

OFFICIAL

Supreme Court (Fees) Amendment Regulations 2024

Regulatory Impact Statement

June 2024



Glossary

Court Fees Review	The systematic review of the fees charged across Victorian courts and tribunals being conducted by DJCS at the request of the Attorney-General and Treasurer.
DJCS	Department of Justice and Community Safety
Grant of representation	Grants of probate and letters of administration are collectively referred to as grants of representation. A grant of representation gives a person the legal right to administer the estate of a deceased person.
Gross estate value	Is the sum of the value of all estate assets such as bank accounts, real estate, shares and other assets. This does not include a deduction for debts encumbrances, funeral expenses or estate duty. In Victoria, the gross estate value is based on the value of Victorian assets only.
Probate	A legal document certifying that a will is valid and can be acted upon.
Probate Office fees	Fees listed under Part 4 of the Supreme Court (Fee) Regulations 2018. This includes the fee for grants of representation, preparation by the Registrar of Probates in relation to a small estate and the advertising fee.
RIS	Regulatory Impact Statement
Supreme Court	Supreme Court of Victoria
Small estate	A small estate is when a person’s assets at their date of death are below the value set by government. The value which determines what is considered a small estate is established under s71(1A) of the <i>Administration and Probate Act 1958</i> .
The Regulations	Supreme Court (Fees) Regulations 2018
The proposed Regulations	Supreme Court (Fees) Amendment Regulations 2024
The Probate Office	The Office of the Registrar of Probates
VCAT	The Victorian Civil and Administrative Tribunal



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1. Executive Summary

1.1 Purpose of this document

Victoria's *Supreme Court Act 1986* allows for the making of regulations for fees payable in the Supreme Court. These fees are currently prescribed in the Supreme Court (Fees) Regulations 2018 (the Regulations). The Victorian Government is proposing to increase the fees payable to the Office of the Registrar of Probates (Probate Office).

Court fees can be regarded as imposing a significant economic or social burden on the public. Therefore, under the provisions of the *Subordinate Legislation Act 1994*, a Regulatory Impact Statement (RIS) must be prepared or an exemption from the process must be granted. A RIS needs to be released for public consultation prior to the regulations being amended.

1.2 Background and Problem Analysis

The Victorian Government has approved the commencement of a systematic review into the pricing and structure of the fees charged across Victorian courts and tribunals (the Court Fees Review). The intention of the Court Fees Review is to bring Victorian court fees in line with comparable jurisdictions, improve access to justice in Victoria and introduce a consistent approach to the cost recovery of court services.

The Court Fees Review is being implemented in multiple stages. The first considers the fees charged by the Probate Office. The second stage will consider all other fees charged by Victoria's courts and tribunals.

A review was also necessitated due to the [Standing Directions 2018](#) issued by the Assistant Treasurer under the *Financial Management Act 1994*. Under Standing Direction 3.8 – Pricing, all agencies, including Victorian courts and tribunals that charge fees, are required to commence a pricing review prior to 1 July 2024. The two-stage review will acquit this request, while also taking this opportunity to address the aforementioned policy objectives.

Established under section 75 of the *Constitution Act 1975*, the Supreme Court of Victoria is the highest court in Victoria. The court is divided into two main divisions, the Court of Appeal and the Trial Division. In addition to hearing cases, the Supreme Court also provides other services including: mediation, managing judicially awarded funds on behalf of minors and beneficiaries with legal disability, and probate (through the Probate Office).

The Probate Office deals with all applications for grants of representation and maintains a register of all grants issued by the Court and all wills deposited with the Court for safekeeping.

The Probate Office also provides an optional service for small estate. For a fee, this service assists people in applying for a grant of representation for eligible estates – i.e., when a person's assets at their date of death are below a value set by government (this is currently set at \$125,080 in the 2023–24 financial year).

An initial review by DJCS found that Probate Office fees are not currently addressing the following problems:

- The Regulations do not reflect existing government policy in relation to the *Pricing for Value Guide* and the Assistant Treasurer's Standing Directions 2018 (specifically Standing Direction 3.8 – Pricing) made under the *Financial Management Act 1994*.
- Fees, as currently set, do not promote the overall financial sustainability of the Supreme Court as fees under-recover total operating costs.
- Amending pricing structures could improve access to justice and services for those with a lower capacity to pay, specifically where a fee may serve as prohibitive for obtaining a grant of representation for a small estate.

1.3 Objectives

In determining the relevant objectives of the Court Fees Review and the proposed Regulations, DJCS considered several factors, including the problems being addressed and the Pricing Principles that underpin the *Pricing for Value Guide*.

To this end, the proposed Regulations are guided by the following objectives:

1. **Fiscal Sustainability** – Fees should seek to support the overall fiscal sustainability of the Court.
2. **Access to Justice** – Fees should safeguard access to justice through supporting initiatives in improving access to Probate Office services, such as assisting those with small estates through the small estate optional service. This includes ensuring that fees are set at a level which considers a court user's potential capacity to pay.
3. **Reflective of Costs** – Fees charged should be reflective of the cost of the service to the Probate Office.
4. **Simplicity** – Fees should, as far as practicable, reduce complexity for users of the courts, as well as for the Court in administering the system.



The above objectives map to the Pricing Principles in the following manner:

Table 1.1: Objectives and associated Pricing Principles

Objective	Pricing Principle ¹
Fiscal Sustainability	1 – Agencies should aim to recover the full costs of service provision to promote efficient consumption.
	7 – The public should share in the value generated by pricing based on user differentiation
	8 – Pricing should support positive behaviours
	9 – Pricing should ensure sustainable usage of public services and reflect the value of natural resources
Access to Justice	5 – The price of services should not limit access to those with a lower ability to pay
Reflective of Costs	9 – Pricing should ensure sustainable usage of public services and reflect the value of natural resources
Simplicity	11 – Pricing structures should be easy to understand and simple to administer

1.4 Options

DJCS has identified three feasible options to reform the fees charged by the Probate Office to meet the objectives as described in Section 4.

Base Case – Existing fees and charges continue at current levels. The Supreme Court (Fees) Regulations 2018 will sunset in 2028 so the rates of the fees in those regulations will continue until the regulations are amended or replaced.

Option 1: Balanced – Fees and charges are increased to support the overall financial sustainability of the Supreme Court while appropriately balancing this objective against improvements to access to justice and a better reflection of the costs incurred by the Probate Office. This includes:

- introducing a new \$0 fee tier for small estates², reflecting a potentially lower ability to pay.

¹ The numbers prefacing individual Pricing Principles refer to the respective numbering of these principles within the *Pricing for Value Guide*.

² A small estate is when a person’s assets at their date of death are below the value set by government. The value which determines what is considered a small estate is established under s71(1A) of the *Administration and Probate Act 1958*. In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.

- increasing the application fee for a grant of representation to a proportion based on the gross value of an estate³.
- creating two fee tiers for advertisement and re-advertisement to encourage improved accuracy in online notices and reflecting the additional work and costs incurred by the Probate Office in re-advertising a notice, such as contacting the parties involved.
- a minor increase in the fee for the preparation of a small estate, better reflecting the full costs incurred by the Probate Office.

Option 2: Uplift – Fees under this option have been structured to prioritise the overall fiscal sustainability of the Supreme Court while also addressing some of the objectives regarding improved access to justice and reflecting the costs of service delivery. This includes:

- introducing a new \$0 fee tier for small estates, reflecting a potentially lower ability to pay.
- increasing the application fee for a grant of representation to 0.17 per cent of gross estate value for estates between the value of a small estate and less than \$20 million.
- capping the application fee for estates with a gross value beyond \$20 million.
- increasing advertising fees while maintaining the same structure as the Base Case.
- increasing the fee for the preparation of a small estate consistent with the, expected remuneration chargeable⁴ for a solicitor in obtaining a grant of representation.
- all other fees would be increased by 10 per cent to maximise the financial sustainability of the Court through fee uplift.

Option 3: Flat Increase – This option maintains the current fee structure as per the Base Case and increases all fees by 250 per cent to improve the fiscal sustainability of the Supreme Court.

1.5 Options Analysis

The impact of the above options is assessed in this section through a multi-criteria analysis which aligns to the principles in the *Pricing for Value Guide* and the identified objectives.

³ This increases from a percentage of 0.2 per cent in the lowest fee-paying tier to 0.3 per cent in the highest fee-paying tier based off the lowest gross value of the estate captured within each tier.

