own name. As legal entities comprised of membership, it is also essential that there are appropriate safeguards in place to limit the liabilities of members of an association, support the establishment and good governance of incorporated associations, and allow for continued operation irrespective of changes to membership.

If the Regulations were allowed to expire there would be two key problems:

1. Incorporated associations would still be bound by the Act; however, a lack of complementary regulations would limit CAV's capacity to enforce the Act. There would also be no prescribed model rules, which would make it more difficult for some incorporated associations to design or adopt rules that meet the expectations of the community and their members and are consistent with good governance principles.
2. There would be no prescribed fees, which would mean that the costs of administering the regulations would need to be funded through another revenue source, such as consolidated revenue.

Objectives

The overarching objectives of regulation considered in this regulatory impact statement (RIS) are:

- to protect the rights and interests of members of incorporated associations, funding bodies and the general community
- to provide a simple and inexpensive means of obtaining corporate status for voluntary organisations by ensuring the minimum necessary administrative obligations to enable effective regulatory oversight
- to recover the costs of efficiently administering the Act and the proposed Regulations through cost-reflective and equitable fees.

Options

Two options have been analysed for remaking the Regulations relative to the base case (where the Regulations sunset and are not remade) in this RIS:

1. Status quo (remake the current Regulations)

The status quo would involve remaking the current Regulations as they are, aside from some minor changes to modernise and clarify the language of the current Regulations (without materially changing the Regulations' operation). Ultimately, the amendments aim to improve the current Regulations by simplifying and modernising the drafting style.

2. Making new regulations, including the proposed changes

Option 2 would involve remaking the current Regulations with the inclusion of three potential modifications that may have a material regulatory impact. These modifications are assessed in this RIS independently to support decision-making on potential modification.

The potential independent changes to the current Regulations are:

- Option 2a – remake the current Regulations with the addition of the proposed new model rules
- Option 2b – remake the current Regulations with the addition of increased revenue thresholds for financial reporting requirements
- Option 2c – remake the current Regulations with the addition of an increased asset ceiling for voluntary cancellation.

Fee options

Three options for the fees prescribed under the Regulations were analysed in this RIS:

1. **Status quo** – remake the current regulations with the existing fee settings and values
2. **Remake the Regulations with the same fee structure with adjustments to the fee values** – remake the Regulations with the same fee structure, while adjusting the fee values to reflect the costs of each regulatory activity more closely
3. **Remake the Regulations with simplified fee structure and adjustments to the fee values** – remake the Regulations with a simplified fee structure and adjusting the fee values to reflect the costs of each regulatory activity more closely.

Analysis

A multi-criteria analysis (MCA) was used to assess the impact of remaking the regulations and each of the incremental impacts of each of the three potential modifications. The MCA criteria used are shown in Table (i).

Table (i): MCA criteria for remaking and modifying the regulations

Criterion	Weighting	Definition
Benefits		
Protecting the rights and interests of members	25%	The degree to which an option supports protecting the rights and interests of members of incorporated associations through the governance practices of associations, and provides a simple and inexpensive means of obtaining corporate status for voluntary organisations.
Effective government oversight	25%	The degree to which an option enables the management of risk to the broader community from non-compliance and supports the ability of government, through the regulatory role of CAV, to effectively oversee the industry of incorporated associations in Victoria.
Costs		
Cost to industry	25%	The cost of a proposal to industry in terms of financial and time cost to incorporated associations and to members of their committees.
Cost to government	25%	The cost of a proposal to government in terms of administration costs for the provision of services.
100%		

A separate MCA is used for fees options. The criteria are outlined in Table (ii).

Table (ii): MCA criteria for fees options

Criterion	Weighting	Definition
Efficiency	40%	The degree to which an option supports the efficient administration of fees, whereby the fees are cost-reflective, promote financial sustainability of regulation and embed fee structures that correspond to each type and cost of regulatory activity.
Equity	40%	The degree to which an option represents an equitable fee structure and fee values. This criterion implicitly aims to avoid cross-subsidisation as far as practicable by attributing the fees and charges directly to those who trigger the need for the service. This criterion also reflects the objective of setting fees at levels that do not limit accessibility or capacity to pay.
Simplicity	20%	The degree to which the option reduces complexity for the industry and results in a fee structure that is easy to understand. It reflects pricing principle 11. This criterion also considers the costs to CAV for implementing the identified options and the on-going reduction in complexity of administration.
Total	100%	

Preferred option

The MCA criteria were used to determine the preferred policy and fee options respectively. Each policy option scored positively compared with the base case, meaning that they would be more likely than not to deliver a net benefit to the community.

The results of MCA show that Option 2 is preferred to both the base case of no regulations and the status quo (maintain the current regulations). The preferred option is to implement each of the three modifications analysed. Option 2 best balances the desire for government to be able to have effective and efficient oversight of the incorporated associations industry with the regulatory burden imposed on industry and government. Each of the modifications analysed (Options 2a, 2b and 2c) provide net benefits and are preferred.

With regards to the fee options, the results of the MCA demonstrate that Option 2 is preferred to the base case of no fees. It best balances the objectives of government to efficiently recover the costs of administering the regulatory scheme with the need to ensure equitable fee structures that promote access to incorporation.

Implementation and evaluation

The Department and CAV will primarily be responsible for implementing the proposed changes. The scheme regulator, CAV, will have oversight of the incorporated associations sector to ensure integrity and the achievement of policy objectives. This will be achieved by maintaining the scheme's register and ensuring compliance among incorporated associations.

The Department and CAV will continue to have ongoing engagement with incorporated associations across Victoria through existing processes, such as Ministerial correspondence, contacts to CAV and compliance activities.

The Department will review the operation of the proposed Regulations before their expiry in 2033. The review will evaluate the effectiveness of the proposed Regulations and inform whether the proposed Regulations should be remade in part or in full.

Feedback on RIS and proposed Regulations

To support development of the RIS, the Department undertook targeted consultation from 15 March 2023 until Monday 3 April 2023. The consultation took the form of an issues paper setting out the key issues, together with a series of questions that was distributed to key stakeholders for feedback. The list included key peak bodies and incorporated associations in Victoria across a broad range of industries to participate in the targeted consultation, including sporting clubs, professional associations and faith or cultural associations. Responses provided from these stakeholders informed policy development and formed the basis for the development of the proposed Regulations and RIS.

The Victorian Guide to Regulation also requires a RIS to assess the impact of regulations on bodies corporate and the community. Regulations can affect the ability of associations to deliver services to members but are also important in protecting the interests of the community. In undertaking this assessment, we have considered questions such as:

- Are the Regulations effective in protecting members of associations from harm? Will the proposed modifications impact on the risk of harm?
- Do the model rules remain fit-for-purpose?
- Do associations already provide digital alternatives to in person meetings? And would mandating these alternatives impose a material burden on associations?
- Will the proposed changes impact some associations significantly more than others (e.g. smaller associations)?
- Do the proposed changes to dispute resolution processes within associations impose a significant burden on associations? Will this burden be higher on particular associations?

- Does the reduction of financial reporting requirements for some associations represent a significant risk to rights of members?
- Does the lifting of the asset ceiling for voluntary cancellation represent a significant risk to rights of members, or creditors, of an association?

Public comment and submissions are invited on the questions above, this RIS, and the proposed Regulations. Submissions can be made via the Engage Victoria website.

1 Background

This chapter outlines the purpose of the proposed Regulations and the requirement for a Regulatory Impact Statement.

The Associations Incorporation Reform Regulations 2012 (the Regulations) are due to sunset on 19 November 2023 and require a Regulatory Impact Statement (RIS) to support development of the Associations Incorporation Reform Regulations 2023 (the proposed Regulations).

This RIS has been prepared in accordance with the *Victorian Guide to Regulation*, which provides a best practice approach to analysing any proposed regulatory intervention.¹ The analysis in this RIS seeks to understand the potential impacts that remaking the Regulations will impose on sectors of the Victorian community and industry, including any material obligations on the members and committees of incorporated associations.

The proposed Regulations also set fees. Regulations that set fees are subject to the Government's *Pricing for Value* guide, which sets out Pricing Principles and requires departments to undertake pricing reviews to articulate an appropriate pricing strategy and identify fee options that align to that strategy. *Pricing for Value* has been applied in this RIS to assess the rationale and potential options for setting fees.

This chapter presents an overview of:

- the definition of and trends in the number of incorporated associations in Victoria
- the current legislative and regulatory framework governing associations in Victoria
- current fees prescribed for incorporated associations.

1.1 Incorporating as an association

Incorporation is a legal process that is available to associations, enabling a not-for-profit organisation to become a legal entity distinct from any individual member of the organisation.

As an incorporated association, the legal structure provides the organisation with specific protections (in terms of legal and financial liabilities) and provides the authority for the association (as a distinct entity) to enter directly into contracts.

A not-for-profit organisation is not obliged to structure itself as an incorporated association. They may instead choose to operate as:

- a company limited by guarantee under the Corporations Act 2001
- a non-trading co-operative under the Co-operatives Act 1996
- an Indigenous corporation under the Corporations (Aboriginal and Torres Strait Islander) Act 2006 (this is only an option if a majority of members of the organisation are Indigenous)
- an unincorporated association.

However, operating as an incorporated association offers a number of advantages over other structures for not-for-profit organisations. Incorporation offers associations the protections and powers stated above, with lower costs associated with formation and on-going administrative reporting compared to other structures, and substantial flexibility in determining how the association is run. Unincorporated associations offer much more flexibility than the other possible

¹ Commissioner for Better Regulation (2016). *Victorian Guide to Regulation: A handbook for policy-makers in Victoria* <<http://www.betterregulation.vic.gov.au/Guidance-and-Resources>>

organisational structures, but these organisations lack the ability to act as a legal person in legal or financial matters, and do not obtain the same legal or financial protections for members.

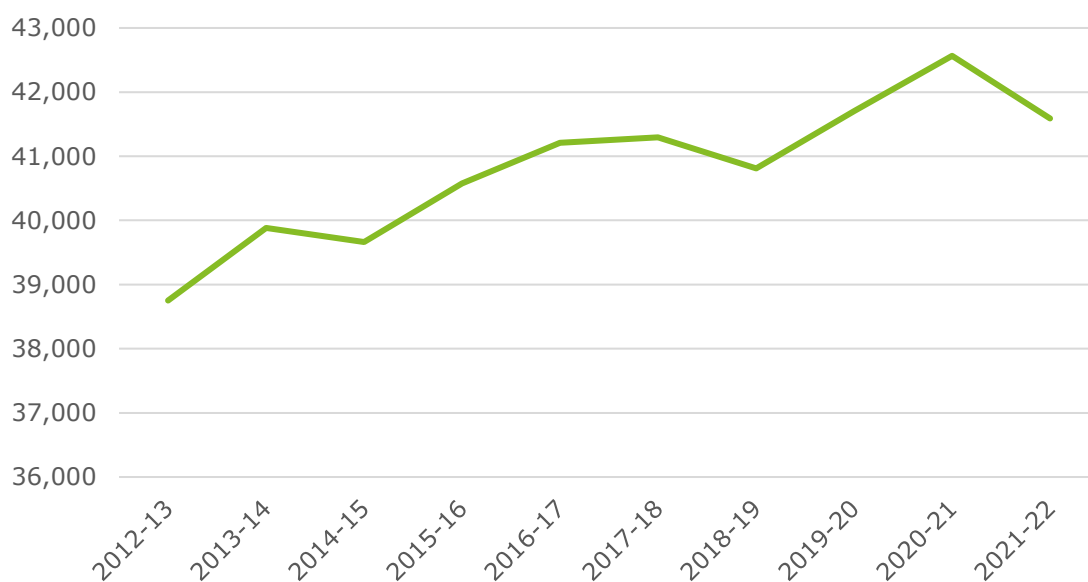
An incorporated association may also register with the Australian Charities and Not-for-profits Commission (ACNC) if they are a charitable group. The ACNC is the national regulator of charities and not-for-profits and registration with them is necessary if a group wants to apply for charity tax concessions, which comes with specific reporting requirements outside of the regulatory requirements in Victoria.

1.2 Trends of incorporated associations in Victoria

According to Consumer Affairs Victoria’s (CAV) 2021-22 Annual Report, there are 41,590 incorporated associations in Victoria, with approximately 1,855 new registrations each year.

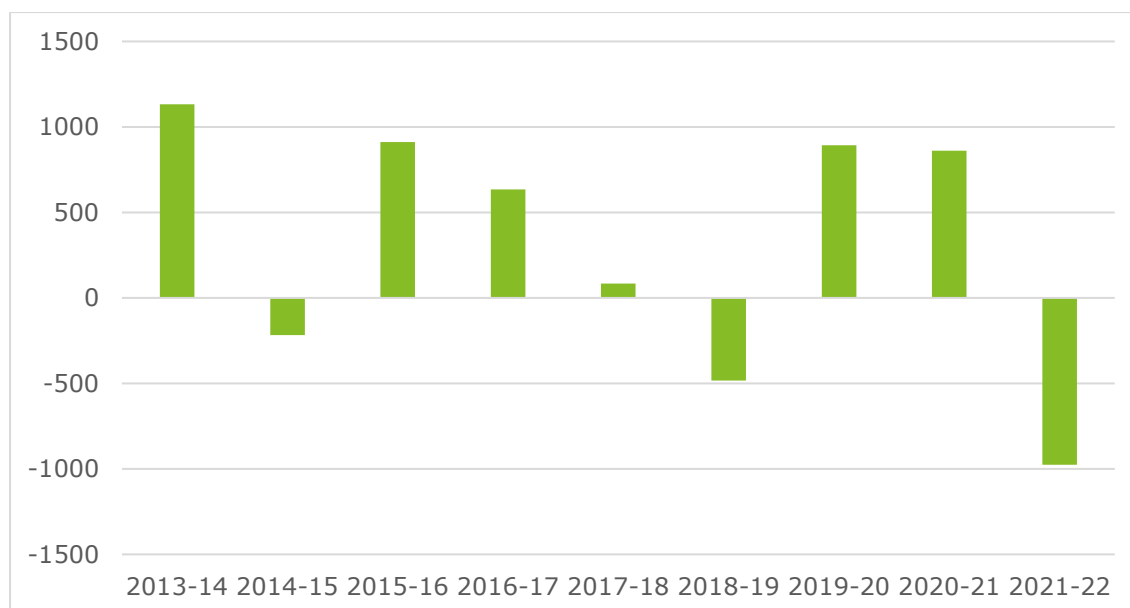
Incorporated associations can vary significantly in terms of type and scale, but all are required to be structured and operated as a not-for-profit organisation. They typically fall into the categories of charities, sport, education, or community service clubs.