⁴ The fee is set at a level approximately equivalent to an estate value of \$129,850 for which remuneration of \$890.00 may be paid and allowed out of the estate of a deceased person to a solicitor in obtaining a grant of representation under Rule 9.01 of the Supreme Court (Administration and Probate) Rules 2023.

Table 1.2: MCA criteria and weighting

Criteria	Relevance	Weighting
Criterion 1: Fiscal Sustainability	Fees should seek to support the overall fiscal sustainability of the Supreme Court. This criterion is based on Pricing Principles 1, 7, 8 and 9.	40%
Criterion 2: Access to Justice	Fees should seek to safeguard access to justice through ensuring that services are accessible for those who are likely to have a limited capacity to pay and/or are administering small estates. This criterion is based on Pricing Principle 5.	25%
Criterion 3: Reflective of Costs	Fees charged should be reflective of the cost of the service to the Probate Office. This criterion is based on Pricing Principle 9.	25%
Criterion 4: Simplicity	Fees should, as far as practicable, be structured in a way that reduces complexity for users of the courts, as well as for the Court in administering the system. This criterion is based on Pricing Principle 11.	10%

The MCA criteria were used to determine the preferred option for the fee changes.

Option 1 is the preferred option, reflecting that this option has the highest weighted score of all the options considered. Option 1 best balances improving fiscal sustainability and ensuring access to justice.

All options would increase revenue for the Probate Office; however, Option 2 would increase fee revenue the most and support fiscal sustainability more than Options 1 and 3, and hence achieves the highest score under Criterion 1: Fiscal Sustainability.

For the Access to Justice criterion, Option 2 increases fees the most for applicants who may have limited capacity to pay and achieves the lowest score. Option 3 increases fees less compared to Option 2 but more than Option 1.

As noted above, all options would significantly increase cost recovery for the Probate Office beyond the current level (estimated at 310%). The changes to fees under all options directly affect how closely the fees reflect the costs of the Probate Office in delivering services. Under Criterion 3: Reflective of Costs, Option 2 achieves the lowest score as it is the least reflective of costs. Option 1 and 3 are slightly more reflective of costs so are scored higher but are still less reflective of costs when compared to the Base Case.

Option 3 performs the best under Criterion 4: Simplicity as it replicates the existing fee structure under the Base Case. Option 1 increases complexity slightly by introducing an online re-advertisement fee and two new tiers for a grant of representation. Option 2 introduces the most complexity of all the options as it would require software updates to implement a percentage fee calculation for applications.

Table 1.3: Results of the multi-criteria analysis

Criteria		Weighting	Option 1: Balanced	Option 2: Uplift	Option 3: Flat Increase
Criterion 1: Fiscal Sustainability	Fees should seek to support the overall fiscal sustainability of the Supreme Court.	40%	3.60	4.00	3.60
Criterion 2: Access to Justice	Fees should seek to safeguard access to justice through ensuring that services are accessible for those who are likely to have a limited capacity to pay and/or are administering small estates.	25%	-1.50	-2.50	-2.25
Criterion 3: Reflective of Costs	Fees charged should be reflective of the cost of the service to the Probate Office.	25%	-1.50	-2.50	-2.25
Criterion 4: Simplicity	Fees should, as far as practicable, be structured in a way that reduces complexity for users of the courts, as well as for the Supreme Court in administering the system.	10%	-0.30	-0.50	0.00
Weighted Score			0.30	-1.50	-0.90

1.6 Preferred Option

The preferred option has the following characteristics when compared to the Base Case:

- Online Advertisement** – A new fee structure is proposed for online advertisement fees. Due to the increased unit cost of the online advertisement service, a 38% fee increase (when compared to the Base Case) is proposed under this option. Additionally, a new re-advertisement fee is also proposed at a higher level than the advertisement fee, reflecting the additional costs incurred by the Probate Office in assisting users to amend advertisements for re-advertisement.
- Application for a Grant of Representation** – Fees proposed for users applying for a grant of representation would remain tiered in a similar manner to the current Regulations. Fees for estates with a gross estate value defined as a small estate^{5,6} would be reduced to \$0. Not charging a fee reflects that small estate applicants likely have limited financial means to apply for a grant of representation. For applications for estates with larger gross estate values, fees would be increased based on a proportion of the gross value of the estates captured within that fee tier.
- Small Estate Optional Service** – There is an increase to the application preparation fee to \$269.40 in 2024–25. However, the total quantum of fees paid by small estate applications who utilise this service would fall from \$346.20 before the draft Regulations commence (\$251.50 for the optional service, \$26.10 for an online advertisement and \$68.60 for an application for a grant of representation) to \$305.30 after commencement.
- Other Fees** – All other fees are proposed to be kept the same at the same fee units as they exist currently under the Base Case.

Under the preferred option, estates administered in Victoria will generally continue to have lower fees than estates granted probate in similarly sized states (e.g. NSW and Queensland) and states with similar fee structures to Victoria (e.g. South Australia).

Under the preferred option, there will also be a significant improvement to the level of cost recovery within the Court. After the proposed Regulations come into effect, it is expected that fee revenues across the entirety of the Supreme Court will increase to around \$62.0 million for the 2025 calendar year⁷, of which \$46.7 million is attributable to the Probate Office. This represents a projected cost recovery rate of 41.0 per cent, approximately doubling the level of cost recovery in 2022-23, which was 23.6 per cent.

The fee structure⁸ under the preferred option is included the Table 1.4.

⁵ This is defined under section 71 of the *Administration and Probate Act 1958*.

⁶ In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.

⁷ Please note that the proposed Regulations are expected to commence on 29 December 2024.

⁸ Fees are calculated based on the value of a fee unit in 2024-25.

Table 1.4: Proposed fees under the preferred option

Item	Description	Base Case ⁹ (2024–25)	Preferred Option (2024–25)	Change in Fee Value	Percent Change
	Online Advertisement Posting on the Court's website of –				
4.1	a) a notice of intention to apply for a grant of representation	\$26.10 (1.6 fee units)	\$35.90 (2.2 fee units)	\$9.80	37.5%
	b) a notice of intention to apply for the affixing of the seal of the Court to any probate, letters of administration or grant or order	\$26.10 (1.6 fee units)	\$35.90 (2.2 fee units)	\$9.80	37.5%
	c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$26.10 (1.6 fee units)	\$35.90 (2.2 fee units)	\$9.80	37.5%
	d) a republished or amended notice of intention	\$26.10 (1.6 fee units)	\$49.00 (3 fee units)	\$22.90	87.5%
	Application for a Grant of Representation On filing an application for any grant of representation or on filing an originating motion under Rule 7.04(1) of Chapter III –				
4.2	a) if the gross value of the estate is less than the value of a small estate	\$68.60 (4.2 fee units)	\$0.00 (Nil)	-\$68.60	-100.0%
	b) if the gross value of the estate is equal to the value of a small estate or more but is less than \$250,000	\$68.60 (4.2 fee units)	\$261.30 (16 fee units)	\$192.70	281%
	c) if the gross value of the estate is \$250,000 or more but less than \$500,000	\$68.60 (4.2 fee units)	\$514.40 (31.5 fee units)	\$445.80	650.0%
	d) if the gross value of the estate is \$500,000 or more but less than \$1 million	\$367.40 (22.5 fee units)	\$1,028.80 (63 fee units)	\$661.40	180.0%
	e) if the gross value of the estate is \$1 million or more but less than \$2.5 million	\$685.90/\$1,502.40 (42/92 fee units)	\$2,563.80 (157 fee units)	\$1,878.00/ \$1,061.50	273.8%/ 70.7%
	f) if the gross value of the estate is \$2.5 million or more but less than \$5 million	\$1,502.40/\$2,318.90 (92/142 fee units)	\$7,185.20 (440 fee units)	\$5,682.80/ \$4,866.30	378.3%/ 209.9%
	g) if the gross value of the estate is \$5 million or more	\$2,318.90 (142 fee units)	\$15,407.40 (943.5 fee units)	\$13,088.50	564.4%
4.3	On filing a caveat in the Probate jurisdiction	\$334.80 (20.5 fee units)	\$334.80 (20.5 fee units)	\$0.00	0.0%
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$29.40 (1.8 fee units)	\$29.40 (1.8 fee units)	\$0.00	0.0%
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$251.50 (15.4 fee units)	\$269.40 (16.5 fee units)	\$18.00	7.1%
4.6	For authenticating an order amending parchment	\$21.20 (1.3 fee units)	\$21.20 (1.3 fee units)	\$0.00	0.0%
4.7	Certificate of Registrar of Probates verifying copy document	\$21.20 (1.3 fee units)	\$21.20 (1.3 fee units)	\$0.00	0.0%
4.8	Exemplification	\$29.40 (1.8 fee units)	\$29.40 (1.8 fee units)	\$0.00	0.0%

⁹ Due to the changes to the structure of the tiers, there are multiple Base Case fees referenced where appropriate.