Chart 1.1: Total Incorporated Associations on Register 2012-13 to 2021-22



Source: Consumer Affairs Victoria

Chart 1.2: Year-on-Year Changes to Total Incorporated Associations on Register 2013-14 to 2021-22



Source: Consumer Affairs Victoria

1.3 Legislative and regulatory framework for incorporated associations in Victoria

The *Associations Incorporation Reform Act 2012* (the Act) provides the legal basis for an incorporated association's business structure.

The Regulations prescribe a range of requirements for the establishment, operation, and cancellation of an incorporated association, along with prescribing fees relating to applications for associations to become established and for annual reporting and administrative management.

In Victoria, an association can apply to incorporate by applying to CAV and meeting the requirements of being a not-for-profit group and having at least five members. In accordance with the Act, the Director of CAV is the Registrar of incorporated associations, and it is CAV's responsibility to manage the registration and compliance of incorporated associations. The Registrar has the right to reject the incorporation of an association or deregister an incorporated association if they believe that the association is not compliant with the Act or Regulations.

Once an association is incorporated, the Act establishes a set of ongoing obligations, including:

- holding an annual general meeting
- producing annual reports and financial statement and submitting them to the registrar
- notifying the registrar of any significant changes to association details
- making certain documents available to members on request.

The Regulations compel incorporated associations to adhere to principles of good governance, like transparency and accountability, which are also reflected through incorporated associations' information disclosure requirements. If an incorporated association also adopts CAV's model rules, it is also subject to the membership, quorum and elections rules which reinforce principles of good governance.

The Regulations prescribe operational requirements of incorporated associations, in the form of annual reporting and administrative management. Annual reporting and submission of financial statements to CAV is determined by reporting tiers, which are based on the annual revenue of the incorporated association (see Table 1.1).

1.4 Current regulatory requirements

The Regulations outline the requirements for the establishment, operation and cancellation of an incorporated association.

1.4.1 Establishing an incorporated association

To become incorporated, an association must apply to CAV. Applicants are required to have:

- at least five members
- a name, address and mission
- a valid set of rules.

There are two options an incorporated association may choose for their set of rules. They can either elect to adopt the model rules set out in the Regulations or they can establish a constitution that complies with the relevant Act.

The model rules prescribe:

- the name and purposes of the associated incorporation
- details around membership of the associated incorporation including:
 - qualifications for membership
 - if members are required to pay any fees
 - the rights, obligations, and liabilities of members
 - provisions for the resignation of members
 - the details of any disciplinary or grievance procedures for members
- details for record keeping including:
 - names, membership and powers of the committee, along with details on the election and running of the committee
 - the procedure for the appointment of the secretary
 - the responsibilities for the custody of record or documents
 - the custody and use of any seal related to an associated incorporation
 - provisions for members of an associated incorporation to access or gain copies of prescribed documents
 - the preparation of minutes of general and committee meetings and provisions for members to access those minutes
- details on meetings to be held by an associated incorporation including:
 - the regularity of general meetings and the notice required for any motions at those meetings
 - the quorum required for and procedure of a general meeting
- details on funds of an associated incorporation including:
 - the allowable sources of funds
 - the way funds must be managed
- details on how the rules of an associated incorporation may be altered
- details on how an associated incorporation may be wound up.

Once the application is received, processed, and approved/denied, CAV notifies the applicant of their outcome and status of the association.

1.4.2 Operating an incorporated association

Once an association is incorporated and registered with CAV, there are on-going compliance requirements prescribed by the Regulations. These requirements fall into three categories:

- annual reporting and lodgement of financial statements
- amalgamation of incorporated associations
- administrative management.

1.4.2.1 Annual reporting and lodgement of financial statements

Incorporated associations are required to prepare reports for annual general meetings and prepare financial statements for submission to CAV.

The specific requirements are dependent on the relevant reporting tier that the association is aligned to, based on annual revenue. The current tiers and corresponding requirements are outlined in Table 1.1 below.

Table 1.1: Reporting tiers and associated requirements

Reporting tier	Requirements
Tier 1 - Less than \$250,000	<p>Must produce standard financial statements, which must include:</p> <ul style="list-style-type: none">• an income statement for the association's financial year• a balance sheet at the end of the association's financial year• other documents required by accounting standards, such as a cashflow statement• notes to the account, which must include details on:<ul style="list-style-type: none">- any mortgages or securities impacting the property of an association- any trust that holds assets on behalf of an association, and financial statements on that trust.
Tier 2 - \$250,000 - \$1,000,000	<p>Must produce reports in accordance with Australian Accounting Standards, being either:</p> <ul style="list-style-type: none">• general purpose financial statements• special purpose financial statements. <p>Which statement is appropriate is determined by the Australian Accounting Standards.</p> <p>These financial statements must be reviewed by an independent registered accountant, if an association decides to conduct an audit of its accounts a review is not required.</p>
Tier 3 - Greater than \$1,000,000	<p>Must produce reports in accordance with Australian Accounting Standards, being either:</p> <ul style="list-style-type: none">• general purpose financial statements• special purpose financial statements <p>Which statement is appropriate is determined by the Australian Accounting Standards.</p> <p>These financial statements must be audited in accordance with Australian Audit Standards.</p>

1.4.2.2 Amalgamation of incorporated associations

If two or more incorporated associations wish to amalgamate and form one legal entity, they must apply to CAV in order to do so.

In addition, the following requirements are prescribed as necessary conditions for the amalgamation to be approved:

- each association must be up to date with their annual statements
- each association must pass a special resolution and approve the:
 - terms of the amalgamation
 - rules and statement of purposes of the proposed amalgamated association.

After accepting an application for amalgamation, CAV will issue a certificate of incorporation for the amalgamated association and cancel the incorporation of the individual associations.

Any property belonging to the individual associations becomes the property of the amalgamated association, and any debts or liabilities of the individual associations become the debts and liabilities of the amalgamated association.

1.4.2.3 Administrative management

An incorporated association is required to notify CAV when there are administrative updates and changes. The following updates are required to be notified to CAV:

- appointment of a new secretary
- changes to the address or email address of the secretary
- changes to the registered address of the incorporated association
- changes to the name of the incorporated association
- changes to the financial year end date
- changes to the rules governing the incorporated association
- adoption of the model rules set out in the Regulations

An incorporated association must also advise CAV if they transfer registration to become a company limited by guarantee.

The Regulations also provide the committee of an association the right to impose fines against members that breach the rules of an association and prescribe the maximum amount of a fine that can be issued.

1.4.3 Cancelling an incorporated association

Unless CAV cancels an incorporated association, an association remains legally in existence even after it stops operating. Undertaking the formal cancellation processes is designed to ensure an association's assets are distributed lawfully.

An incorporated association may choose to cancel for several reasons, such as:

- lack of members
- loss of interest
- fulfilment of its purposes.

An association can only apply for cancellation via application to CAV if it:

- has gross assets of less than \$10,000
- has no outstanding debts or liabilities
- has paid all relevant fees and penalties
- is not involved in any legal proceedings
- has passed a special resolution agreeing to cancellation; and
- has proof of distribution of assets.

If an association has assets of more than \$10,000, it must wind up in accordance with the *Commonwealth Corporations Act 2001*. The process involves:

- passing a special resolution to approve the association being wound up
- appointing a liquidator to manage the liquidation of the association's assets
- ceasing or selling its operations
- payment of its debts (if any)
- distribution of surplus assets (if any).

1.5 Fees and penalties prescribed in the Regulations

The fees and penalties in the current Regulations were set in 2012, in accordance with the Victorian Government's *Cost Recovery Guidelines*. Those Guidelines provided an approach to measuring the cost of services and determining appropriate fees.

There are 23 different fees prescribed in the Regulations, including:

- four fees for conditions attached to the incorporation application, with differences in fee values representative of variance in costs required to process applications from associations seeking to incorporate as either a registrable body and/or with the adoption of their own rules
- two fees that relate to the amalgamation of multiple existing incorporated associations, with similar differences in fee value based on incorporation using their own rules
- 11 fees as attached to the submission of documents in accordance with the reporting requirements outlined in the Act, with variance in fee values driven by the increased costs associated with lodgement processes of the higher reporting tiers
- two fees that relate to changing administrative details of an incorporated association
- four fees that relate to requesting documents that are held by the Registrar.

From 1 July 2021, the *Pricing for Value* guide replaced the *Cost Recovery Guidelines*. *Pricing for Value* is intended to improve consistency and capability in price-setting across government. It updates principles to align with current best practice, and helps departments and agencies use pricing to recover the costs of regulating and delivering services, and as a tool to support wider policy objectives.

To ensure the proposed Regulations are supported by the most appropriate fee and penalty settings, a review of the existing fee and penalties schedules and analysis of potential options for change has been conducted as part of this RIS.

1.5.1 Regulatory fees

Table 1.2 below lists all 23 fees contained within Schedule 2 of the Regulations.

Table 1.2: Applicable fees for incorporated associations

Type of Fee	Fee unit
Application for incorporation of proposed association — model rules	2.5
Application for incorporation of proposed association — own rules	14.5
Application for incorporation by registrable body — model rules	4
Application for incorporation by registrable body — own rules	16
Application for amalgamation — model rules	8
Application for amalgamation — own rules	14.5
Application to change the name of an incorporated association	2
Application to alter the rules of an incorporated association	12.5
Application to be declared tier one or tier two association for purposes of a financial year	9
Lodgement of financial statements with Registrar — tier one association	4
Lodgement of financial statements with Registrar — tier two association	8
Lodgement of financial statements with Registrar — tier three association	16

Type of Fee	Fee unit
Application for exemption from lodging financial statements – tier one association	2
Application for exemption from lodging financial statements – tier two association	4
Application for exemption from lodging financial statements – tier three association	4
Application for extension of time for holding annual general meeting or lodging financial statements – tier one association	2.5
Application for extension of time for holding annual general meeting or lodging financial statements – tier two association	2.5
Application for extension of time for holding annual general meeting or lodging financial statements – tier three association	2.5
Application for exemption from requirements to remove auditor under s. 107(2)	3.5
Inspection of register or prescribed documents kept by Registrar	2
Obtain copies of prescribed documents kept by Registrar	3
Obtain certified copies of a prescribed document kept by Registrar	4.5
Obtain certified duplicate of a certificate of registration of an incorporated association	2

1.5.2 Infringements and penalties

Table 1.3 below lists all infringement offences and penalties contained within Schedule 3 of the Regulations.

Table 1.3: Applicable penalties for incorporated associations

Type of Offence	Penalty unit
Failure to display name on business documents etc	1
Failure to display registration number on business documents etc	1
Failure to have registered address	1
Failure to notify Registrar of change of registered address	1
Failure to lodge particulars of trust, copy of deed etc within 14 days of association becoming a trustee	1
Failure to permit member to inspect rules or minutes of general meetings	1
Failure to give member copy of rules or minutes of general meeting within 14 days of receipt of a written request	1
Failure to notify Registrar within 14 days of appointment as secretary	1
Failure to return copies of documents to association within 28 days of ceasing to hold office or ceasing to be a member	1
Failure to have financial statements audited before submission to annual general meeting	2
Failure to permit member to inspect trust deed	1

Type of Offence	Penalty unit
Failure to lodge statement in approved form with copy of financial statements	1
Failure to retain financial statements for 7 years after annual general meeting	4
Fail to retain certificate referred to in section 94(3), 97(3) or 100(3) for 7 years after signing	2
Failure to notify Registrar of registration or incorporation as a prescribed body corporate	2
Failure to keep original of a document of which a copy has been lodged with the Registrar for 7 years and, if requested to do so by the Registrar, produce that document	4
Failure to comply with requirement of Registrar to produce original of document within 28 days after receiving the request or within any longer period specified by the Registrar	1
Failure to lodge certified English translation of document	1
Person or body that is not a body corporate uses name or title that includes the word "incorporated", "Inc." or "Inc"	2

2 Problem

This chapter outlines the nature and scale of the problem the proposed Regulations seek to address

2.1 General rationale for government intervention in the associations sector

The Victorian government first sought to formally regulate the sector with the *Associations Incorporation Act 1981* (the 1981 Act). At the time the stated purpose of the 1981 Act was to “provide a simple and inexpensive means by which unincorporated non-profit associations may obtain corporate status”.

The primary identified problem that the government sought to address with this Act was the inability of an association to be recognised as a legal body, which created several challenges that impacted the operation of associations. These challenges included the inability:

- to enter into any contracts in their own right
- to own or dispose of property
- for a third party to enter into a contract with an association,
- of members of an association to limit their personal liabilities over debts or legal obligations that an association may incur
- to invest or borrow money.

Prior to this Act, if an association wanted to gain status as a legal body, it would have needed to incorporate under the *Companies Act 1981*, which regulated profit making entities at the time. This was unsuitable for most associations, given the strict regulations for management and control of companies at the time, and the significant administrative burden that was created by the financial reporting requirements.

The *Associations Incorporation Reform Act 2012* replaced the 1981 Act. The Act sought to address the same problems stated above, as well generally supporting the good governance of associations. The Act, in conjunction with the regulations:

- provided associations the ability to incorporate and gain legal recognition as a body corporate, and by extension enter into contracts or legal proceedings in its own name
- limited the liabilities of members of an association
- provided a clear framework for the establishment and good governance of incorporated associations
- allowed continuing operation irrespective of changes to membership.

The Act covers groups who have a clear, well defined, purpose and that do not operate in pursuit of profit. These groups support community needs such as health, education, sport, the arts, and housing, and as such are expected to provide a benefit to the broader community. This creates a need to balance the somewhat conflicting priorities in the regulation of these entities, as many of these groups are small, often being operated by volunteers, the act does not seek to place a large administrative burden on the operation of these clubs. At the same time, associations are often funded by government funds, in the forms of grants, and the money of members. As a result, there is a strong desire to ensure the proper use of resources.

The Regulations seek to limit the administrative burden of the operation of associations by providing a clear framework on how to best operate an association, as well as clearly establishing the disclosure and reporting requirements.

2.2 Specific rationale for the regulations

2.2.1 Administrative oversight of Incorporated Associations

It is important that incorporated associations are effectively regulated to mitigate potential harms to the members of an association, bodies that provide funding to associations, and any members of the public who interact with associations. It is important that Government has the tools available to identify regulatory non-compliance by associations and mitigate or minimise harms like the misappropriation of public funds and other fraudulent operation of not-for-profit organisations.

For CAV to reduce these risks, it is necessary to have regulations that both impose requirements designed to mitigate the underlying risk and enable CAV to effectively monitor and enforce regulatory requirements. The Act requires associations to provide the Registrar with information such as their postal address and the name of the current secretary, and to keep them regularly updated. Associations also need to provide their rules to the Registrar when applying to incorporate.