1.7 Implementation and Evaluation

To enact changes in fees, the Probate Office will need to update software and retrain staff. The Court will also need to update the fee rates published on its website to allow for easy public access to the information. The new fees are scheduled to commence on 29 December 2024.

To evaluate the effectiveness of the increases to probate office fees in achieving the objectives in 1.3, DJCS will undertake an evaluation in 2027 (as part of the sunseting of the Supreme Court (Fees) Regulations 2018).



2. Background

This section provides contextual information about:

- The Victorian government's current systematic review of court and tribunal fees
- Victoria's court and tribunal system
- The functions and activities of the Supreme Court of Victoria
- The Probate Office within the Supreme Court and its exclusive jurisdiction to make orders in relation to wills and probate
- The legislative and regulatory framework relevant to Probate Office fees.

2.1 Context

The Victorian Government has approved the commencement of a systematic review into the pricing and structure of the fees charged across Victorian courts and tribunals (the Court Fees Review). The intention of the Court Fees Review is to bring Victorian court fees in line with comparable jurisdictions, improve access to justice in Victoria and introduce a consistent approach to the cost recovery of court services.

The Court Fees Review is being implemented in multiple stages. The first considers the fees charged by the Probate Office. The second stage will consider all other fees charged by Victoria's courts and tribunals.

2.2 Court system and hierarchy in Victoria

Victoria's courts and tribunals interpret the law, decide who is right or wrong in a dispute and sentence or impose penalties on those who have broken the law.

The three main courts operating in Victoria are the Supreme Court, the County Court, and Magistrates' Court. Additionally, there are specialist courts and tribunals, including the Victorian Civil and Administrative Tribunal, Children's Court, the Coroners Court and the Koori Court.

2.3 The Supreme Court

Established under section 75 of the *Constitution Act 1975*, the Supreme Court is the highest court in Victoria. It hears the most serious criminal and serious civil matters or where civil claims are over \$100,000. Cases in the Court may be heard by a judge alone or by a judge and jury.

The Court is divided into two main divisions, the Court of Appeal and the Trial Division.

In addition to hearing cases, the Supreme Court also provides other services including: mediation, managing judicially awarded funds on behalf of minors and beneficiaries with legal disability, and probate (through the Probate Office).

2.4 Overview of the Probate Office

The process of probate starts when a person dies and leaves behind property, assets and debts that need to be managed and finalised (i.e., a deceased person's estate). The estate can be finalised in two ways, depending on the existence of a valid will:

- Where a valid will exists, the estate will usually be finalised by the executor named in the will.
- Where there is no valid will, the deceased's closest next of kin may be appointed administrator of the estate and will finalise the estate. If the deceased has no next of kin, the law requires the State Trustees¹⁰ to act as executor.

In most cases, the executor or administrator must apply for a grant of probate or administration (collectively known as a grant of representation) before funds and assets within the estate can be released to beneficiaries. A grant of representation is proof that the person named in the grant (known as a 'personal legal representative') is entitled to:

- collect the deceased's money held in banks, managed funds etc.
- pay the debts of the deceased
- sell or transfer the property of the deceased

Additionally, only the Supreme Court of Victoria can make orders in relation to the validity of wills; the appointment of an executor or administrator of a deceased estate; and the administration of deceased estates.

The Probate Office deals with all applications for grants of representation and maintains a register of all grants issued by the Court and all wills deposited with the Court for safekeeping.

Prior to submitting an application for a grant of representation, a notice of an intended application for a grant (i.e. an advertisement) must have been published on the Probate Office's Probate Online Advertising System (POAS) at least 15 calendar days. Once this requirement has been met, an application for a grant of representation can then be completed. For both of these services, users are required to pay the application fee upfront via a Visa or Mastercard-issued payment card before the application may proceed.

The Probate Office also provides an optional service for small estate. For a fee, this service assists people in applying for a grant of representation for eligible estates – i.e., when a person's assets at their date of death are below a value set by government (this is currently set at \$125,080 in the 2023–24 financial year).

¹⁰ State Trustees is a state-owned company and the Public Trustee for Victoria. It administers deceased estates and manages the financial and legal affairs of people who are unable to do so due to disability, mental illness or other incapacity.



2.5 Regulatory framework and existing fee structure

The *Administration and Probate Act 1958*, *Wills Act 1997*, and the Supreme Court (Administration and Probate) Rules 2014 set out the rules and process of obtaining probate.

Section 129 of Victoria's *Supreme Court Act 1986* allows for the making of regulations with respect to fees payable in the Supreme Court. These fees are currently prescribed in the Supreme Court (Fees) Regulations 2018 (the Regulations).

The Regulations set fees to cover the costs (or part thereof) of the majority of court services provided in relation to civil matters, including those as relevant to the Probate Office.

The Probate Office processes applications for grants of representation and other related services. As discussed in Section 2.4, an applicant needs to publish their intention to apply on the Probate Online Advertising System prior to submitting an application. This service is also delivered by the Probate Office.

Two of the services provided by the Probate Office¹¹ are not contained within the Supreme Court (Fees) Regulations 2018 but are rather contained within the Administration and Probate (Deposit of Wills) (Fees) Regulations 2016. These fees have not been reviewed under the first stage of the Court Fees Review, and a consideration of these fees will be made under the second stage of the Court Fees Review. As a result, this document and the proposed Regulations do not make any reference to these services, which are considered out of scope for this document.

¹¹ These two services are: a) depositing a will with the registrar and b) delivery of a deposited will by the registrar.

The current fees payable to the Probate Office as prescribed by the Regulations for the aforementioned services are as follows:

Table 2.1: Outline of current fees charged for probate services

Item	Description	Fee (2023-24)
4.1	Online Advertisement For posting on the Court's website a notice of intention to –	
	Apply for a grant of representation	\$25.40
	Apply for a reseal of probate, letters of administration or grant	\$25.40
	Administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$25.40
4.2	Application for a Grant of Representation On filing a grant of representation (including an application for reseal) or an originating motion under Rule 7.04(1) of Chapter III, whereby –	
	The gross value of the estate is less than \$500,000	\$66.80
	The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$357.80
	The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$667.80
	The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$1,462.80
	The gross value of the estate is \$3,000,000 or more	\$2,257.80
4.3	On filing a caveat in the Probate jurisdiction	\$326.00
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$28.60
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$244.90
4.6	For authenticating an order amending parchment	\$20.70
4.7	Certificate of Registrar of Probates verifying copy document	\$20.70
4.8	Exemplification	\$28.60



3. Problem Analysis

This section provides an overview of the following:

- Rationale of the fees charged by the Probate Office
- Problems being addressed by the proposed Regulations
- Change in government policy since the Regulations were drafted
- Financial sustainability of probate office fees for the Supreme Court
- Access to justice implications from current probate office fees.

3.1 Rationale for fees

3.1.1 Charging fees in the Supreme Court

Adequate funding for the Supreme Court ensures it can provide fair, effective, and efficient resolution of all matters brought before the Supreme Court and exercise its supervisory jurisdiction over other courts and VCAT. These functions, and a well-functioning civil justice system more broadly, provides the foundation for a fair and just society that upholds rights and responsibilities, and to a strong Victorian economy. This is achieved by protecting personal, contractual and property rights established in law. It is only through sufficient funding of the operations of the Supreme Court that it is able to achieve the aforementioned objectives of the courts by deterring and providing redress for the violation of the rights of Victorians through an efficient and effective dispute resolution mechanism.

Taxpayers also share in the substantial economic and social benefits that are generated by an effective court system. It is therefore appropriate that, to some extent, the Supreme Court is funded by regular appropriations from the State Budget.

However, since taxpayers do not necessarily share in the substantial private benefits that Supreme Court users may obtain from accessing the services of the Supreme Court, it is also appropriate that these parties make a direct contribution towards the cost of those services, through the payment of fees.

Fees are charged for bringing civil proceedings in Victoria, as civil proceedings generally provide a higher ratio of private benefits to public benefits. Criminal proceedings generally provide significant public benefit and fees are not currently charged for criminal cases before the Court. Requiring payment for civil court services is common practice in all Australian states and territories as well as the Commonwealth, and most similar overseas jurisdictions. Charging fees sends an important signal to the community about the costs involved in providing court services, as well as the value of those services to individual users. The costs of court fees are also generally minor relative to other costs of legal services, particularly legal representation and advice.

3.1.2 Probate office fees

After reviewing the overall financial position of the Supreme Court, the Department of Justice and Community Safety (DJCS) noted that the court was heavily reliant on State funding for its operations (see Section 3.1.5 for further detail). When compared to other Australian jurisdictions, the Supreme Court of Victoria has one of the lowest levels of cost recovery in civil court cases when comparing like-for-like civil court fees and expenditures¹². The Probate Office, however, currently has a 310% level of cost recovery.

The Department's preliminary review also found opportunities in particular areas of the Supreme Court that would assist in improving its overall cost recovery, with the fees charged by the Probate Office being one of these. As discussed in Section 2.1, the second stage of the Court Fees Review will consider the remainder of the fees charged by Victorian courts and tribunals.

3.1.3 Problems being addressed

An initial review by DJCS found that Probate Office fees are not currently addressing the following problems:

- The Regulations do not reflect existing government policy in relation to the *Pricing for Value Guide* and the Assistant Treasurer's Standing Directions 2018 (specifically Standing Direction 3.8 – Pricing) made under the *Financial Management Act 1994*.
- Fees, as currently set, do not promote the overall financial sustainability of the Supreme Court as fees under-recover total operating costs.
- Amending pricing structures could improve access to justice and services for those with a lower capacity to pay, specifically where a fee may serve as prohibitive for obtaining a grant of representation for a small estate.

3.1.4 Fees reflecting government policy

The current fees were set in 2018 in accordance with the *Cost Recovery Guidelines*. The primary consideration in setting the fees was to reflect the efficient cost of delivering government services. Other objectives considered included safeguarding access to justice; equitable and transparent fee structures; fees which were easy to understand for parties with matters in the court; and fee structures which were simple for the Supreme Court to administer.

On 1 July 2021, [the Pricing for Value Guide](#) was introduced, replacing the *Cost Recovery Guidelines*. The principles-based approach which underpins the Guide is aligned with current best practice and supports the setting of fees at different levels of cost recovery, with consideration to the principles most appropriate to the delivery of particular services.

¹² As reported by the Productivity Commission in the *Report on Government Services 2024*, under Part C, Section 7, Table 7A.16.

A review was also necessitated due to the [Standing Directions 2018](#) issued by the Assistant Treasurer under the *Financial Management Act 1994*. Under Standing Direction 3.8 – Pricing, all agencies, including Victorian courts and tribunals that charge fees, are required to commence a pricing review prior to 1 July 2024. The Court Fees Review and this publication of this RIS acquits that request as well as better aligning fees to the stated principles in the *Pricing for Value Guide*.

3.1.5 Financial Sustainability

Since the introduction of the current Supreme Court fee structure on 30 September 2018, overall cost recovery within the court has flatlined (with a noticeable fall in the 2020-21 financial year). Where fees do not recover sufficient costs, the resulting financial burden is placed on taxpayers through other forms of funding.

Since the previous review, cost recovery peaked at 25.77 per cent in the 2017-18 financial year, falling to 21.15 per cent in 2020-21 and recovering to 25.75 per cent in 2022-23.

This can be attributed to several factors, including:

- Increased demand for court services resulting in growth in staffing numbers which was only partially offset by increased revenue (e.g. between 2021-22 and 2022-23, there was a 7% increase in inflation-adjusted employee expenses).
- A change in court operating model to a more predominately online filing and registrar service model, which has improved turnaround times without increased labour costs. However, this has necessitated an uplift in expenditures for maintenance, security and replacement costs.
- Significant expenditure due to unplanned events, such as:
 - the sudden closure of Supreme Court offices at 436 Lonsdale Street, Melbourne for essential fire safety works in 2020-21.
 - responding to impacts of the COVID pandemic, which necessitated a significant capital investment by Court Services Victoria to ensure Victoria's courts continued to operate during the pandemic.

More recently, there have been other significant and unforeseen costs to the Supreme Court, which includes the response to the 2023 court cybersecurity incident¹³. This has increased both upfront and ongoing costs for IT system restoration, including ongoing works (and the resultant costs) to strengthen security across the broader court and tribunal-wide technology environment and is expected to have a continued expenditure impact through the 2023-24 and 2024-25 financial years.

Within the Probate Office, the introduction of RedCrest Probate and eFiling for probate matters, as well as overhauling the small estates optional service, has significantly improved the service delivery of the Probate Office. These improvements have resulted in a

¹³ Court Services Victoria (CSV) became aware on Thursday 21 December 2023 of a cyber incident that impacted in-court audio and video (AV) systems. During the incident, there was unauthorised access to CSV's audio visual in-court technology network.

reduction in overall processing times, the provision of more accessible options to those who are unable to afford legal representation, and an increased ability to have matters administered digitally. However, the capital cost of these improvements had not been factored into the 2018 review of Supreme Court fees, as the systems were upgraded subsequently.

Were the Regulations to continue unamended, cost recovery at the Supreme Court is unlikely to exceed present levels. There is also a risk that cost recovery falls as the prices of inputs rise faster than income. This is even the case where expenses were incurred in response only to significant unforeseen events, as there will be necessary ongoing costs in preventing and preparing for future incidents.

Increased cost recovery is also important to support the provision of services which are either unable to generate income due to the nature of the activities; or where there is a public benefit to provide services below cost recovery levels in the interests of promoting access to justice and a fairer justice system. One example of this is the Supreme Court’s criminal hearings which make up a significant proportion of the court’s work but presently does not generate any fee revenue.

Additionally, improvements to digital systems within the Supreme Court and the Probate Office have resulted in significant benefits for parties with matters before the court, such as through reductions in the processing time of certain court matters. These improvements have not been previously considered in the cost base of the court and are likely to increase the overall cost base of the court over the medium-term. This is because these service improvements will require resourcing for maintenance, testing and eventual replacement of digital assets and infrastructure. Over the long-term, there are likely to be efficiency gains of these improvements through the ability to process some matters more quickly without requiring additional labour inputs.

Table 3.1: Selected Supreme Court financial data¹⁴

\$'000	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23 ¹⁵
Expenditure (year of expenditure)	81,028	92,397	98,751	102,811	102,569	108,600
Fee Revenue (year of receipt)	20,880	22,585	24,699	21,746	25,044	27,960
Cost Recovery	25.77%	24.44%	25.01%	21.15%	24.42%	25.75%

¹⁴ As reported by Court Services Victoria

¹⁵ Expenditure figures for all years include depreciation and amortisation amounts attributable to the Supreme Court. Under Court Services Victoria’s new financial reporting arrangements, these are centralised to CSV Corporate Services in the 2022-23 Annual Report and have been estimated in 2022-23 for the purposes of comparability.



3.1.6 Access to Justice

Access to justice is a key principle underpinning the Victorian legal system and is one which the Victorian Government is strongly committed to improving in Victoria. This principle is about ensuring that people have an ability to pursue matters in a timely manner, understand their rights under the law and receive the support they need when engaging with the law and the justice system. It is also connected to the principle of equality, and all having an equal opportunity to present their case or defend a case against them.

As discussed in the previous section, Court Services Victoria¹⁶ and the Supreme Court have invested in various initiatives that seek to improve access to justice, including improvements to court technology, the opening of a new Supreme Court Mediation Centre and the ability to file document digitally through the RedCrest eFiling platform. These investments have reduced processing times, decreased litigation costs for both the Supreme Court and users, and improved access to court services for those who cannot afford legal representation.

Additionally, the change from a flatter fee structure (with two tiers) to a more progressively tiered fee structure in 2018 improved access to justice by reducing the cost of the grant of representation for lower value estates. There is potential for further improvement that has been identified in within this Court Fees Review.

Access to justice can also be improved by ensuring matters are resolved or administered in a timely manner. Investments within the Probate Office specifically have also meant that Victoria now has one of the shortest processing times for applications for a grant of representation in the country. In 2022-23, the average time between filing and obtaining a grant was under 2 weeks, and the median time was 3 days¹⁷. This compares favourably against a processing time of 8 weeks in New South Wales¹⁸ and 4-6 weeks in Queensland¹⁹.

The Supreme Court has made investments in the Probate Office to further improve access to justice and increase service availability to those with a lower ability to pay. This includes overhauling the application process for the small estates service and the creation of new template affidavits, documents and other online tools for those who cannot afford legal representation.