This information held by CAV assists it in overseeing compliance with the Regulations. Maintaining a register of the contact details of an association allows for easy contact with associations that are failing to comply with regulations. This information may also be used to identify the appropriate person to pursue legal action against if the Registrar believes that an incorporated association has acted in breach of the law. Noting that the structure of an incorporated association does not limit the potential criminal liabilities of members.

CAV is also obliged to keep a list of prescribed documents of every association, and these documents can be viewed by any member of the public on request. Management and transparency of documentation on associations ensures that the key administrative components cannot be changed without that being reflected in a publicly available document.

For example, an association can't change their postal address or appoint a new secretary, without the updated data becoming available to the public. These mechanisms are designed to ensure an appropriate level of transparency in the operation of associations. The financial reports submitted to CAV are also available to the public on request.

2.2.2 Enforcement of Rules of Incorporated associations

To ensure the smooth and efficient operation of an incorporated association it is important that all members are complying with the rules of the association.

The Act establishes the rules of an association as the terms of a contract between the association and its members. The violation of rules by a member of an association is a civil dispute, which must be resolved by the parties involved. This resolution can come from a grievance process which may be a part of the rules of an association.

The grievance process exists independently of the process for resolving questions regarding the enforcement of an incorporated association's rules. Should a need for direction regarding the enforcement of an incorporated association's rules arise, the Magistrates' Court can provide a direction to that effect. CAV does not have the ability to directly enforce the rules of an incorporated association.

The Regulations provide the committee of an incorporated association the power to levy a fine on one of its members if the committee believes that the member has broken the rules of the association, provided this power is explicitly declared in the rules of that association. The Regulations also prescribe the maximum fine that can be issued. These powers seek to provide for dispute resolution between members that does not burden the legal system.

2.2.3 Cost recovery for the Administration of the regulations

In the absence of regulations prescribing fees, the costs of administering the regulations would need to be funded through a revenue source other than fee revenue, such as consolidated revenue.

The primary cost of administering the regulatory framework arises from processing new applications to establish or amalgamate an association, process annual lodgement and financial reports submitted by incorporated associations, and maintaining the public register of incorporated associations (including processing of annual financial statements). The Regulations impose a fee structure to recover these costs.

Data on the average costs of processing transactions and cost estimates for regulatory support activities, as provided by CAV (refer to Appendix B for cost data), provide an indicative total of the current cost base in FY2022-23. The total current cost of administering the regulatory framework is \$1.9 million which includes direct processing and service costs, other regulatory costs (such as compliance and enforcement activities), and indirect overheads associated with enabling regulatory activities.

Of the total amount, the costs directly attributable to fee-driven activities are approximately \$366,000. These costs can be attributed to three different primary categories:

- Costs to process applications to incorporate or amalgamate (\$117,000)
- Costs to process annual statements and lodgement of financial reports (\$184,000)
- Costs to maintain access to and process requests relating to the register of incorporated associations (\$64,000).

The remaining \$1.55 million in costs is attributable to other ongoing costs associated with administering the incorporated associations scheme. These costs are predominantly driven by the costs associated with responding to enquiries from incorporated associations (\$470,000) and costs associated with ongoing monitoring and compliance (\$327,000).

Data on annual fee revenue, as provided by CAV, show that in FY2021-22 total fee revenue collected was \$1,862,300 (\$1,992,661 in 2022-23 dollars, using a 7% indexation for inflation). Revenue data from the 2022-23 financial year to date provide an indication of the proportions of total revenue attributable to each fee category. These are:

- Applications to incorporate or amalgamate (14.9%)
- Lodgement of annual statement and financial reports (81.5%)
- Requests to access information of documents from the register of incorporated associations (3.7%).

Table 2.1: Comparison of estimated annual revenue and costs, and cost recovery by category of fee.

Activity	Revenue	Costs	Cost recovery %
Application	\$296,843.35	\$615,496.34	48.23%
Lodgement	\$1,623,181.81	\$965,695.75	168.08%
Register management	\$72,636.53	\$337,988.18	21.49%
Total	\$1,992,661.70	\$1,919,180.27	103.83%

Source: Analysis of data provided by Consumer Affairs Victoria.

The available cost and revenue data illustrated in the graph above show that, on aggregate, 103.83% of costs of administering the regulatory framework are being recovered through fees. When considering costs that are directly related to fee-driven activities, the following levels of cost-recovery are observed:

- fees from applications to incorporate or amalgamate are recovering 48.23% of costs

- fees from lodgement of annual statement and financial reports are recovering 168.08% of costs
- fees from requests to access information of documents from the register of incorporated associations are recovering 21.49% of costs.

As outlined in the discussions of costs and revenue, the calculation of the cost recovery proportion is dependent on available data. While there are some data on the revenue and costs associated with regulatory activities, they do have certain limitations. These include data gaps relating to the time it takes CAV to undertake regulatory activities, as well as the absence of data over multiple periods. The absence of data for certain fee types indicates that these fee-related activities have no current demand and are inactive.

Some enabling assumptions or estimates have been made to address these limitations. These include:

- estimates from CAV relating to the time to undertake regulatory activities
- an assumption that the cost and revenue data for the 2021-22/2022-23 periods are broadly representative of expected activity volumes, costs and revenue.²

These assumptions and estimates allow for a proportionate and considered analysis of cost recovery of regulatory activities in the incorporated associations sector.

² Data provided by Consumer Affairs Victoria covered the periods of FY2021-22 and FY2022-23 only. No historical or forecasted data was provided to inform the analysis.

3 Objectives

This chapter outlines the objectives of regulatory intervention in the administration of associated incorporations.

The primary objectives of the Regulations are:

- to protect the rights and interests of members of incorporated associations, funding bodies and the general community
- to provide a simple and inexpensive means of obtaining corporate status for voluntary organisations by ensuring the minimum necessary administrative obligations to enable effective regulatory oversight
- to recover the costs of efficiently administering the Act and the proposed Regulations through cost-reflective and equitable fees.

As the Regulations are sunsetting, there are also other broader factors that need to be considered in the remaking of the proposed Regulations. These considerations include:

- modernisation of the Regulations with current operational practices such as virtual meetings and digital documentation processes
- alignment with recent changes to the regulatory framework governed by the ACNC to increase threshold values for financial reporting requirements
- broadening incorporated associations' access to the voluntary cancellation processes.

4 Options

This chapter outlines the set of options considered in this RIS.

4.1 Options development

The options presented are based on analysis of the incorporated associations sector, along with the legislative and regulatory framework that governs it. As the current Regulations are due to sunset in November 2023, the Base Case is that those Regulations expire and no new regulation is introduced. For sunsetting regulations it is important to analyse whether the regulations should be remade or allowed to expire. As discussed below, the Department of Government Services (DGS) does not consider the Base Case to be a viable option (i.e. regulations need to be remade). However, the Base Case serves as the counterfactual to analyse options against (discussed further below).

The process for developing options began with a detailed review of the Act and the current Regulations by DGS, to identify and clarify any significant details or ambiguities in either document. This provides the context and rationale for developing a set of prospective regulatory options that build on the status quo (which itself is subject to impact analysis against the Base Case in this RIS).

Simultaneously, the fees prescribed in the current Regulations were analysed against the Pricing Principles in the *Pricing for Value Guide*. This enabled the development of fee options that aligned with the Victorian Government's objectives for regulatory cost recovery while also considering other objectives set out in the *Pricing for Value Guide*.

A series of draft regulatory options were then developed. These options were tested with DGS for their suitability for inclusion in the final RIS. This phase provided DGS with the opportunity to provide feedback and recommendations to the options' formation. DGS's feedback was incorporated in the regulatory options for final presentation.

4.2 Options

4.2.1 Base Case (Regulations sunset on 19 November 2023)

The Base Case is a counter-factual scenario used to provide a common point of comparison for all options. In the context of this analysis, the Base Case represents a scenario where the current Regulations relating to the administration of incorporated associations sunset on 19 November 2023 and no new regulations are implemented.

Under the Base Case, incorporated associations would still be bound by the Act but there would not be any set of regulations specifically made for this type of entity and, as a result, the lack of complementary regulation would materially limit the capacity to enforce the Act. Without the Regulations, there would also be no prescribed model rules, which would make it more difficult for at least some incorporated associations to design or adopt rules that met the expectations of the community and their members regarding principles of good governance.

The Act provides some prescriptive indications on incorporated associations' rights and obligations independent of the prospective absence of any regulations. These include:

- the requirements for establishing, maintaining and ending an incorporated association
- the threshold values for financial reporting tiers. The AIR Act specifies the threshold values which determine the reporting requirements each incorporated association is subject to
- the asset ceiling for voluntary cancellation. The AIR Act specifies the asset ceiling is \$10,000.

Some incorporated associations would also continue to be regulated through other existing instruments.

Incorporated associations which are charities based in Victoria would continue to receive regulatory oversight from the ACNC. The ACNC Regulations 2013 broadly compel charities to act according to their purposes. The ACNC Regulations also compel charities to act in a way that provides the public with confidence that they are acting according to their purposes. While some incorporated associations would be subject to the ACNC Act and Regulations, many would not be subject to a broadly comparable regulatory framework.

4.2.2 Option 1: Status quo (remake the current Regulations)

The status quo would involve remaking the current Regulations as they are, aside from some minor changes to modernise and clarify the language of the current Regulations (without materially changing the Regulations' operation). Ultimately, the amendments aim to improve the current Regulations by simplifying and modernising the drafting style.

For example, the model rules contain some terms that are considered complex or jargonistic by some members of the public. The proposed remade Regulations would include additional definitions in the preceding Definitions section of the Regulations to clarify terms that have been raised as confusing or ambiguous. Where a term has not been defined, its common use will apply.

The current model rules also refer to individuals using 'he' or 'she' – the proposed remade model rules would update these references to 'they'. This alteration would likely have a minimal regulatory impact and would benefit members by reflecting and including gender diversity.

4.2.3 Option 2: Making new regulations, including the proposed changes

Option 2 would involve remaking the current Regulations with the inclusion of potential modifications to the framework that may have a material regulatory impact. The modifications will be assessed in the next chapter as a series of independent regulatory changes to support decision-making on each distinct and discrete potential modification.

Specifically, the potential independent changes to the current Regulations are:

- Option 2a - modifications to the model rules to enable the flexible use of technology, higher standards for dispute resolution and strengthening of disclosure requirements
- Option 2b - re-defining the tiers and revenue thresholds for financial reporting to align with the ACNC
- Option 2c - increasing the asset ceiling for voluntary cancellation of an incorporated association.

4.2.3.1 Modifications to the model rules to enable the flexible use of technology, higher standards for dispute resolution and strengthening of disclosure requirements.

A series of alterations to the model rules with a prospectively material impact could be made under Option 2. These include:

- **Enabling the flexible use of technology.** Currently, the model rules have limited provisions to account for the use of technology within organisations. This option expands the model rules so that they would allow for online applications using emails or online forms, clarifies the use of technology for meetings so that a meeting can be held solely online if preferred (without a nominal physical meeting occurring), and the use of technology in the inspection of documentation.
- **Higher standards for dispute resolution.** To promote improved dispute resolution processes by requiring members to be as independent and informed on a matter as is practicable, this option would modify the model rules to impose additional eligibility requirements on prospective members of the disciplinary subcommittee.
- **Strengthening of disclosure requirements.** Under this option, the model rules would be expanded to require committee members to disclose any other positions that they hold outside of the incorporated association. This aims to strengthen the conflict-of-interest process to proactively identify and address conflicts as they arise, rather than relying on individual members' discretion. It also aims to strengthen conflict of interest procedures by making the

incorporated association aware of members' external positions that may give rise to a perceived or actual conflict of interest, as a result providing the incorporated association with an opportunity to avoid the conflict altogether. The model rules would impose a new requirement for the Committee to keep and maintain a conflict of interest register.

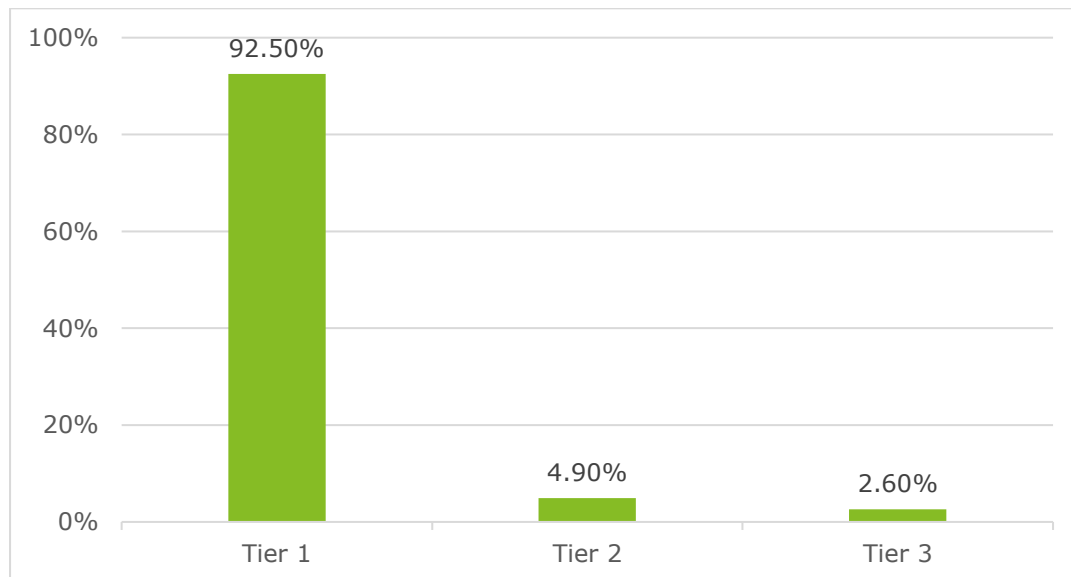
4.2.3.2 Financial reporting tiers

Currently, the threshold values for financial reporting requirements are made in Section 90 of the Act. However, the Act includes conditions that enable the threshold values to be updated and specified in the Regulations. Under Option 2 of this RIS, the condition would be exercised, and the Regulations would be modified to specify alternative financial reporting thresholds. Specifically, these thresholds are:

- Tier One: less than \$500,000
- Tier Two: \$500,000 - \$3,000,000
- Tier Three: more than \$3,000,000.

The distribution of incorporated associations across the reporting tiers is outlined in Chart 4.1 (below).

Chart 4.1: Distribution of incorporated associations across reporting tiers.



Source: Analysis of data provided by Consumer Affairs Victoria.

For each tier, the same financial reporting requirements would apply as currently prescribed in the Act, however, increasing the revenue thresholds would change the scope of incorporated associations that fall under each tier. The threshold values specified have been determined based on similar regulatory requirements prescribed in the Australian Charities and Not-for-profits Commission (ACNC) Regulations.

Until 2022, the reporting requirements for incorporated associations were aligned with charities registered with the ACNC. Associations that are registered with the ACNC and lodge annual reports with them are not required to lodge reports with CAV. The alignment of these thresholds before 2022 ensured that there was clarity in reporting requirements for these associations. However, the reporting requirements imposed by the ACNC (as aligned to annual revenue tiers) have recently changed to increase the revenue thresholds.

Modifying the revenue thresholds for the financial reporting in the Regulations aims to simplify financial reporting processes for incorporated associations in Victoria that are also subject to the ACNC Regulations. This option also aims to reduce the administrative burden on the associations which would fall into a lower tier due to the increased revenue thresholds.

Should this alteration to reporting requirements be pursued, CAV would provide additional support to promote incorporated associations' understanding of their new reporting requirements. This

understanding would provide the requisite clarity for incorporated associations to comply with the requirements.

4.2.3.3 Voluntary cancellation

As noted above, in the Background chapter, an association can only apply for voluntary cancellation if it has gross assets of less than \$10,000. If an association has assets of \$10,000 or more, it is not eligible for voluntary cancellation and its members can only initiate ending the association through a voluntary wind up which requires appointing a liquidator. For associations with limited assets above \$10,000, it is likely that a significant portion of its assets will have to be spent on liquidator fees and associated expenses. Alternatively, some associations that wish to end may decide to simply stop operating but remain registered with CAV as an incorporated association without winding up or seeking a cancellation.

Under this option, the ceiling for voluntary cancellations would be raised by prescribing a higher amount than \$10,000 for the purposes of section 136(1)(a) of the Act and would encourage more associations in similar circumstances to use the voluntary cancellation process.

The proposed increase of the asset ceiling is to increase it to \$50,000.

4.3 Fee and penalty options

Analysis of the current fee structure was conducted using data provided by CAV on the revenue collected from fees and costs of regulatory activities. The data provided is sufficient to assess the current fee settings within the context of overall cost-recovery and the primary drivers of costs and revenue. The data provided is outlined below, including notes in Table 4.1 on the limitations of the provided data sets and assumptions used to inform the analysis. Additionally, for all types of activity-related cost data, the information provided was generally limited to average costs at the aggregate level of a transaction type (e.g. applications to incorporate) and no substantial detail was available for each sub-transaction type (e.g. applications to incorporate, as a registerable body).

A review of the current penalties and infringements prescribed in the Regulations has identified that CAV has not issued any penalties or infringements to associations for several years, as the current approach to enforcement is based on a facilitated compliance approach given that associations are community organisations. While penalties have not been issued in recent times, retaining the power to do so supports the regulatory role of CAV and the current prescribed penalties and corresponding units are considered appropriate and proportionate. Consequently, no changes to the schedule of penalties have been considered in this RIS.

4.3.1 Cost data

Direct costs

Direct costs for these activities have been informed by the following:

- Average number of transactions received per month – for applications to incorporate, applications to amalgamate, lodgement of annual statements and other administrative transactions
- Approximate number of transactions processed manually per month (i.e. those transactions that require intervention from CAV to review and approve) – noting a proportion of applications to incorporate and lodgements of annual statements are processed automatically through the system and have been assumed to incur zero costs
- Approximate time required to process manual transactions – by aggregate transaction type
- VPS level involved in manual processing
- Average cost to process a transaction manually – calculation resulting from time required to process and VPS level involved with processing
- Average total time and cost processing per month – calculation based on totals of all transaction types

Administrative costs

In-direct administrative costs of regulation have been informed by the following:

- Category of administrative cost – indirect cost data provided by CAV relating to a range of other activities involved with supporting and administering the regulatory framework
- Key working teams involved
- Estimated number and VPS level of FTE
- Qualitative description of administrative cost activities

4.3.2 Revenue data

Revenue from regulatory fees has been informed by:

- Total revenue received from the 2021-22 financial year
- Total revenue received from the 2022-23 financial year to the end of March 2023
- Total revenue collected from each fee category in the 2022 calendar year

4.3.3 Data limitations

The following transactions (in line with the relevant fee types) had no cost data recorded in the information provided by CAV. It is assumed that these fee types are inactive (no applications in recent years). How these transactions have been incorporated into the analysis is noted in the assumptions field in the Table below.

Table 4.1: Fee types without cost estimates.

Transaction with no available cost data	Assumption
Applications for incorporation by registrable body – model rules	Cost data proxy used from average costs to process all applications to incorporate, as provided in 'Applications for registration' transaction type.
Applications for incorporation by registrable body – own rules	
Applications to be declared tier one or tier two association for purposes of a financial year	There were no recorded instances of this transaction in data, so it is assumed these fee types are inactive so do not impose a cost.
Applications for exemption from lodging financial statements – tier one association	There were no recorded instances of this transaction in data, so it is assumed these fee types are inactive and are assumed not to impose a cost.
Applications for exemption from lodging financial statements – tier two association	
Applications for exemption from lodging financial statements – tier three association	
Applications for exemption from requirements to remove auditor under s. 107(2)	There were no recorded instances of this transaction in data, so it is assumed these fee types are inactive and are assumed not to impose a cost.

4.3.4 Application of the pricing principles

The costs of regulation were compared against the current volumes of revenue to determine current levels of cost-recovery (as highlighted in Chapter 2). From a baseline understanding of current cost-recovery levels and in line with the objectives of the regulations to recover the costs of efficiently administering the Act and the proposed Regulations through cost-reflective and equitable fees, the pricing principles from *Pricing for Value* have then been applied in this RIS to identify options for changes to the current fee settings.

The primary pricing principles considered most relevant for this RIS are:

Principle 1: Agencies should aim to recover the full costs of service provision to promote efficient consumption. Principle 1 articulates a foundational financial sustainability aspiration for any set of fees for government services or activities and also alludes to cost recovery acting as a means for promoting efficient consumption. The fees associated with incorporated associations aim to promote financially sustainable and efficient regulatory activity, so principle 1 is relevant to the assessment of fee options.

Principle 2: The cost-of-service provision should be borne by those who benefit from the service. Principle 2 aligns with the equity objective of cost recovery for regulatory services. By shifting the cost burden of regulatory services to its beneficiaries (rather than those costs being borne by the public through consolidated revenue), it ensures that those who do not benefit from the services do not cross-subsidise those who do.

The broad concept of imposing a fee structure for incorporated associations aspires to apportion regulatory costs in line with the benefits associations receive from them. This makes principle 2 relevant to assessing fee options.

Principle 3: Services creating broad benefits for the community should be priced to support efficient consumption. Principle 3 aligns with the efficiency objective of cost recovery for regulatory services. Setting a price can encourage beneficiaries to 'consume' those services at an efficient level. As identified in the Problem and Objectives sections of this RIS, the effective regulation of incorporated associations creates broad benefits for the community. This makes principle 3 relevant as it can be used to assess the extent to which the proposed fee options impact the efficient consumption of regulatory activities for incorporated associations.

Principle 5: The price of services should not limit access to those with a lower ability to pay. Principle 5 aligns with the equity objective of cost recovery for regulatory services. Setting a price for regulatory services requires beneficiaries to pay for them. This places the cost burden for regulatory services on beneficiaries. Principle 5 aspires for this cost burden to not impinge on regulated entities' ability to access those regulatory services. As identified in the Background section of this RIS, there are currently approximately 42,000 incorporated associations in Victoria. A significant proportion of these are small, so their ability to pay may not be as high as larger associations. Principle 5 is relevant as it can guide the development and assessment of fee options as they relate to access limitations.

Principle 8: Pricing should support positive behaviours. Principle 8 aligns with the efficiency objective of cost recovery for regulatory services. Setting a price for regulatory services may introduce an incentive for regulated entities to not undertake the activities which incur that price. This incentive may lead to greater incidents of non-compliance. In turn, this non-compliance may result in the need for more intensive, disciplinary activities for regulators. Ultimately, the pricing structure inadvertently encourages non-compliance. This also reduces the regulator's overall cost recovery from both lower revenue and greater disciplinary costs. Such a pricing structure causes inefficiencies, as it diverts the regulator's resources away from its core activities and towards investigative or disciplinary activities. A significant proportion of incorporated associations are small, volunteer-based organisations. These characteristics may result in a greater propensity for incorporated associations to not undertake regulatory activities if the cost of doing so is great enough to implicitly discourage compliance. Principle 8 is relevant as it can guide the development and assessment of fee options against that risk.

Principle 11: Pricing structures should be easy to understand and simple to administer. Principle 11 aligns with the efficiency objective of cost recovery for regulatory activities. Developing a pricing structure that is easy to understand promotes clarity about regulated entities' compliance costs. This reduces queries for the regulator regarding ambiguities in the pricing structure. It also allows regulated entities to follow the pricing structure easily and quickly. In these ways, both the regulator and regulated entities operate more efficiently. Principle 11 is relevant in this instance. Fee options can be developed and assessed against their ability to provide clarity for incorporated associations, and simplicity of administration for CAV.

4.3.5 Options to modify current fee-settings

4.3.5.1 Base case (Regulations sunset and are not re-made)

As highlighted in the policy options above, the Base Case is a counter-factual scenario used to provide a common point of comparison for all options. In the context of the fees analysis, the Base Case represents a scenario where the current Regulations relating to the administration of incorporated associations sunset on 19 November 2023 and no new regulations are implemented.

Under the Base Case, there would be no fees to administer, and no revenue collected to recover the costs of administration bound by the Act itself.

4.3.5.2 Option 1: Status quo (Remake the current regulations with the existing fee settings and values)

The status quo would involve remaking the current Regulations and fee-settings as they are. The fee types and values are outlined in Section 1.5.1 Regulatory fees.

4.3.5.3 Option 2: Remake the Regulations with the same fee structure with adjustments to the fee values to reflect the costs of each regulatory activity more closely

Option 2 will involve remaking the current fees in the Regulations with adjustments to the fee values to reflect the costs of each regulatory activity more closely. As the data on costs and revenue only enables substantive analysis at the fee category levels, the following fee-settings changes will be applied in Option 2 as linked to the fee categories of applications, lodgements, and administration of the register:

- Fee values related to fees for applications to incorporate or amalgamate to be increased by 107.37%
- Fee values related to fees for lodgement of annual statement and financial reports to be decreased by 40.5%, except for the fee types noted below
- Fee value related to application to change the name of an incorporated association to be increased by 365.36%

Under Option 2, no changes would be made to the number of fee units for fees for an application for exemption from lodging annual statements or application for an extension of time for holding the AGM or lodging financial statements. While these fees are currently marginally higher than the estimated average cost of activities associated with those fees, the Department considers maintaining these fees at the current level to be important to promote positive behaviours by providing a deterrent against associations seeking exemptions and extensions.

Additionally, the fees relating to document requests are not proposed to be changed and the current fee-settings will be maintained. Currently fees to obtain documents are charged per document and, in a scenario where multiple documents are requested, increased fees could incur a significant expense and may compromise accessibility based on ability to pay.

Table 4.2: Table of proposed fees under Option 2, rounded to the nearest half unit

Type of Fee	Number of fee units (2022-23)	Proposed number of fee units (2023-24)	Percentage change in number of fee units
Application for incorporation of proposed association — model rules	2.5	5	107.37%
Application for incorporation of proposed association — own rules	14.5	30	107.37%
Application for incorporation by registrable body — model rules	4	8	107.37%

Type of Fee	Number of fee units (2022-23)	Proposed number of fee units (2023-24)	Percentage change in number of fee units
Application for incorporation by registrable body – own rules	16	33	107.37%
Application for amalgamation – model rules	8	16.5	107.37%
Application for amalgamation – own rules	14.5	30	107.37%
Application to change the name of an incorporated association	2	9	365.36%
Application to alter the rules of an incorporated association	12.5	26	107.37%
Application to be declared tier one or tier two association for purposes of a financial year	9	6.5	-25.94%
Lodgement of financial statements with Registrar – tier one association	4	3	-25.94%
Lodgement of financial statements with Registrar – tier two association	8	6	-25.94%
Lodgement of financial statements with Registrar – tier three association	16	12	-25.94%
Application for exemption from lodging financial statements – tier one association	2	2	0%
Application for exemption from lodging financial statements – tier two association	4	4	0%
Application for exemption from lodging financial statements – tier three association	4	4	0%
Application for extension of time for holding annual general meeting or lodging financial statements – tier one association	2.5	2.5	0%
Application for extension of time for holding annual general meeting or lodging financial statements – tier two association	2.5	2.5	0%
Application for extension of time for holding annual general meeting or lodging financial statements – tier three association	2.5	2.5	0%
Application for exemption from requirements to remove auditor under s. 107(2)	3.5	2.5	-25.94%
Inspection of register or prescribed documents kept by Registrar	2	2	0%
Obtain copies of prescribed documents kept by Registrar	3	3	0%
Obtain certified copies of a prescribed document kept by Registrar	4.5	4.5	0%
Obtain certified duplicate of a certificate of registration of an incorporated association	2	2	0%

4.3.5.4 Option 3: Remake the Regulations with adjustments to the fee values to reflect the costs of each regulatory activity more closely (same as Option 2) and simplify the fee structure

Option 3 will involve substantive re-structuring of the current fees in the Regulations to consolidate certain fee types and with similar adjustments to the fee values to be more cost-reflective for the corresponding type of activity. Option 3 also removes the fee types that have no recorded instances based on the revenue data provided by CAV and which are assumed to have no current demand and are inactive. Removing these inactive fees makes the fee structure simpler and reduces the burden on associations to understand the set of possible fees.