Under the previous model, the additional value generated in delivering more efficient and responsive services would not have necessarily been considered in the setting of fees, as they were calculated largely based on efficient costs (i.e. the bare minimum costs necessary to provide the activity). While this is an appropriate model in some

¹⁶ The *Court Services Victoria Act 2014* establishes Court Services Victoria (CSV) as an independent statutory body corporate to provide services and facilities to Victoria's courts, Victorian Civil and Administrative Tribunal, the Judicial College of Victoria and the Judicial Commission of Victoria. CSV was formed to strengthen the independence of Victoria's courts and tribunals, and to put court administration into the hands of an entity directed by the judiciary.

¹⁷ As reported in the *Supreme Court of Victoria Annual Report 2022-23*.

¹⁸ Calculated from the Supreme Court of NSW published processing times for the week of 19 February 2024.

¹⁹ As reported by Queensland Courts in October 2023.



circumstances, it has the effect of minimising certain intangible benefits, such as faster processing of probate matters, and the ability to administer estates more efficiently through the digital issuing of grants of representation. The new *Pricing for Value Guide*, and in turn this RIS, seeks to address this problem, as it more holistically considers the overall benefits generated (as well the costs of delivering these benefits).



4. Objectives

In determining the relevant objectives of the Court Fees Review and the proposed Regulations, DJCS considered several factors, including the problems being addressed and the Pricing Principles that underpin the *Pricing for Value Guide*.

To this end, the proposed Regulations are guided by the following objectives:

1. **Fiscal Sustainability** – Fees should seek to support the overall fiscal sustainability of the Court.
2. **Access to Justice** – Fees should safeguard access to justice through supporting initiatives in improving access to Probate Office services, such as assisting those with small estates through the small estate optional service. This includes ensuring that fees are set at a level which considers a court user’s potential capacity to pay.
3. **Reflective of Costs** – Fees charged should be reflective of the cost of the service to the Probate Office.
4. **Simplicity** – Fees should, as far as practicable, reduce complexity for users of the courts, as well as for the Court in administering the system.

The above objectives map to the Pricing Principles in the following manner:

Table 4.1: Objectives and Pricing Principles

Objective	Pricing Principle ²⁰
Fiscal Sustainability	1 – Agencies should aim to recover the full costs of service provision to promote efficient consumption.
	7 – The public should share in the value generated by pricing based on user differentiation
	8 – Pricing should support positive behaviours
	9 – Pricing should ensure sustainable usage of public services and reflect the value of natural resources
Access to Justice	5 – The price of services should not limit access to those with a lower ability to pay
Reflective of Costs	9 – Pricing should ensure sustainable usage of public services and reflect the value of natural resources
Simplicity	11 – Pricing structures should be easy to understand and simple to administer

²⁰ The numbers prefacing individual Pricing Principles refer to the respective numbering of these principles within the *Pricing for Value Guide*.



5. Identifying Options

DJCS has identified three feasible options to reform the fees charged by the Probate Office to meet the objectives as described in Section 4.

Base Case – Existing fees and charges continue at current levels. The Supreme Court (Fees) Regulations 2018 will sunset in 2028 so the rates of the fees in those regulations will continue until the regulations are amended or replaced.

Option 1: Balanced – Fees and charges are increased to support the overall financial sustainability of the Supreme Court while appropriately balancing this objective against improvements to access to justice and a better reflection of the costs incurred by the Probate Office. This includes:

- introducing a new \$0 fee tier for small estates²¹, reflecting a potentially lower ability to pay.
- increasing the application fee for a grant of representation to a proportion based on the gross value of an estate²².
- creating two fee tiers for advertisement and re-advertisement to encourage improved accuracy in online notices and reflecting the additional work and costs incurred by the Probate Office in re-advertising a notice, such as contacting the parties involved.
- a minor increase in the fee for the preparation of a small estate, better reflecting the full costs incurred by the Probate Office.

Option 2: Uplift – Fees under this option have been structured to prioritise the overall fiscal sustainability of the Supreme Court while also addressing some of the objectives regarding improved access to justice and reflecting the costs of service delivery. This includes:

- introducing a new \$0 fee tier for small estates, reflecting a potentially lower ability to pay.
- increasing the application fee for a grant of representation to 0.17 per cent of gross estate value for estates between the value of a small estate and less than \$20 million.
- capping the application fee for estates with a gross value beyond \$20 million.
- increasing advertising fees while maintaining the same structure as the Base Case.

²¹ A small estate is when a person's assets at their date of death are below the value set by government. The value which determines what is considered a small estate is established under s71(1A) of the *Administration and Probate Act 1958*. In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.

²² This increases from a percentage of 0.2 per cent in the lowest fee-paying tier to 0.3 per cent in the highest fee-paying tier based off the lowest gross value of the estate captured within each tier.

- increasing the fee for the preparation of a small estate consistent with the, expected remuneration chargeable²³ for a solicitor in obtaining a grant of representation.
- all other fees would be increased by 10 per cent to maximise the financial sustainability of the Court through fee uplift.

Option 3: Flat Increase – This option maintains the current fee structure as per the Base Case and increases all fees by 250 per cent to improve the fiscal sustainability of the Supreme Court.

DJCS identified another option but did not consider it feasible:

Flattened Fee Structure – This option would have held all other fees at their existing level while introducing a single flat fee for an application for a grant of representation. This is the existing fee structure in some other Australian jurisdictions, including Queensland²⁴ and Western Australia²⁵. Both these jurisdictions have a flat fee that does not change based on the gross estate value. While a simpler fee structure, it was not considered feasible because it was deemed that there was no reasonable fee level which could be set that would have improved the fiscal sustainability of the Supreme Court while also addressing the Access to Justice and Reflective of Costs objectives as set out in Section 4.

As part of the outline of these options, a number of assumptions have been made in order to support the analysis. These assumptions include:

- The small estate value is calculated to be \$129,850 in 2024–25 based on the December Quarter 2023 Consumer Price Index (CPI).
- The fee unit used for calculating Probate Office fees between 1 July 2024 to 30 June 2025 is \$16.33. As Probate Office fees are calculated based on fee units, these will increase with changes to the fee unit.

5.1 Base Case

The Base Case provides a common point of comparison for all options. In the Base Case, the fee units underpinning the current fees charged by the Probate Office would remain unchanged from those set by the Regulations in 2018.

5.1.1 Current Fee Structure

The existing fee structure for the Probate Office fees is as follows:

²³ The fee is set at a level approximately equivalent to an estate value of \$129,850 for which remuneration of \$890.00 may be paid and allowed out of the estate of a deceased person to a solicitor in obtaining a grant of representation under Rule 9.01 of the Supreme Court (Administration and Probate) Rules 2023.

²⁴ This is currently set at \$793.00 from 1 July 2023.

²⁵ This is currently set at \$370.00 from 3 August 2023.

Table 5.1: Current Fee Structure

Item	Description	Fee (2023-24)
4.1	Online Advertisement For posting on the Court's website a notice of intention to:	
	a) Apply for a grant of representation	\$25.40
	b) Apply for a reseal of probate, letters of administration or grant	\$25.40
	c) Administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$25.40
4.2	Application for a Grant of Representation On filing a grant of representation (including an application for reseal) or an originating motion under Rule 7.04(1) of Chapter III, whereby –	
	a) The gross value of the estate is less than \$500,000	\$66.80
	b) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$357.80
	c) The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$667.80
	d) The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$1,462.80
	e) The gross value of the estate is \$3,000,000 or more	\$2,257.80
4.3	On filing a caveat in the Probate jurisdiction	\$326.00
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$28.60
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$244.90
4.6	For authenticating an order amending parchment	\$20.70
4.7	Certificate of Registrar of Probates verifying copy document	\$20.70
4.8	Exemplification	\$28.60



5.2 Option 1: Balanced

Under this option, fees and charges have been amended to increase the overall financial sustainability of the Supreme Court while appropriately balancing this objective against improvements to access to justice and a better reflection of the costs incurred by the Probate Office.

5.2.1 Online Advertisement

Table 5.2: Option 1 – Advertisement Fees

Online Advertisement	Base Case (2024–25)	Option 1 (2024–25)
Posting on the Supreme Court's website of:		
a) a notice of intention to apply for a grant of representation	\$26.10	\$35.90
b) a notice of intention to apply for a reseal of probate, letters of administration or grant	\$26.10	\$35.90
c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$26.10	\$35.90
d) the republishing or amending of a notice of intention	\$26.10	\$49.00

A new fee structure is proposed for online advertisement fees under Option 1. Due to the increased unit cost of the online advertisement service, a 38 per cent fee increase (when compared to the Base Case) is proposed under this option. Additionally, a new re-advertisement fee is also proposed at a higher level than the advertisement fee, reflecting the additional labour costs incurred by the Probate Office in contacting parties who have submitted inaccurate notices to assist them in amending advertisements so that they can be re-advertised. Charging an increased fee for re-advertising provides an incentive for users to complete applications accurately.