Specifically, this option includes changes to:

- **Application fee types** – simplify fee structure to only have two fee types that relate to adoption of the model rules or not, and adjust fee levels proportionate to current levels of cost-recovery
- **Lodgement fee types** – simplify fee structure to only have one fee for extensions of time and exemptions from reporting respectively (removing the differentials by reporting tier) and adjust fee levels for all lodgement fees proportionate to current levels of cost-recovery. Fees for applications to change tier and gain exemption from audits have also been removed due to inactivity
- **Register administration fee types** – no simplification of fee types is proposed, however fee levels are adjusted proportionate to current levels of cost-recovery

Table 4.3: Table of proposed fees under Option 3, rounded to the nearest half unit

Type of Fee	Number of fee units (2022-23)	Proposed number of fee units (2023-24)	Percentage change in number of fee units
Application for incorporation of proposed association — model rules	2.5	5	107.37%
Application for incorporation of proposed association — own rules	14.5	30	107.37%
Application for amalgamation — model rules	8	16.5	107.37%
Application for amalgamation — own rules	14.5	30	107.37%
Application to change the name of an incorporated association	2	9	365.36%
Application to alter the rules of an incorporated association	12.5	26	107.37%
Lodgement of financial statements with Registrar — tier one association	4	3	-25.94%
Lodgement of financial statements with Registrar — tier two association	8	6	-25.94%
Lodgement of financial statements with Registrar — tier three association	16	12	-25.94%
Application for exemption from lodging financial statements	2	2	0%
Application for extension of time for holding annual general meeting or lodging financial statements	2.5	2.5	0%
Inspection of register or prescribed documents kept by Registrar	2	2	0%

Type of Fee	Number of fee units (2022-23)	Proposed number of fee units (2023-24)	Percentage change in number of fee units
Obtain copies of prescribed documents kept by Registrar	3	3	0%
Obtain certified copies of a prescribed document kept by Registrar	4.5	4.5	0%
Obtain certified duplicate of a certificate of registration of an incorporated association	2	2	0%

5 Options Analysis

As detailed in the Background and Options chapters of this RIS, the current Regulations serve to support the Act through the introduction of additional requirements aimed at enhancing clarity and efficiency of the regulatory framework. The current regulations also prescribe particulars and requirements which assist CAV in its role of regulating associations.

The additional requirements in the current regulations are associated with:

- applications for incorporation
- internal notifications to association members
- access to public documents
- information on incorporated associations
- a set of model rules that can be voluntarily adopted.

The proportionate approach to options analysis used in this RIS

In terms of regulatory burden, these additional non-fee requirements are minor and incremental on top of the Act and are not expected to impose significant direct costs to incorporated associations and, as highlighted in the Options Identification section above, no practical and feasible non-regulatory options have been identified.

Consequently, the analysis of options has been undertaken as a three-stage approach with a proportionate level of analysis contained within each stage:

- **Stage 1 considers the impacts of the status quo compared to the base case of no regulations.** Stage 1 determines whether the current Regulations would result in sufficient benefits relative to their costs to warrant remaking them. Key considerations driving this stage are an understanding that:
 - the costs of compliance industry-wide are expected to be less than \$100,000 per year
 - the Regulations provide essential inputs into the regulatory framework, allowing it to operate and provide benefits to associations and their members
 - no substantive feedback has been provided by the Department or other stakeholders to indicate any material concerns from stakeholders regarding the costs associated with the status quo.
- **Stage 2 then considers potential enhancements to the status quo along a series of independent regulatory changes.** With an understanding of the impacts of the status quo as compared to the base case (as supported by the analysis below), Stage 2 then extends the analysis to enable consideration of three distinct changes based on the incremental net benefit or cost that can be captured relative to the status quo.
- **Lastly, Stage 3 assesses potential modifications to the existing fee settings.** The fees analysis has been undertaken separate to the policy options analysis and, while there is the inclusion of a base by which to baseline analysis against, the identified changes to fee settings are not dependent or linked with policy options considered. The fee options are standalone, with the related regulatory requirements contained within the Act itself.

For consistency, the regulatory changes considered within Stage 2 are assessed using the same criteria as those used to assess the status quo against the base case. However, as they are small incremental changes to the status quo and are independent of each other, **these changes are scored against the status quo and not the base case, so that the net impacts of each potential change can be assessed distinctly and so that these impacts can then also be considered cumulatively in addition to the impacts of the status quo.** For the fees analysis, separate criteria to assess each option has been defined, in line with the principles outlined in the Government's *Pricing for Value* guide.

5.1 Methodology to assess options – multi-criteria analysis

The method applied to compare the options identified in Section 4 of this RIS involves the use of multi-criteria analysis (MCA). MCA involves a qualitative and quantitative (where possible) assessment on how the different options perform against a series of criteria relative to the base case.

The MCA criteria have been defined to reflect the key benefits and costs associated with each option. The use of an MCA is considered an appropriate tool for analysis in this RIS as many of the costs and benefits of the Regulations, such as the benefits of good governance or the benefit of reducing risks to members of the public, are difficult to quantify and express in monetary terms

Where there are limits to the ability of impacts to be quantified, options have been compared qualitatively. In some cases, compliance costs have been estimated based on assumption-driven calculations for the time taken to complete certain activities. Where quantification and/or monetary costs are included, they form part of the option's analysis and are combined with qualitative analysis for determining scores within the MCA framework.

The MCA involves:

specifying a set of assessment criteria

- assigning a weighting to each criterion
- setting a criterion rating scale
- assigning raw scores for each option in relation to each criterion
- calculating a weighted score for each option.

The outlined MCA approach has been applied for both Stage 1 and Stage 2 of the analysis, using the same criteria and weighting. In Stage 1, the status quo has been assessed against the criteria relative to the base case of no regulations. In Stage 2, the series of independent regulatory changes defined within Option 2 are then assessed against the status quo to assess the incremental net benefit that can be captured through each element and as a cumulative total.

The robustness of the MCA's comparative analysis of each option partly depends on the existence and availability of high-quality data. The sources of evidence available for the analysis were:

- Discussion papers or related literature on incorporated associations prepared in other Australian jurisdictions
 - the Australian Accounting Standards Board Discussion Paper, 'Development of simplified accounting requirements (Tier 3 not-for-profit private sector entities)', prepared in 2022
 - Queensland Government Priority Consultation Paper, 'Reporting Requirements and Thresholds'
 - Government of Western Australian Statutory Review Discussion Paper, 'Associations Incorporation Act 2015', prepared in 2022
- data extracts from the register of incorporated associations provided by CAV, including information on incorporated associations such as:
 - reporting tier
 - whether associations adopt the Model Rules or their own rules
 - estimated total value
 - financial year end date
 - gross revenue
 - registration with the ACNC
 - gross value of assets

- number of members
- particulars regarding their submission of annual statements
- changes to incorporated associations' details
- details relating to cancellations of incorporated associations
- summative data on average costs from CAV
 - estimates of the time taken to conduct regulatory activities that incur a fee
 - estimates of the volume of regulatory activities that incur a fee
- summative data on fee revenue accrued in the 2022 calendar year from CAV
 - total revenue amounts collected from each revenue type administered by CAV
- stakeholder submissions on the Issues Paper prepared and distributed by the Department to a select group of incorporated associations
- inputs used in preparation of the previous RIS
 - estimates of time taken to comply with the Regulations
- the ABS Average Weekly Earnings dataset (Catalogue no. 6302.0), specifically the full time adult ordinary time earnings (series ID. A85002148L). The analysis assumes a standard work week of 38 hours
- expected growth in real labour costs based on Deloitte Access Economics modelling
- an overheads and on-costs default multiplier of 1.75 based on DTF guidance material.

While the data available for this RIS provide some indications of each option's prospective regulatory impact, the overall data picture has some limitations. Analysis of the options requires data on the value of assets and annual revenue of associations. The source of data for these variables is the annual reports lodged by incorporated associations to CAV, which has then been provided by the Department in summary Excel outputs. The data provided covers the annual reports received by CAV in FY2022/23, however, during this period the volume of reports received represents only 47.6% of all registered incorporated associations.

In cases where data gaps preclude direct and robust quantitative analysis of impacts, some enabling assumptions were made to support comparison of options, including:

- using the available data to estimate the proportion of associations that will be impacted by each option (which can then be extrapolated)
- providing industry-tested estimates in the place of data (for example, the time it takes for an association to comply with a regulatory requirement).

5.1.1 MCA criteria

The primary policy objectives of the Regulations are centred on protecting the rights and interests of members of incorporated associations and to provide a simple and inexpensive means of obtaining corporate status for voluntary organisations. In addition, to ensure the efficient and effective administration of the Regulations by Government, it is also important to recover the costs of administering the Act and the Regulations through cost-reflective and equitable fees.

In the context of these objectives, the following criteria have been defined for use within the MCA and to determine the preferred options:

- **Protecting the rights and interests of members** – The degree to which an option supports protecting the rights and interests of members of incorporated associations through the governance practices of associations, and to provide a simple and inexpensive means of obtaining corporate status for voluntary organisations.
- **Effective government oversight** – The degree to which an option enables the management of risk to the community from non-compliance and supports the ability of government, through

the regulatory role of CAV, to effectively oversee the industry of incorporated associations in Victoria.

- **Cost to industry** - The cost of an option to industry in terms of financial and time cost to incorporated associations and to members of their committees.
- **Cost to government** - The cost of an option to government in terms of administration costs for the provision of services, which include the processing of applications to incorporate, review and storage of annual statements, and a range of other administrative tasks.

These criteria are weighted according to their relative importance to the achievement of the stated objectives. As per DTF guidance, these benefit-related criteria and cost-related criteria are weighted equally (with 50 percent for benefit-related criteria and 50 percent for cost-related criteria applied). This is shown in table 5.1 below.

Table 5.1: Reporting tiers and associated requirements

Criterion	Weighting	Definition
Benefits		
Protecting the rights and interests of members	25%	The degree to which an option supports protecting the rights and interests of members of incorporated associations through the governance practices of associations, and to provide a simple and inexpensive means of obtaining corporate status for voluntary organisations.
Effective government oversight	25%	The degree to which an option enables the management of risk to the broader community from non-compliance and supports the ability of government, through the regulatory role of CAV, to effectively oversee the industry of incorporated associations in Victoria.
Costs		
Cost to industry	25%	The cost of a proposal to industry in terms of financial and time cost to incorporated associations and to members of their committees.
Cost to government	25%	The cost of a proposal to government in terms of administration costs for the provision of services.
100%		

5.1.2 Analysis of fee options

The primary policy objective for fee-settings within the Regulations is to recover the costs of efficiently administering the Act and the proposed Regulations through cost-reflective and equitable fees. The following pricing principles have also been used as a basis for the fees analysis criteria:

- 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 5: The price of services should not limit access to those with a lower ability to pay
- Principle 8: Pricing should support positive behaviours
- Principle 12: Pricing structures should be easy to understand and simple to administer

In the context of the objectives and principles, the following criteria have been defined for use within the fees-analysis to determine the preferred options:

- **Efficiency** – The degree to which an option supports the efficient administration of fees, whereby the fees are cost-reflective, promote financial sustainability of regulation and imbed fee structures that corresponds to each type and cost of regulatory activity.
- **Equity** – The degree to which an option represents an equitable fee structure and fee values. This criterion implicitly aims to avoid cross-subsidisation as far as practicable by attributing the fees and charges directly to those who trigger the need for the service. This criterion also reflects the objective of setting fees at levels that do not limit accessibility or capacity to pay.
- **Simplicity** – The degree to which the option reduces complexity for the industry and results in a fee structure that is easy to understand. It reflects pricing principle 11. This criterion also considers the costs to CAV for implementing the identified options and the on-going reduction in complexity of administration.

While fee options are also typically assessed against a criterion of ‘effectiveness’, being the extent to which the option supports the overarching objectives of the regulations and avoids unintended negative consequences, the fee options identified in this RIS are not expected to have material impact on effectiveness nor have material differences in effectiveness due to the underlying consistency in the primary fee structures and, therefore, an effectiveness criterion has not been included. In particular, in designing the fee options, consideration was made as to potential unintended negative consequences of the fee settings. In agreement with the Department, it was determined that changes to certain fee types may disincentivise positive behaviours or limit the ability of users to pay, and consequently changes to these fee types were not included within any fee option – as detailed in Section 4.3.5 Options to modify current fee-settings.

The defined criteria are weighted according to their relative importance to the achievement of the stated objectives, with the efficiency and equity of fee-setting being the primary objectives. This is shown in table 5.2 below.

Table 5.2: Reporting tiers and associated requirements

Criterion	Weighting
Efficiency	40%
Equity	40%
Simplicity	20%
Total	100%

5.1.3 Criteria scoring

The first stage of the options analysis assesses the impacts of the status quo (Option 1 – remake the current regulations) against a base case in which the existing Regulations are allowed to sunset without being re-made. The second stage of analysis then assesses a series of independent changes to the Regulations to consider cost/benefit trade-offs and the net cost/benefit of potential changes. Under both stages of analysis, options are evaluated against the assessment criteria to assess whether the expected outcomes resulting from each option represents a positive or negative change.

A score is assigned according to the impact of the option on each of the criteria measured relative to the base case. A rating scale from -10 to +10 (as shown below in Table 5.3) is applied against each criterion listed in Table 5.1 above. The base case is given a zero score on all criteria.

Table 5.3: Options assessment criteria scoring

Negative					Neutral	Positive				
-10	-7	-5	-3	-1	0	1	3	5	7	10
Very high	High	Medium	Low	Very low	Nil	Very low	Low	Medium	High	Very high

In Stage 3 of the analysis, the assessment of fee options, the same method for scoring has been used, whereby each option is compared against the Base Case and assigned a positive or negative score.

5.2 Stage 1 Analysis – Base Case vs. Option 1 (Status Quo)

This section provides an analytical comparison of the following:

- Base case (Regulations sunset and are not re-made)
- Option 1 – Status quo (remake the current Regulations)

Option 1 has been assessed against the MCA criteria defined above relative to the base case. As the RIS is assessing positive or negative change from the base case, the base case receives a score of zero for all criteria.

Table 5.4: Scoring of Option 1 – Status quo (remake the current Regulations) relative to the base case

Criterion	Weighting	Base Case	Option 1 – Impact of Status Quo relative to the base case	
			Raw score	Weighted score
Benefits				
Protecting the Rights and Interests of Members	25%	0	3	0.75
Effective Government Oversight	25%	0	3	0.75
Costs				
Cost to Industry (positive score is lower cost than Base Case)	25%	0	-2	-0.5
Cost to Government (positive score is lower cost than Base Case)	25%	0	-1	-0.25
Total Weighted Score		0		0.75

5.2.1 Criterion 1 – Protecting the Rights and Interests of Members

Option 1 receives a score of 3 for this criterion because the prescribed model rules, provisions for public access to documentation on incorporated associations, and prescribed fines and penalties can moderately improve incentives for associations to follow practices of good governance in their operations. The range of benefits derived from the model rules are outlined below which are material and potentially significant, however, the score has been set at 3 due to the opt-in nature of the model rules (with approximately 86% of incorporated associations choosing to adopt) and the substantive legal protections prescribed in the Act itself (base case).

The model rules provide associations with a robust set of rules to govern their operations, in turn, making it easier for associations to meet their obligations and complete incorporation. From a membership perspective, the model rules are easily accessible to members and can be understood without legal training, supporting transparency in association governance.

The model rules also contain conditions that enable good governance practices by associations. While good governance is a broad term, there are some conditions in the model rules which encourage incorporated associations being run democratically and transparently. These principles conform to the community's expectations of how incorporated associations should operate, so they can be considered as promoting good governance.