5.2.2 Application for a Grant of Representation

Table 5.3: Option 1 – Application Fees for a Grant of Representation

Application for a Grant of Representation – Base Case (2024–25)		Application for a Grant of Representation – Option 1 (2024–25)	
On filing a grant of representation or an originating motion where:		On filing a grant of representation or an originating motion where:	
a) The gross value of the estate is less than \$500,000	\$68.60	a) The gross value of the estate is less than the value of a small estate	\$0.00
		b) The gross value of the estate is equal to the value of a small estate or more but is less than \$250,000	\$261.30
		c) The gross value of the estate is \$250,000 or more but less than \$500,000	\$514.40
b) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$367.40	d) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$1,028.80
c) The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$685.90	e) The gross value of the estate is \$1,000,000 or more but less than \$2,500,000	\$2,563.80
d) The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$1,502.40	f) The gross value of the estate is \$2,500,000 or more but less than \$5,000,000	\$7,185.20
e) The gross value of the estate is \$3,000,000 or more	\$2,318.90	g) The gross value of the estate is \$5,000,000 or more	\$15,407.40

Under Option 1, the fees proposed for parties applying for a grant of representation would remain tiered in a manner similar to the current fee structure under the Regulations.

Fees for estates with a gross estate value defined as a “small estate” under section 71 of the *Administration and Probate Act 1958*²⁶ would be reduced to \$0. This acknowledges that users filing applications for small estates may not have the necessary financial means to apply for a grant of representation and there is not a significant financial benefit to be gained from administering the estate.

²⁶ In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.



For applications for estates with gross estate values higher than the value of a small estate, fees would be increased when compared to the Base Case. The fee charged would be directly proportionate to the gross value of the estates captured within that fee tier.

The rates proposed are calculated based on a proportion of the lowest gross value of the estate captured within each fee tier, at a rate of 0.2 per cent in the lowest fee-paying tier to 0.3 per cent in the highest fee-paying tier.

The fees in each tier are set at a gradually increasing proportion, to reflect that larger estates have greater capacity to pay and expected financial benefit from the administering of the estate. The highest tier is set at a gross estate value of \$5,000,000 or more, and thus serves as a virtual cap on fees at this level, because a significantly majority of estates (approximately ~98% of estates in the 2023–24 financial year) are already captured by lower fee tiers.

5.2.3 Small Estate Optional Service

Table 5.4: Option 1 – Small Estate Optional Service Fee

Small Estate Optional Service Fee	Base Case (2024–25)	Option 1 (2024–25)
For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$251.50	\$269.40

Under the existing rate, a small estate would be charged a cumulative total of \$346.20 for obtaining a grant of representation, inclusive of using the Probate Offices’ small estate optional service. This consists of the following:

- \$251.50 for instructing the Probate Office small estates optional service to prepare an application.
- \$26.10 for a notice of intention to apply (i.e. online advertisement) for a grant of representation.
- \$68.60 for the application fee to apply for a grant of representation.

Under Option 1, this total expected fee would be reduced to \$305.30. This would consist of:

- \$269.40 – an increased fee for the small estate optional service
- \$35.90 – an increased fee for an initial online advertisement (see Section 5.2.1)
- \$0.00 – no fee for applying for a grant of representation (see Section 5.2.2.)

This represents a 13 per cent reduction in the total fees charged to an estate when an application for a grant of representation is made through the small estate optional service. The increased fee for preparing an application for small estates under this option also serves to better reflect the cost of the underlying service, which is relatively resource intensive to provide.

5.2.4 Other Fees

Under this option, all other fees will have their fee units unchanged, as per the Base Case.

5.2.5 Fee Structure under Option 1

The resulting proposed fee structure under Option 1 would be as follows:

Table 5.5: Option 1 – Proposed Fee Structure

Item	Description	Fee (2024–25)
4.1	Online Advertisement Posting on the Court's website of:	
	a) a notice of intention to apply for a grant of representation	\$35.90
	b) a notice of intention to apply for the affixing of the seal of the Court to any probate, letters of administration or grant or order	\$35.90
	c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$35.90
	d) a republished or amended notice of intention	\$49.00
4.2	Application for a Grant of Representation On filing an application for any grant of representation or on filing an originating motion under Rule 7.04(1) of Chapter III, whereby –	
	a) if the gross value of the estate is less than the value of a small estate	\$0.00
	b) if the gross value of the estate is equal to the value of a small estate or more but is less than \$250,000	\$261.30
	c) if the gross value of the estate is \$250,000 or more but less than \$500,000	\$514.40
	d) if the gross value of the estate is \$500,000 or more but less than \$1 million	\$1,028.80
	e) if the gross value of the estate is \$1 million or more but less than \$2.5 million	\$2,563.80
	f) if the gross value of the estate is \$2.5 million or more but less than \$5 million	\$7,185.20
	g) if the gross value of the estate is \$5 million or more	\$15,407.40
4.3	On filing a caveat in the Probate jurisdiction	\$334.80
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$29.40
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$269.40
4.6	For authenticating an order amending parchment	\$21.20
4.7	Certificate of Registrar of Probates verifying copy document	\$21.20
4.8	Exemplification	\$29.40



5.3 Option 2: Uplift

Under Option 2, fees would be uplifted to prioritise overall cost recovery and fiscal sustainability of the Supreme Court while still addressing some of the objectives (as set out in Section 4) regarding improved access to justice and reflecting the costs of service delivery.

This option adopts a fixed percentage model for the calculation of fees for an application for a grant of representation, as well as increasing other fees to match the highest level set in other Australian jurisdictions.

5.3.1 Online Advertisement

Table 5.6: Option 2 – Advertisement Fees

Online Advertisement	Base Case (2024–25)	Option 2 (2024–25)
Posting on the Court's website of –		
a) a notice of intention to apply for a grant of representation	\$26.10	\$164.90
b) a notice of intention to apply for a resale of probate, letters of administration or grant	\$26.10	\$164.90
c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i> .	\$26.10	\$164.90

Under this option, no changes to the structure of the fee are proposed. However, the proposed fee for posting an online advertisement would increase to \$164.90, aligning the fee to that charged in Queensland by the Queensland Law Reporter²⁷ for public notices, which include notices of intent to apply for a grant of representation.

²⁷ The Queensland Law Reporter publishes the authorised reports of the Supreme Court of Queensland and charges an advertising fee of \$161.70 as at April 2024.

5.3.2 Application for a Grant of Representation

Table 5.7: Option 2 – Application Fees for a Grant of Representation

Application for a Grant of Representation – Base Case (2024–25)		Application for a Grant of Representation – Option 2 (2024–25)	
On filing a grant of representation or an originating motion where:		On filing a grant of representation or an originating motion where:	
a) The gross value of the estate is less than \$500,000	\$68.60	a) The gross value of the estate is less than the value of a small estate	\$0.00
b) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$367.40	b) The gross value of the estate is equal to the value of a small estate or more but is less than \$20,000,000	0.17% of the gross value of the estate
c) The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$685.90		
d) The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$1,502.40		
e) The gross value of the estate is \$3,000,000 or more	\$2,318.90	c) The gross value of the estate is \$20,000,000 or more	\$34,000.00

Under Option 2, the application fee for a grant of representation for most estates would be calculated as a fixed percentage (0.17 per cent) of the gross value of the estate, up to a cap of \$34,000.00 for estates with a gross value of \$20 million or higher.²⁸

Additionally, fees for estates with a gross estate value defined as a “small estate” under section 71 of the *Administration and Probate Act 1958*²⁹ would be reduced to \$0.

²⁸ If this option is the one ultimately pursued, this fee would be set numerically as \$34,000.00 rather than being calculated based on a certain fee unit amount to avoid unintended consequences of the cap increasing as fee units increase.

²⁹ In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.



5.3.3 Small Estate Optional Service

Table 5.8: Option 2 – Small Estate Optional Service Fee

Small Estate Optional Service Fee	Base Case (2024–25)	Option 2 (2024–25)
For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$251.50	\$718.50

Under Option 2, a fee of \$718.50 is set for those who request that the Probate Office prepare the paperwork to apply for a grant of representation on behalf of those seeking to administer a small estate (i.e. the small estate optional service).