The specific conditions which promote the democratic and transparent operation of incorporated associations include Part 3 of the model rules (the model rules relating to membership, disciplinary procedures, and grievances). These rules specify the rights and requirements of both the incorporated association and the member in each of those procedures. Those rights and requirements include receipt of notice of general meetings, the right to be heard and to vote at general meetings, and the steps for conducting disciplinary or grievance procedures.

Parts 4 and 5 of the model rules relate to the conduct of general meetings and the incorporated association's committee. The general meeting rules include provisions for notice of and voting at general meetings, as well as ensuring all items in the general meeting are accurately reflected in the meeting minutes. The committee rules outline its role and powers, duties, and provisions for the election and terms of committee members.

Part 6 of the model rules relate to the incorporated association's financial matters. The rules specify the incorporated association's financial management requirements, along with the keeping of accurate financial records. These records must be developed into annual financial statements for submission at the general meeting and lodgement with CAV.

Each of these rules aims to ensure that incorporated associations operate according to their members' wishes and make their actions available for members' review. In these ways, they reinforce the democratic and transparent values that underpin good governance principles.

While it is difficult to identify the magnitude of each rule's effect on incorporated associations' governance, in their absence there would not be a clear and understandable set of directions to guide association's practices. This absence would at least increase operational ambiguity for incorporated associations.

Any changes to model rules automatically update the rules for any association which opted into them, which allows these associations to maintain up-to-date rules, without needing regular general meetings to amend them.

The status quo also specifies the documents CAV must maintain as part of its register, which the public may inspect. This requirement serves to protect members and the broader community by improving information transparency through allowing them to view documents of incorporated associations (such as annual reports or financial statements). The requirement to lodge these documents and the understanding that they will be available for public access, can incentivise incorporated associations to ensure the provided reports are compliant and transparent in the information presented and communicated to members. Without this provision in the Regulations, there is a risk that the internal communications of associations (to their members) and the documents prepared by associations could be non-transparent and non-compliant.

The current Regulations also provide an incorporated association with the ability to fine its own members for breaching its rules. Having the ability to issue fines to members can promote associations' effective operation by imposing a disincentive to individuals from causing harm to other members, or the association through breaching the association's rules.

The current Regulations also define a set of penalties which CAV can impose on an association which fails to comply with the Regulations, further incentivising good governance. The option for CAV to issue penalties to an association without needing to cancel the incorporation of an association provides CAV enforcement powers without depriving the association's members of the services it may provide.

5.2.2 Criterion 2 – Effective Government Oversight

Option 1 receives a score of 3 because the status quo contains prescriptive information requirements of associations (in applying to become incorporated) and the specific infringement penalties that can be issued by CAV for non-compliant reporting and document administration by

associations. These two components allow CAV to effectively maintain a detailed register of incorporated associations and penalise associations for non-compliance, moderately improving the Government’s capacity for effective oversight of the industry.

The current Regulations, which would be remade under this option, describe the additional particulars that must be included in an application to incorporate as an association. While the Act prescribes the requirement to apply to become incorporated, it only requires an association to provide its name and the details of the individual nominated to be secretary. The particulars in the Regulations prescribe additional essential information, including the registered address and contact details for the association, along with a declaration of its expected revenue in their first year of operation.

These particulars are critical inputs to allow CAV to effectively maintain a register of all currently registered incorporated associations and their corresponding revenue thresholds for annual financial reporting. In cases of missed reporting or the need to monitor compliance, the information contained within the register provides CAV with the necessary details to contact or fine an association directly. Without the detailed register, CAV would likely incur significant costs in monitoring and enforcing non-compliance or even be unable to undertake compliance activities at all, due to insufficient information available on the registration of incorporated associations.

The current Regulations also prescribe fines that can be levied against incorporated associations for non-compliant behaviour, including a failure to maintain up to date records and information on the register of incorporated associations. The power to issue fines permits CAV to easily apply penalties against non-compliant associations without needing to engage with the legal system at their own cost. Such powers are valuable mechanisms to effectively oversee the associations sector and can be used to discipline non-compliant associations without the need to cancel their registration.

5.2.3 Criterion 3 – Cost to Industry

Option 1 receives a score of -2 for this criterion as there are costs associated with ensuring the prescribed particulars are fulfilled in the application to incorporate and in applications to change administrative details of an incorporated association (such as changing a secretary or change of name). The score has been set at -2 as these costs are material but not significant and so have a low regulatory impact on incorporated associations.

In the base case, an association that is applying to incorporate is only required to provide its name, proposed rules, and the contact details of the secretary. The additional requirements prescribed in the Regulations creates a cost to associations who are applying to incorporate, applying to change their name, and applying to change secretary. This is estimated in Table 5.5 and Table 5.6 below.

The Regulations set out the model rules which an association may use in place of writing their own set of rules. This does not create any burden on an association, as they are not compelled to use the model rules and are free to draft their own if they would like (if their rules are compliant with the Act). The provision of model rules presents a potential reduction in costs for associations, as they do not have to go through the administrative burden of researching, producing, or maintaining their rules. Approximately 86% of associations seeking to incorporate choose to adopt the model rules (as seen in Table A.7).

Table 5.5: Estimating additional compliance costs of the Regulations for industry, annually

Application	Estimated time taken	Estimated number of applications 2023/24	Cost per minute	Cost per application	Total cost
Application for registration	10 mins	1704	\$1.39	\$13.87	\$23,643

Application for amalgamation	10 mins	144	\$1.39	\$13.87	\$1,998
Application to change name	5 mins	376	\$1.39	\$6.94	\$2,608
Application to change secretary	5 mins	6400	\$1.39	\$6.94	\$44,400
Total cost for 2023/24:					\$72,649

Note: Estimates for the time required for activities is based on analysis in the 2012 Associations Incorporation Reform Regulations 2012 RIS. The estimated number of applications in 2023/24 is based on the average number of applications received by CAV in the past 5 years.

Table 5.6: Estimating additional compliance costs for industry, over a 10-year period

Year	Cost	Discounted Cost
2023/24	\$72,649	\$72,649
2024/25	\$74,587	\$71,719
2025/26	\$75,260	\$69,582
2026/27	\$75,542	\$67,156
2027/28	\$75,708	\$64,716
2028/29	\$76,699	\$62,219
2029/30	\$75,837	\$59,935
2030/31	\$76,335	\$58,009
2031/32	\$76,700	\$56,044
2032/33	\$77,121	\$54,185
Present value of costs over 10 years		\$636,213

Note: Future costs were discounted at a rate of 4% p.a. Cost of labour modelled to grow in line with unit labour costs, in line with Deloitte's internal estimates of real unit labour costs.

5.2.1 Criterion 4 – Cost to Government

Option 1 receives a score of -1 for this criterion as there are additional costs to Government relative to the Base Case associated with management of the register of incorporated associations, which are only prescribed within the Regulations, and which would not be incurred in the base case scenario.

The Regulations specify the range of documents that the Registrar must maintain and make available to the public upon request. This requirement creates an additional administrative cost to provide the relevant documents on request. Without the Regulations, there would be no prescribed documents specified for inspection and it would be assumed that there would be no obligation to provide access to documents to members of the public, therefore the associated administrative cost would be zero. Data was not available to provide a detailed breakdown of costs incurred to process document requests, we can draw insight from the fee revenue collected. In the 2022/23 financial year, it is forecasted that CAV will collect \$4,244.80 in revenue from the provisioning of prescribed documents, which equates to approximately 62 requests. This relatively small number

of requests and corresponding anticipated low cost of administration is why the score has been set at -1.

Further to the additional costs incurred from the provisioning of documentation, relative to the base case, the Regulations create the requirement for associations to include additional particulars in their applications that are submitted to CAV. The requirements set out in the Act ensures that CAV would still maintain a register of associations in the base case, and that the inclusion of these particulars would simply make the register more detailed. The management of these documents is largely automated, therefore the marginal cost to government to add contact details to an existing register is immaterial.

5.3 Stage 2 Analysis – Option 1 (Status Quo) vs. Option 2 (Independent regulatory changes)

This section provides an analytical comparison of the following relative to Option 1 – Status quo (remake the current Regulations):

- Option 2a – Remake the current Regulations with the addition of the proposed new model rules
- Option 2b – Remake the current Regulations with the addition of increased revenue thresholds for financial reporting requirements
- Option 2c - Remake the current Regulations with the addition of an increased asset ceiling for voluntary cancellation

Similar to Stage 1 of the analysis, Option 2 has been assessed against the MCA criteria. However, to appropriately assess the incremental net benefit (or cost) of the changes within Option 2, the assessment has been undertaken relative to Option 1 and not the base case. As Stage 2 of the analysis is assessing incremental positive or negative change from the status quo, the score that Option 1 received relative to the base case is maintained. The changes considered under Option 2 are preferred if they have a net positive score after assessment of each criterion.

5.3.1 Option 2a – Remake the current Regulations with the inclusion of modifications to the model rules

Table 5.7: Scoring of Option 2a, incremental changes relative to the status quo

Criterion	Weighting	Impact of Option 1 – Status Quo, compared to the base case	Incremental impact of Option 2a – Remake current Regulations with new model rules compared to the status quo	Impact of Option 2a – Remake current Regulations with new model rules compared to the base case
Benefits				
Protecting the Rights and Interests of Members	25%	3	+1	4
Effective Government Oversight	25%	3	0	3
Costs				
Cost to Industry (positive score is lower cost than Base Case)	25%	-2	-0.5	-2.5
Cost to Government (positive score is lower cost than Base Case)	25%	-1	0	-1
Total Weighted Score		0.75	0.13	0.88

Assessing the incremental impacts of Option 2a within the MCA framework used in this Chapter suggests that the proposed change provides an incremental net benefit and is

therefore beneficial to include in the proposed Regulations. The rationale for the incremental scoring is set out below.

Protecting the Rights and Interests of Members

Option 2a receives a score of 1 for this criterion as the conditions prescribed in the new model rules serve to moderately enhance governance arrangements within incorporated associations and better protect the rights of members.

Through the introduction of new model rules, Option 2a will impact all new associations who seek to incorporate with the model rules. In addition to this, all associations which previously adopted the model rules will have their rules updated in line with section 49(3) of the Act. In this way, these changes will have an impact on most existing and future incorporated associations.

Within the model rules, Option 2a increases the requirements for conflict-of-interest disclosures for members of a committee of an association. The inclusion of these disclosure requirements is intended to enhance governance protocols within an association and would work to protect the rights and interests of association members, thereby reducing the risks of harm to association members which could be created by conflicted committee members acting against the best interests of members.

The model rules also include a provision that enables all associations to provide digital alternatives to in-person meetings. Such a provision would allow members who cannot physically attend meetings or inspect documents to participate in the incorporated association's operation equally to members who can. This promotes inclusivity within associations by removing the barrier of physical attendance as a prerequisite to participation.

Effective Government Oversight

The inclusion of the proposed new model rules does not prescribe any requirements above the status quo that would enhance CAV's capacity and capability in administering the Regulations. Consequently, Option 2a has received a score of 0 for this criterion.

Cost to Industry

Option 2a receives a score of -0.5 for this criterion as there will likely be some minor additional costs experienced by the portion of incorporated associations that initiate conflict of interest process or may require basic technology upgrades. The minor expected cost has been represented with a corresponding score of -0.5.

In the introduction of new model rules, Option 2a does not require associations to do any administrative work in changing their rules. Associations that have previously adopted the model rules will see their rules automatically updated if the Regulations are changed. For any associations that have made their own rules, this change will have no impact. Consequently, there is no additional costs expected through the process of adopting the new model rules.

However, there may be minor additional costs that are incurred by incorporated associations in adhering to the model rules themselves. Those associations that follow the model rules could bear an increased administrative burden for committee members who have potential conflicts of interest, as they will have to prepare statements to declare them, and the Committee will be required to keep and maintain a conflict of interest register. The new model rules also require associations to allow their members to be able to access documents or meetings digitally. Such a requirement may impose a cost on some committees, who may need to purchase new technology to make these options available.

While these costs could be material for some incorporated associations, on aggregate the costs are expected to be minimal as conflict of interests disclosures are only initiated under special circumstances (such as disciplinary procedures) and the use of technology is standard organisational practice that most incorporated associations have likely already implemented.

Cost to Government

The inclusion of the proposed new model rules is not expected to materially change the cost experienced by Government in administering the Regulations. Consequently, Option 2a has received a score of 0 for this criterion.

5.3.2 Option 2b – Remake the current Regulations with the inclusion of new revenue thresholds for financial reporting

Table 5.8: Scoring of Option 2b, incremental changes relative to the status quo

Criterion	Weighting	Impact of Option 1 – Status Quo, compared to the base case	Incremental impact of Option 2b – Remake current Regulations with new financial reporting tiers compared to the status quo	Impact of Option 2b – Remake current Regulations with new financial reporting tiers compared to the base case
Benefits				
Protecting the Rights and Interests of Members	25%	3	-1	2
Effective Government Oversight	25%	3	-3	0
Costs				
Cost to Industry (positive score is lower cost than Base Case)	25%	-2	5	3
Cost to Government (positive score is lower cost than Base Case)	25%	-1	2	0
Total Weighted Score		0.75	0.75	1.50

Assessing the incremental impacts of Option 2b within the MCA framework used in this Chapter suggests that the proposed change provides an incremental net benefit and is therefore beneficial to include in the proposed Regulations. The rationale for the incremental scoring is set out below.

Protecting the Rights and Interests of Members

In reducing the reporting requirements for an expected 1,079 association, Option 2b could remove an incentive for these associations to undertake more comprehensive financial reporting. In doing so, there is a risk that removing the requirements will detract from the imperative of good governance due to less robust financial reporting. This, in turn, could challenge the rights of members of associations if the lower reporting requirements result in decreased transparency in information sharing and degraded trust in the financial information that is presented without external certification.

While this risk to the rights of association members is greater under Option 2b than the status quo, no evidence has been uncovered to suggest that the risk is likely to materialise. The requirement to lodge annual statements with CAV, regardless of financial reporting tier, also helps to mitigate the additional risk that comes through reduced reporting requirements for the proportion of impacted associations. Consequently, Option 2b receives a score of -1 for this criterion.

Effective Government Oversight

Option 2b receives a score of -3 for this criterion as the introduction of increased revenue thresholds for financial reporting results in more associations falling into lower reporting tiers (which prescribe less requirements for reporting) and, consequently, Government will have moderately less oversight due to less transparency and assurance on financial positions provided in annual reports.

The changes in revenue thresholds are expected to reduce the reporting requirements for an estimated 1,079 associations (as detailed in Table 5.9 below), based on financial reports lodged in

the past year.³ This will reduce the amount of financial information the impacted associations are required to submit to CAV. Consequently, this option would reduce CAV's level of oversight over the impacted associations. The reason that this criterion has not been scored with a more significant negative score is due to the most significant regulatory change impacting those associations with annual revenue below \$500,000. Going from a Tier 2 to a Tier 1 reporting tier removes the requirement for a certified accountant, whereas, for associations that go from Tier 3 to a Tier 2, the requirement to have annual financial reports prepared by a certified accountant is still maintained.

Table 5.9 Number of associations by reporting level, based on 2022/23 annual reports

Reporting level	Reporting requirements	Number of associations in status quo	Number of associations under proposed changes
Tier 1	Must produce basic financial statements, and present them at the annual general meetings and lodge with CAV	18,597	19,334
Tier 2	Must produce general reports in accordance with Australian Accounting Standards, and have these reports certified by a registered accountant	1,111	716
Tier 3	Must produce general reports in accordance with Australian Accounting Standards, have the reports certified by a registered accountant and have these reports audited by a certified auditor	528	186

Cost to Industry

Option 2b will reduce reporting requirements for the 1,079 impacted associations and, in aggregate, reduce the costs of reporting industry wide. This reduction in reporting requirements will reduce the cost of compliance for an estimated 342 associations who would no longer be required to engage an auditor, and a further 737 associations who would no longer be required to hire an external accountant. The costs saved by associations that would no longer have to undertake an audit or hire a certified accountant to prepare financial reports are expected to be proportionally greater (at least double) than costs saved by Government in reviewing those reports and, consequently, this criterion receives a score of 5.

Option 2b may also reduce time costs which are associated with any confusion which may arise from the misalignment of financial reporting tiers between CAV and the ACNC. Associations registered with the ACNC may choose to lodge their financial reports with the ACNC, which allows

³ Based on the most recent financial reports, the proposed changes would result in 737 associations moving from tier 2 to tier 1, and 342 associations moving from tier 3 to tier 2.

them to not lodge reports with CAV. However, confusion may arise if the association falls under two different reporting tiers for the different agencies.

Cost to Government

While the costs experienced under each reporting tier of the status quo are still relevant, Option 2b will reduce the volume of financial reports under Tier 2 and Tier 3 and the corresponding requirements on CAV to review.

Costing data provided by the Department was used to provide a range of prospective costs to government, depending on the rate of compliance and the proportion of reports which require manual processing.

The cost saving to government was calculated using a range of compliance (between 60 and 100%) and a range of the proportion of financial reports which required manual processing (between 60 and 100%). Assuming 60% compliance and 60% manual processing, the cost saving to government would be \$19,652 in 2022-23. Assuming 100% compliance and 100% manual processing, the cost saving to government would be \$54,589 in 2022-23. The compound annual growth rate of the total number of incorporated associations over the last nine years (0.8%) and the Victorian Guide to Regulation’s approved rate for standardising cash flows across timeframes (4%) were then aggregated to forecast the range of this cost saving in the next ten years. The range widens to between \$31,167 and \$86,574 by 2032-33.

Consequently, Option 2b receives a score of 2 for this criterion as costs saved are worth differentiating from Option 1 (Status Quo) costs, however, are not expected to be more than double the costs.

5.3.3 Option 2c – Remake the current Regulations with the inclusion of a new asset ceiling for voluntary cancellation

Table 5.10: Scoring of Option 2c, incremental changes relative to the status quo

Criterion	Weighting	Impact of Option 1 – Status Quo, compared to the base case	Incremental impact of Option 2c - Remake current Regulations with new asset ceiling for voluntary cancellation compared to the status quo	Impact of Option 2c – Remake current Regulations with new asset ceiling for voluntary cancellation compared to the base case
Benefits				
Protecting the Rights and Interests of Members	25%	3	0	3
Effective Government Oversight	25%	3	-2	1
Costs				
Cost to Industry (positive score is lower cost than Base Case)	25%	-2	2	0
Cost to Government (positive score is lower cost than Base Case)	25%	-1	2	1
Total Weighted Score		0.75	0.5	1.25

Assessing the incremental impacts of Option 2c within the MCA framework used in this Chapter suggests that the proposed change provides an incremental net benefit and is therefore beneficial to include in the proposed Regulations. The rationale for the incremental scoring is set out below.

Protecting the Rights and Interests of Members

The process of ending an association, whether that be in the form of a cancellation or winding up, is not expected to materially impact on the on-going governance practices of an association and, consequently, the on-going need to protect the rights of its members (as the association will be ending). Raising of the asset ceiling, to enable a greater proportion of associations to pursue the voluntary cancellation pathway, is expected to help address the systemic issue with inactive associations still existing legally due to prohibitive costs of cancellation. However, the extent to which this helps to improve protections for members is likely marginal.

It is likely that Option 2c has neither a positive or negative impact on the good governance practices of an association and, consequently, has received a score of 0 for this criterion.

Effective Government Oversight

Option 2c would allow associations with total assets below \$50,000 to voluntarily cancel their incorporation and distribute their assets without the need to hire a liquidator. It is expected that the change in asset ceiling (with the previous asset ceiling being \$10,000) will impact a maximum of 11,551 associations, based on reported asset values in financial year 2022/23.

Table 5.11: Reported asset values from 2022/23 annual reports

Asset values reported	Number of associations based on lodged annual reports	Proportion of reporting associations	Estimated total number of associations
\$0-\$9,999	8,201	40.5%	17,232
\$10,000-\$49,999	5,497	27.2%	11,551
\$50,000+	6,538	32.3%	13,738
Total	20,236	100%	42,521

Note: The total number of associations was taken from data supplied from the Department

The voluntary cancellation process, and expanding its applicability to a greater proportion of associations, would slightly reduce the ability of government to effectively oversee the winding up of an association, as there would not be an independent liquidator to report to CAV. Instead, CAV would rely on reporting from the associations themselves. This could reduce the amount of objective reporting that CAV would receive about the winding up process and there is an increased risk of committee members misappropriating or wilfully distributing assets against the association's rules. Consequently, Option 2c moderately reduces the effectiveness of government oversight and receives a score of -2 for this criterion.

Cost to Industry

Option 2c would allow more incorporated associations to wind up and distribute their assets voluntarily without the need to appoint a liquidator. This would eliminate the need to hire and pay for a liquidator, which can be prohibitively high for some associations.

This option would reduce regulatory burden on some associations and allow them to wind up and distribute their residual assets themselves, rather than appoint a liquidator. The Act requires an association to distribute any surplus assets according to its rules. For associations with complex asset ownership structures, the process or hiring a liquidator may prove costly, and Option 2c would reduce this cost. Associations which fall under the asset ceiling may still choose to hire a liquidator if they desire.

There are significant information limitations to finding the cost of appointing a liquidator. These limitations include the widely varying degrees of complexity associated with individual liquidations, along with industry preferences not to disclose the cost of the liquidation process. However, some

industry sources note that a straightforward liquidation of a small company may cost between \$4,000 and \$10,000.⁴

Using the conservative low end of this range, we can apply an assumptions-driven analysis to score the cost to industry from avoided liquidation costs. Based on the available data, it is understood that 2,194 cancellations were initiated voluntarily by incorporated associations through an application to CAV, in the period between 2015 and 2023 (an average 274 annually). Data is not available on the assets held at point of cancellation for these associations, however, we can apply a break-even analysis to compare against the cost to industry under Option 1 (the status quo), which was \$72,649. At a cost of \$4,000 per liquidation, if at least 18 new associations can avoid formal liquidation under Option 2c, then costs saved are approximately equivalent to costs incurred under Option 1. For this to be true, 6.6% of annual voluntary cancellations would need to have assets greater than \$10,000 but less than \$50,000 – which is reasonable to conclude and is why Option 2c receives a score of 2 for this criterion.

Cost to Government

Option 2c is expected to reduce costs to government through time saved in enforcement activities. Under the status quo, there is a proportion of associations who have more than \$10,000 in assets and wish to wind up their operations but are unable to do so because they can't pursue voluntary cancellation. Some of these associations decide to informally wrap up operations and stop complying with reporting requirements or working towards the purpose of the association. It is the responsibility of CAV, through their enforcement activities, to identify these non-compliant associations and deregister them. In these cases, CAV will find and appoint a liquidator.

For those incorporated associations that have ceased operations but are unable to voluntarily cancel without appointing liquidators (and have chosen not to), allowing them to cancel their registration voluntarily, and distribute their assets themselves, would reduce the time cost to CAV of finding and appointing liquidators. For CAV to initiate a cancellation it must have evidence that an incorporated association is not in operation. The avoided costs in identifying non-compliance, issuing notices, and appointing liquidators for non-compliant associations would only be applicable to those associations that have assets greater than \$10,000 but less than \$50,000.

Quantifying the costs to government is not possible based on the available data, as there is no available data clearly linking cancellations with current assets nor has data been provided by CAV on the costs associated with enforcement activities. Having said this, based on the available data regarding cancellations, it is understood that 5,941 cancellations were initiated by CAV in the period between 2015 and 2023 (an average 743 annually). Available data on gross assets of associations (who reported in the last financial year) shows that 27.2% of associations have assets greater than \$10,000 but less than \$50,000.

Assuming a similar rate of cancellations over time and that costs saved by government are at least equal to or greater than costs saved by industry, Option 2c receives a score of 2 for this criterion due to the avoided cost of initiating mandatory cancellations by CAV.

5.4 Stage 3 Analysis – Changes to fee-settings

This section provides an analytical comparison of the three different fee options relative the Base Case where the regulations sunset and are not re-made, whereby there are no fees:

- Option 1 – Status quo (Remake the current regulations with the existing fee settings and values)
- Option 2 – Remake the Regulations with the same fee structure and adjust the fee values to reflect current cost-recovery levels for different CAV activities
- Option 3 – Remake the Regulations with adjusted fee values to reflect cost-recovery for different CAV activities (same as Option 2) and simplify the fee structure

⁴ Morgan Lane, "The Cost of Liquidation," *Worrells* (September 30 2015)

<<https://worrells.net.au/resources/news/the-cost-of-liquidation>>;

David Hill, "What is the Cost to Liquidate a Company? (Updated 2021)," *Australian Debt Solvers* (April 23 2021)

<<https://australiandebtsolvers.com.au/liquidator/guides/what-is-the-cost-to-liquidate-a-company>>

Each option has been assessed against the fee-option criteria defined above. An option is preferred if it receives the highest net positive score after assessment of each criterion.

5.4.1 Criterion 1 – Efficiency

Table 5.12: Scoring of fee options for efficiency, relative to the base case

Criterion	Weight	Base Case	Option 1	Option 2	Option 3
Efficiency	40%	0	6	8	8

Option 1

Option 1 receives a score of 6 for this criterion because the prescribed fees contained in the status quo promote financial sustainability of administering the regulatory scheme through the recovery of all costs by the revenue collected in fees (currently at 103.83% of total costs). Compared to the base case of no fees, the fee values within Option 1 are inherently more cost reflective and the fee structure generally aligns with the corresponding type of regulatory processes undertaken by CAV. However, as shown in Section 2 of this RIS, when disaggregated to the primary fee categories of applications, lodgements and administration of the register, there are differences in the relative efficiency of cost-recovery:

- Fees from applications to incorporate or amalgamate are recovering 48.23% of costs
- Fees from lodgement of annual statement and financial reports are recovering 168% of costs
- Fees from requests to access information of documents from the register of incorporated associations are recovering 21.49% of costs.

The available data on costs and revenue demonstrates that further efficiencies could be gained through proportional adjustments to fee settings to better achieve cost-reflective outcomes.

Option 2

Option 2 receives a score of 8 for this criterion because the value adjustments to the prescribed fees (in the status quo) improve the cost-reflectivity of fees while maintaining similar levels of financial sustainability in administering the regulatory scheme. Relative to Option 1, the fee-settings proposed in Option 2 address the relative under-recovery of costs associated with processing of applications to incorporate and to manage the register, while also correcting the over-recovery of costs associated with processing of annual lodgements and other on-going annual regulatory activities.

Option 3

Option 3 receives a score of 8 as the fee value adjustments (in terms of relative cost-recovery) are in line with the changes proposed in Option 2. Like Option 2, the value adjustments to the prescribed fees improve the cost-reflectivity of fees while maintaining similar levels of financial sustainability in administering the regulatory scheme. The other structural changes proposed for implementation in Option 3 do not affect the efficiency criterion.

5.4.2 Criterion 2 – Equity

Table 5.13: Scoring of fee options for equity, relative to the base case

Criterion	Weight	Base Case	Option 1	Option 2	Option 3
Equity	40%	0	7	8	6

Option 1

Option 1 receives a score of 7 for this criterion as the prescribed fees enable the recovery of costs from those who trigger the need for the service and include differential pricing structures within major fee types to minimise cross subsidisation. The fees prescribed have also been set at an appropriate level that do not limit accessibility or capacity to pay, promoting equitable participation and positive behaviours in the incorporated associations sector.

Option 2

Option 2 receives a score of 8 for this criterion because the value adjustments to the prescribed fees improve the equitable setting of fees through more appropriate cost-reflectivity. Relative to Option 1, the fee-settings proposed in Option 2 more accurately associate the direct recovery of costs from those who trigger the need for the service, by increasing fees for applications and accessing the register and decreasing fees for annual lodgements.

For fee types that relate to inspection of the register of incorporated associations and document requests from the register, there may be some circumstances whereby individual members are initiating the requests rather than the committee of an association. Under these circumstances, it is important to consider the individual's ability to pay, which may be affected by an increase from \$70 per request to \$300 per request. However, overall, the low volumes of these requests initiated annually and lack of evidence to substantiate the need for a price ceiling due to price sensitivity moderates the potential negative impact.

Option 3

Option 3 receives a score of 6 as the simplification of the fee-settings introduces greater cross-subsidisation, relative to Option 1 and Option 2. In consolidating fee types there are reductions in equity with regards to the cost-reflectivity of specific sub-fee types (e.g. applications as a registerable body or not) and introduces greater risk of limiting accessibility due to lower ability to pay (e.g. a single fee for extensions and exemptions for lodgements regardless of annual revenue). However, as the fees proposed in Option 3 are not prohibitive, any negative impact on equity is expected to be minor.