The fee level is set at a level approximately equivalent to that set under Rule 9.1 of the Supreme Court (Administration and Probate) Rules 2023, where for an estate with a gross value of \$129,850, remuneration of \$890.00 may be paid and allowed out of the estate of a deceased person to a solicitor in obtaining a grant of representation.

DJCS notes that a small number of private firms in Victoria charge fees as is set out under Rule 9.1 (noting that many firms charge more than this), and thus the fee uplift under this option also serves to set this fee at a level more relative to market prices.

5.3.4 Other Fees

Under this option, the fee structure is proposed to be kept the same as the Base Case, with an additional 10 per cent uplift for all other fees³⁰.

³⁰ Fees as set out under the Proposed Fee Structure in Section 5.3.5 may not be an exact 10 per cent uplift, as the fees are calculated based on a fee unit amount that is rounded to a single decimal place.

5.3.5 Fee Structure under Option 2

The resulting proposed fee structure under Option 2 would be as follows:

Table 5.9: Option 2 – Proposed Fee Structure

Item	Description	Fee (2024–25)
4.1	Online Advertisement Posting on the Court's website of –	
	a) a notice of intention to apply for a grant of representation	\$164.90
	b) a notice of intention to apply for a reseal of probate, letters of administration or grant	\$164.90
	c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$164.90
4.2	Application for a Grant of Representation On filing an application for any grant of representation or on filing an originating motion under Rule 7.04(1) of Chapter III, whereby –	
	a) The gross value of the estate is less than the value of a small estate	\$0.00
	b) The gross value of the estate is equal to the value of a small estate or more but is less than \$20 million	0.17% of the gross value of the estate
	c) The gross value of the estate is \$20 million or more	\$34,000.00
4.3	On filing a caveat in the Probate jurisdiction	\$369.10
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$32.70
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$718.50
4.6	For authenticating an order amending parchment	\$22.90
4.7	Certificate of Registrar of Probates verifying copy document	\$22.90
4.8	Exemplification	\$32.70



5.4 Option 3: Flat Increase

Under this option, fees would be increased to primarily prioritise overall cost recovery and fiscal sustainability within the Supreme Court. This would be achieved increasing all fees by 250 per cent³¹, while maintaining the existing fee structure for Probate Office fees.

5.4.1 Online Advertisement

Table 5.10: Option 3 – Advertisement Fees

Online Advertisement	Base Case (2024–25)	Option 3 (2024–25)
Posting on the Court's website of:		
a) a notice of intention to apply for a grant of representation	\$26.10	\$91.40
b) a notice of intention to apply for a reseal of probate, letters of administration or grant	\$26.10	\$91.40
c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i> .	\$26.10	\$91.40

The fee structure for online advertisements does not change but the fee increases from \$25.40 to \$89.04 and would represent the second highest fee Australia-wide for publishing a notice of intention.

³¹ Fees as set out under Option 3 and in the Proposed Fee Structure in Section 5.4.5 may not be an exact increase to fees by a factor of 350 per cent (i.e. an increase of 250%), as the fees are calculated based on a fee unit amount that is rounded to a single decimal place.



5.4.2 Application for a Grant of Representation

Table 5.11: Option 3 – Application Fees for a Grant of Representation

Application for a Grant of Representation – Base Case (2024–25)		Application for a Grant of Representation – Option 3 (2024–25)	
On filing a grant of representation or an originating motion where:		On filing a grant of representation or an originating motion where:	
a) The gross value of the estate is less than \$500,000	\$68.60	a) The gross value of the estate is less than \$500,000	\$240.10
b) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$367.40	b) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$1,286.00
c) The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$685.90	c) The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$2,400.50
d) The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$1,502.40	d) The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$5,258.30
e) The gross value of the estate is \$3,000,000 or more	\$2,318.90	e) The gross value of the estate is \$3,000,000 or more	\$8,116.00

Under Option 3, the application fee for a grant of representation would be increased by a factor of 350 per cent (i.e. an increase of 250%) but the fee bands and the underlying structure remain unchanged.

5.4.3 Small Estate Optional Service

Table 5.12: Option 3 – Small Estate Optional Service Fee

Small Estate Optional Service Fee	Base Case (2024–25)	Option 3 (2024–25)
For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$251.50	\$880.20

Under this option, a fee of \$857.01 is set for those who request that the Probate Office prepare the paperwork to apply for a grant of representation on behalf of those seeking to administer a small estate (i.e. the small estate optional service). This is representative of an increase to the existing fee by a factor of 350 per cent (i.e. an increase of 250%).

5.4.4 Other Fees

Under this option, the fee structure is proposed to be kept the same as the Base Case, with all other fees increase by a factor of 350 per cent (i.e. an increase of 250%).

5.4.5 Fee Structure under Option 3

Table 5.13: Option 3 – Proposed Fee Structure³²

Item	Description	Fee (2024–25)
4.1	Online Advertisement Posting on the Court's website a notice of intention to:	
	d) Apply for a grant of representation	\$91.40
	e) Apply for a reseal of probate, letters of administration or grant	\$91.40
	f) Administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$91.40
4.2	Application for a Grant of Representation On filing an application for any grant of representation or on filing an originating motion under Rule 7.04(1) of Chapter III, whereby –	
	a) The gross value of the estate is less than \$500,000	\$240.10
	b) The gross value of the estate is \$500,000 or more but less than \$1,000,000	\$1,286.00
	c) The gross value of the estate is \$1,000,000 or more but less than \$2,000,000	\$2,400.50
	d) The gross value of the estate is \$2,000,000 or more but less than \$3,000,000	\$5,258.30
	e) The gross value of the estate is \$3,000,000 or more	\$8,116.00
4.3	On filing a caveat in the Probate jurisdiction	\$1,171.70
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$102.90
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$880.20
4.6	For authenticating an order amending parchment	\$74.30
4.7	Certificate of Registrar of Probates verifying copy document	\$74.30
4.8	Exemplification	\$102.90

³² Fees as set out under Option 3 and in the Proposed Fee Structure in Section 5.4.5 may not be an exact increase to fees by a factor of 350 per cent, as the fees are calculated based on a fee unit amount that is rounded to a single decimal place.



6. Options Impact Analysis

As discussed in the previous sections, the Regulations seek to reform the fees charged by the Probate Office to better meet the objectives as described in Section 4. The impact of the options introduced in Section 5 are assessed in this section through a multi-criteria analysis which aligns to the principles in the *Pricing for Value Guide* and the identified objectives.

6.1 Multi-Criteria Analysis methodology

Multi-Criteria Analysis (MCA) has been used to compare and assess the options outlined in Section 5 to change probate fees. MCA involves a structured assessment of the different options relative to the Base Case using a series of criteria, which are defined to align as closely as possible to the objectives outlined in Section 4.

These criteria are then weighted based on the relative importance of each and are then used to compare the different options relative to the Base Case³³.

This approach has been chosen as it provides a structured and transparent method to assess the relative benefits and costs of each option. The approach has also been chosen because it can be used to assess both quantified impacts (such as costs) and unquantified impacts (such as access to justice).

The option with the highest weighted score is the preferred option.

6.1.1 Defining criteria

The criteria used to assess options were defined to align as closely as possible to the Victorian Government's broad policy objectives as outlined in Section 4. Additionally, the criteria also draw on the Victorian Government's *Pricing for Value Guide* Pricing Principles (see Section 4). Table 6.1 provides a summary of the criteria for this analysis and the Pricing Principles considered in the context of amending the Regulations.

6.1.2 Weighting criteria

As previously discussed, the four individual criteria are the Victorian Government's broad policy objectives for the commencement of the Court Fees Review.

³³ As recommended by the [Guidance Note – Multi-Criteria Analysis \(MCA\)](#), Better Regulation Victoria

Table 6.1: Criteria and weighting

Criteria	Relevance	Weighting
Criterion 1: Fiscal Sustainability	Fees should seek to support the overall fiscal sustainability of the Supreme Court. This criterion is based on Pricing Principles 1, 7, 8 and 9.	40%
Criterion 2: Access to Justice	Fees should seek to safeguard access to justice through ensuring that services are accessible for those who are likely to have a limited capacity to pay and/or are administering small estates. This criterion is based on Pricing Principle 5.	25%
Criterion 3: Reflective of Costs	Fees charged should be reflective of the cost of the service to the Probate Office. This criterion is based on Pricing Principle 9.	25%
Criterion 4: Simplicity	Fees should, as far as practicable, be structured in a way that reduces complexity for users of the courts, as well as for the Court in administering the system. This criterion is based on Pricing Principle 11.	10%

Criterion 1: Fiscal Sustainability was given the most significant weighting (40%), as it is one of the explicit objectives of the Court Fees Review. Supporting fiscal sustainability of the Probate Office and the Supreme Court more broadly has significant benefits to the entirety of the Supreme Court, as it supports the provision of services which are either unable to generate income; or where there is otherwise a public benefit to provide services below cost recovery levels. For clarity, a higher score under this criterion is applied to options which over-recover costs within the Probate Office.