5.4.3 Criterion 3 – Simplicity

Table 5.14: Scoring of fee options for simplicity, relative to the base case

Criterion	Weight	Base Case	Option 1	Option 2	Option 3
Simplicity	20%	0	-5	-5	-3

Option 1

Option 1 receives a score of -5 for this criterion as, while the introduction of fees does in itself introduce more complexity than having no fees in the base case, the prescribed fees are easy to understand and reflect the corresponding regulatory activities. Of the 23 different fees:

- eight fees relate to a single specific activity or service request
- four fees relate to new incorporation applications – determined by the conditions of whether the association is adopting the model rules (or not) and/or if there are a registerable body (or not)
- two fees relate to amalgamation applications – determined by the condition of whether the amalgamated association is adopting the model rules (or not)
- three fees relate to lodgement of annual statements – determined by the three possible revenue tiers of an association
- three fees relate to requests for extensions of time on lodging annual statements – determined by the three possible revenue tiers of an association
- three fees relate to requests for exemptions to lodge an annual statement - determined by the three possible revenue tiers of an association

For those fees that have multiple sub-types, it would be possible to improve simplicity of the fee structures through consolidation.

Option 2

Option 2 does not introduce any changes to the fee structure relative to Option 1, and so also receives a score of -5 for the same rationale.

Option 3

Option 3 receives a score of -3 for this criterion as it introduces substantive changes to the current fee-settings to simplify the structure by consolidating fees that have multiple sub-types. Specifically, the consolidation of application fees to remove the registerable body condition,

eliminates any ambiguity over this requirement during the application process. The consolidation of fees relating to the extension of time and exemption from annual lodgements serves to minimise any public uncertainty about why there are different fees for these activities and supports more simplified processing of the requests internally by CAV.

5.5 Identification of preferred option

The results of the Stage 1 MCA show that **Option 1 (Status quo – remake the current Regulations) is preferred to the base case of no regulations**. It best balances the desire for government to be able to have effective and efficient oversight of the incorporated associations industry with the regulatory burden imposed on industry and government.

The results of the Stage 2 MCA (discussed above and summarised in Table 5.15 below) show that **Option 2 is preferred to the status quo** (Option 1). In addition, each of the modifications analysed (Options 2a, 2b and 2c) are preferred.

Table 5.15: MCA scoring

Criterion	Weight	Impact of Option 1 – Status Quo relative to the base case	Impact of Option 2a – Remake current Regulations with new model rules compared to the base case	Impact of Option 2b – Remake current Regulations with new financial reporting tiers compared to the base case	Impact of Option 2c – Remake current Regulations with new asset ceiling for voluntary cancellation compared to the base case
Benefits					
Protecting the Rights and Interests of Members	25%	3	4	2	3
Effective Government Oversight	25%	3	3	0	1
Costs					
Cost to Industry (positive score is lower cost than Status Quo)	25%	-2	-2.5	3	0
Cost to Government (positive score is lower cost than Status Quo)	25%	-1	-1	0	1
Weighted score		0.75	0.88	1.50	1.25

For the fee-setting options, the results of the Stage 3 analysis show that **Option 2 is preferred to the base case of no fees**. It best balances the objectives of government to efficiently recover the costs of administering the regulatory scheme with the need to ensure equitable fee structures that promote access to incorporation. Option 2 is likely to raise \$1.9 million per year in fees and recover 100 per cent of CAV's costs in administering the regulatory framework.

Table 5.16: Scoring of fee options

Criterion	Weight	Base Case	Option 1	Option 2	Option 3
Efficiency	40%	0	6	8	8
Equity	40%	0	7	8	6
Simplicity	20%	0	-5	-5	-3
Weighted score		0	4.20	5.40	5.00

6 Implementation and Evaluation

6.1 Implementation

The proposed Regulations remake the existing Association Incorporation Reform Regulations 2012, with amendments as considered in this RIS. Based on the analysis in this RIS, the Department is recommending remaking the Regulations with a series of minor, independent improvements to the current regulatory scheme. The Department and CAV will primarily be responsible for implementation of the proposed changes. The Department and CAV will continue to have ongoing engagement with incorporated associations across Victoria through existing processes, such as Ministerial correspondence, contacts to CAV and compliance activities.

6.1.1 Making of the proposed Regulations

The draft Regulations are subject to a public consultation, which will enable a broad range of incorporated associations to provide their views on the proposed reforms. Following the public consultation period, the Department will consider all submissions and comments made by stakeholders on the proposed Regulations. The Department will make changes as required to the draft Regulations. After this, the Department will submit its final recommendations to the Minister for Consumer Affairs for approval. The Minister will publish a notice of decision in the Government Gazette and online on www.publicnotices.vic.gov.au. This notice will outline the changes from the exposure draft of the proposed Regulations. The proposed Regulations would be made before the new expiry date of the current Regulations on November 19, 2023.

The Department will communicate the outcomes of consultation and its recommendations to stakeholders following the Minister's decision.

6.1.2 Enforcement

CAV will be responsible for ensuring compliance with the new regulations for incorporated associations, primarily through its existing monitoring and enforcement activity undertaken as part of its day-to-day operations. The changes to the regulations are generally expected to reduce the administrative burden and, through the existing processes and tools that govern administration of the regulatory framework, CAV is well positioned to enforce the lower level of regulations.

6.2 Evaluation

6.2.1 Evaluation approach

The Department, in close coordination with CAV, will monitor the proposed Regulations and their ongoing effectiveness in ensuring that associations are being appropriately run. The effectiveness of the proposed Regulations will be monitored by CAV and the Department on an ongoing basis.

This will include through reviewing of annual reports, which are submitted to CAV, and other risk-based compliance and enforcement activities.

Indicators of success of the regulations may include:

- Increase in the number of incorporated associations undertaking the voluntary cancellation process;
- Increased compliance with lodgement of key documents, including annual reports by incorporated associations;
- Decreased number of applications to Consumer Affairs Victoria for an extension of time to hold Annual General Meeting by incorporated associations;
- Decreased number of registrations with Consumer Affairs Victoria of non-operational incorporated associations;
- Decreased CAV investigations for non-compliance; and
- Decreased fines issued, or other enforcement action taken, in relation to failure to comply.

The Department also maintains an issue log to track issues raised in relation to the effectiveness of the Regulations. This issues log is informed by stakeholder and public feedback, received through existing processes, such as Ministerial correspondence or anecdotal feedback.

Under the *Subordinate Legislation Act*, all regulations expire after ten years. The Department will review the operation of the proposed Regulations before their expiry. The review will evaluate the effectiveness of the proposed Regulations and inform whether the proposed Regulations should be remade in part or in full. A thorough review of the proposed Regulations, as amended during the next ten years, will take place in preparation for their sunset in 2033. This review would commence approximately 18 to 24 months before the expiry of the proposed Regulations in 2033.

For high impact regulations a mid-term evaluation may be required after five years to assess the impact of the regulations. As the Department does not believe that these regulations pose a significant regulatory burden on the community, a mid-term evaluation is not anticipated.

7 Appendices

7.1 Appendix: Impact analysis data and approach

7.1.1 Enabling inputs for calculation

Table A.1: General parameters

Parameter	Value	Source
Discount rate	4%	Victorian Guide to Regulation
Time horizon	10 years	Life of the Regulations
Number of incorporated associations	20,236	Data provided by Consumer Affairs Victoria
Standard labour rate	\$47.57	ABS national average full time ordinary earnings divided by a standard 38 hour work week
Real wage growth		Deloitte Access Economic modelling
Inflation rate from 2021-22 to 2022-23	7%	CPI index for the twelve months to March 2023
Annualised average growth rate in number of incorporated associations	0.8%	Consumer Affairs Victoria
Wage multiplier to cover overhead costs	1.75	Victorian Guide to Regulation

7.1.2 Data relating to costs associated with regulating the incorporated association sector

Table A.2: Time and cost estimates for regulatory activities (2022-23 dollars) as provided by CAV

Activity type	Classification	Volume processed manually per year (estimated average)	Approximate time to manually process (hours)	VPS level involved in manual process	Unit cost (includes direct labour and associated overheads only)	Annual manual cost (2022-23)
Applications for registration (all types)	Application	600	0.6	VPS3	\$47.73	\$28,638
Applications for amalgamation (all types)	Application	144	7.6	VPS2	\$487.38	\$70,183
Applications for changes to rules	Application	360	0.75	VPS2 (0.5 hours) VPS3 (0.25 hours)	\$51.15	\$18,406
Lodgement of financial statements – tier one	Lodgement	192	0.25	VPS2	\$14.05	\$2,697
Lodgement of financial statements – tiers two and three	Lodgement	1,788	1	VPS4	\$87.53	\$156,502
Extension of time for lodging statements (all tiers)	Lodgement	444	0.17	VPS2	\$10.68	\$4,713
Rules assessment	Lodgement	936	0.33	VPS2	\$21.36	\$19,989
Change of association email address	Register management	2,160	0.08	VPS2	\$5.34	\$11,527
Change of association name	Register management	840	0.6	VPS3	\$47.73	\$40,094

Activity type	Classification	Volume processed manually per year (estimated average)	Approximate time to manually process (hours)	VPS level involved in manual process	Unit cost (includes direct labour and associated overheads only)	Annual manual cost (2022-23)
Request for document	Register management	48	1	VPS2	\$64.07	\$3,075
Request for certified document	Register management	72	1	VPS2 (0.75 hours) VPS6 (0.25 hours)	\$79.25	\$5,706
Request for extract from register	Register management	240	0.25	VPS2	\$16.02	\$3,845
Request for certificate from a non-member	Register management	12	0.17	VPS2	\$10.68	\$128
Total						\$365,536

Note: the above data outlines costs for sixteen out of the 23 fee types. The fees that do not currently have any accompanying cost data are listed in the table below and have not contributed to the cost estimates provided in this RIS

Table A.3: Fee types without cost estimates as there is no data available or no transactions on the fee type recorded

Type of Fee	Fee value (2022-23)
Application for incorporation by registrable body — model rules	\$61.16
Application for incorporation by registrable body — own rules	\$244.64
Application to be declared tier one or tier two association for purposes of a financial year	\$137.61
Application for exemption from lodging financial statements — tier one association	\$30.58
Application for exemption from lodging financial statements — tier two association	\$61.16

Application for exemption from lodging financial statements — tier three association	\$61.16
Application for exemption from requirements to remove auditor under s. 107(2)	\$53.52

Table A.4: Time and cost estimates for other activities related to administration of the regulatory framework (2022-23 dollars), as provided by CAV

Category	Key contributors	Estimated FTE	Annual costs
Legislation and policy	Regulation & Policy	0.35 VPS5/VPS6 Regulation & Policy: 0.25 VPS5, 0.1 VPS6	\$63,005
Corporate support and executive services	DGS Finance R&GO	0.25 VPS3/VPS5/VPS6 Finance: 0.15 VPS3, 0.05 VPS6 R&GO: 0.05 VPS5	\$38,014
System support and maintenance	Technology Solutions (TS) RTS (Business Services team)	1 VPS4 TS: 0.5 VPS4 RTS: 0.5 VPS4	\$146,346
Enquiries	Information & Dispute Settlement Centre (IDSC) RTS (Community Organisations Registrations team)	4 VPS2/VPS3 IDSC: 3 VPS2/VPS3 (costs calculated using 2 VPS3 and 1 VPS2 midpoint salaries) RTS: 1 VPS2	\$459,327
Data reporting	RTS (Business Services team) R&GO	0.2 VPS4/VPS5 RTS: 0.15 VPS4, 0.05 VPS5 R&GO: 0.05 VPS4, 0.05 VPS5	\$48,346
Compliance	Investigation Services Branch (ISB) Information & Analysis (I&A) RTS	2.5 VPS2/VPS4 RTS: 1 VPS2, 1 VPS4 ISB/I&A: 0.5 VPS4**	\$326,635
Continuous improvement (CI)	TS RTS (Business Services Team & Projects team)	0.5 VPS5	\$84,279

Complaints	RTS (COR team and Operations Manager)	1.1 VPS3/VPS4/VPS6 0.5 VPS3 0.5 VPS4 0.1 VPS6	\$157,885
Strategic communications	Strategic Communications RTS*	Calculation based on 1 VPS4***	\$146,346
Aboriginal incorporated associations	RTS (Business Services team)	0.5 VPS4	\$73,173
Total			\$1,553,644

* May require input and approvals from multiple areas, including CAV Executives, Regulation Policy, and the Premiers Private Office (PPO).

** This may increase during compliance projects.

*** Project based work, which may range at times from one VPS4 to a project team involving multiple FTE.

7.1.3 Data on fee revenue

Table A.5: Fee revenues from each fee type, as provided by CAV

Name	Classification	2022-23 fee amount	Number of times fee was paid (2022)	Total fee revenue collected (2022)
Incorporation (New) – model rules	Application	\$38.20	1,099	\$41,998
Incorporation (New) – own rules	Application	\$221.70	184	\$40,770
Amalgamation – model rules	Application	\$122.30	3	\$359
Amalgamation – own rules	Application	\$221.70	3	\$647
Application to change rules	Application	\$191.10	1,018	\$194,637
Lodgement of annual statement – tier one	Lodgement	\$61.20	21,778	\$1,332,827
Lodgement of annual statement – tier two	Lodgement	\$122.30	838	\$102,508
Lodgement of annual statement – tier three	Lodgement	\$244.60	356	\$87,054
Extension of time for lodging statements	Lodgement	\$38.20	0	\$0
Extract of information from register	Register management	\$30.60	1,737	\$53,157
Change of name	Register management	\$30.60	244	\$7,464
Certified document request	Register management	\$68.80	61	\$4,245
Document request	Register management	\$45.90	68	\$3,140

Name	Classification	2022-23 fee amount	Number of times fee was paid (2022)	Total fee revenue collected (2022)
Certificate request	Register management	\$30.60	4	\$120
Change of details	Register management	\$0.00		\$0
Total				\$1,868,926

Note: the above data outlines revenue for sixteen out of the 23 fee types. The fees that do not currently have any accompanying revenue data are listed in the table below.

Table A.6: Fee types without revenue data (as provided by CAV) and which are assumed to have no transactions

Type of Fee	Fee value (2022-23)
Application for incorporation by registrable body — model rules	\$61.16
Application for incorporation by registrable body — own rules	\$244.64
Application to be declared tier one or tier two association for purposes of a financial year	\$137.61
Application for exemption from lodging financial statements — tier one association	\$30.58
Application for exemption from lodging financial statements — tier two association	\$61.16
Application for exemption from lodging financial statements — tier three association	\$61.16
Application for exemption from requirements to remove auditor under s. 107(2)	\$53.52

Table A.7: Volume of incorporations by type

Financial Year	Model rules, non-registerable bodies	Own rules, non-registerable bodies	Model rules, registerable bodies	Own rules, registerable bodies
2022-23	983	137	1	1
2021-22	1111	176	30	14
2020-21	1283	189	67	38
2019-20	1371	183	103	62
2018-19	1577	197	123	56
2017-18	1625	200	107	73
2016-17	1489	202	126	39
2015-16	1627	240	135	68
2014-15	763	80	70	18
Total	11829	1604	762	369

Limitation of our work

General use restriction

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