It was determined that the following two criteria should be weighted equally (25% each), as they were deemed to be equally important.

Criterion 2: Access to Justice, reflects the importance of providing access to probate services for those with potentially lesser means. It is important that users who may not be able to pay for legal representation or who have limited financial means to be charged relatively lower fees and have options to apply for assistance in completing probate applications.

Criterion 3: Reflective of Costs is about setting Probate Office fees to be reflective of the underlying cost of delivering services. The demand for matters administered by the Probate Office is based on a range of societal and demographic factors of which there is

no alternative service to switch to. It is important to consider this when setting fees. It should be noted that this criterion has some correlation with Criterion 1: Fiscal Sustainability but assesses fees differently.³⁴ Additionally, when compared to Criterion 1, Criterion 3 also reflects the share of activity within the Probate Office rather than the full amount of revenue raised.

Criterion 4: Simplicity was allocated the smallest weighting of 10%. This criterion addresses the importance of ensuring that Probate Office fees are firstly, easy for the public to understand and secondly, easy for the Probate Office to administer, calculate and collect.

6.1.3 Scale

Under the MCA, each option is assessed against the base case on a scale from -10 to +10³⁵ for each criterion. Each option receives a weighted score against all criteria and the option with the highest weighted score is the preferred option. For the purposes of comparison, the Base Case receives a score of zero for all criteria.

Table 6.2: Scale for Scoring the MCA

Negative				Neutral	Positive			
-10	-7 to -9	-4 to -6	-1 to -3	0	1 to 3	4 to 6	7 to 9	10
Very High	High	Medium	Low	Nil	Low	Medium	High	Very High

³⁴ For example, if a fee set at full cost recovery was reduced there would be a reduction in both fiscal sustainability and how reflective it is of costs. If a fee set at full cost recovery was increased there would be an increase to fiscal sustainability and a reduction in how reflective it is of costs.

³⁵ As recommended by the [Guidance Note – Multi-Criteria Analysis \(MCA\)](#), Better Regulation Victoria



6.2 Multi-Criteria Analysis

6.2.1 Criterion 1 – Fiscal Sustainability

Table 6.3: Criterion 1 – Fiscal Sustainability

Criterion 1 – Fiscal Sustainability	Weighting	Option 1	Option 2	Option 3
Fees should seek to support the overall fiscal sustainability of the Supreme Court.	40%	9	10	9
Weighted Score		3.60	4.00	3.60

Base Case

Under the Base Case, the Regulations would continue without being remade. This would mean that fees collected would continue as is the case currently. In 2024–25³⁶, it is expected that the Probate Office will raise approximately \$13.1 million in revenue from fees under the Regulations³⁷. This represents a cost recovery percentage of approximately 305% for the Probate Office itself or 11.5% for the entirety of the Supreme Court’s expenditures in the 2024–25 financial year³⁸.

The Base Case is included as a point of comparison for the other options analysed below and is therefore awarded a score of 0.

Option 1: Balanced

Under Option 1, it is projected that the Probate Office would raise approximately \$46.7 million in revenue from fees if implemented for the full 2024–25 financial year. This represents \$33.6 million in additional revenue when compared to the Base Case.

This represents a cost recovery percentage of approximately 1086% for the Probate Office itself or 41.0% for the Supreme Court’s expenditures.

Option 1: Balanced raises more revenue than the Base Case, so is awarded a higher score. Option 1 uplifts additional revenue at a rate of 87% when compared to Option 2: Uplift, and so a proportionally equivalent score of +9 is assigned under Criterion 1: Fiscal Sustainability.

Option 2: Uplift

³⁶ For cross-comparability purposes, all expected fee revenues will be calculated based off the estimated volume of services provided by the Probate Office in the 2024–25 financial year.

³⁷ This estimate only includes fees collected under Schedule 1 Part 4 of the Supreme Court (Fees) Regulations 2018 and does not include any other miscellaneous fees, or fees contained within other Regulations.

³⁸ This percentage is a) in the numerator, not inclusive of other fee revenue not considered in this document and b) in the denominator, is inclusive of the entire quantum of Supreme Court expenditures.

Under Option 2, it is projected that the Probate Office would raise approximately \$51.8 million in revenue from fees if implemented for the full 2024–25 financial year. This represents \$38.7 million in additional revenue when compared to the Base Case.

This represents a cost recovery percentage of approximately 1205% for the Probate Office itself or 45.5% for the Supreme Court’s expenditures.

As relative scores assigned to each option must be consistent with the relative effects of that particular criterion³⁹ (in this case, financial sustainability of the Supreme Court), a score of +10 is assigned to Option 2: Uplift, as it is the option which provides the most significant uplift in revenue of all three options.

Option 3: Flat Increase

Under Option 3, it is projected that the Probate Office would raise approximately \$46.6 million in revenue from fees if implemented for the full 2024–25 financial year. This represents \$33.5 million in additional revenue when compared to the Base Case.

This represents a cost recovery percentage of approximately 1084% for the Probate Office itself or 41.0% for the Supreme Court’s expenditures.

Similar to Option 1: Balanced, Option 3: Flat Increase uplifts additional revenue at a rate of 87% when compared to Option 2: Uplift, and so a proportionally equivalent score of +9 is assigned to both under Criterion 1: Fiscal Sustainability.

³⁹ As recommended by the *Guidance Note – Multi-Criteria Analysis (MCA)*, Better Regulation Victoria



6.2.2 Criterion 2 – Access to Justice

Table 6.4: Criterion 2 – Access to Justice

Criterion 2 – Access to Justice	Weighting	Option 1	Option 2	Option 3
Fees should seek to safeguard access to justice through ensuring that services are accessible for those who are likely to have a limited capacity to pay and/or are administering small estates.	25%	-6	-10	-9
Weighted Score		-1.50	-2.50	-2.25

Under this criterion, two main categories of applicants for grants of representation are considered for those who may be considered to have a limited capacity to pay:

- Those applying for estates below the small estate threshold.
- Those applying for estates above the small estate threshold but below the median gross estate value⁴⁰.

In the analysis of this criterion across all options, five hypothetical estates have been used to estimate the impacts of options. These estates are represented by the titles, Estate A, B, C, D and E. Table 6.5 shows what the value ranges these hypothetical estates represent, and how they are weighted under Criterion 2.

To successfully apply for a grant of representation, an online advertisement and application fee must both be paid, and so both fees are included within this analysis.

For those with estates below the small estate threshold, an additional point of analysis is included for applications who engage with the small estate optional service. This is identified using the superscript ^{O/S}.

Under this criterion, a positive score is given for a reduction in fees for the analysed applicant types. Conversely, a negative score is given for an increase in fees for the analysed applicant types.

⁴⁰ In 2024–25, the median gross estate value is expected to be approximately \$650,000.

To accurately weight the scores, weightings are applied based on the proportion of estates which fall within each representative gross estate value range⁴¹.

Table 6.5: Score weightings under Criterion 2

Hypothetical Estate	Representative Gross Estate Value Range ⁴²	Weighting
Estate A	\$0 - \$129,849 ^{O/S}	6%
Estate B	\$0 - \$129,849	40%
Estate C	\$129,850 - \$249,999	10%
Estate D	\$250,000 - \$499,999	30%
Estate E	\$500,000 - \$650,000	14%
Total		100%

Base Case

Under the Base Case, the Regulations would continue without being remade, and so there would be no changes to fees for those who have a limited capacity to pay and/or are administering small estates. Accordingly, there would neither be an improvement nor a reduction in a court user’s overall access to justice.

The Base Case is included as a point of comparison for the other options analysed below and is therefore awarded a score of 0.

Option 1: Balanced

Under Option 1, there is a reduction of fees paid by estates which are considered to be small estates, ranging from a 62.1% reduction for those who do not engage with the small estate optional service, to a reduction of 11.8% who do. For those above the small estate threshold, there is an overall increase in fees, ranging from 170.5% to 481.0%. Once weightings have been applied, Option 1: Balanced increases fees by 164% for applicants who may be considered to have a limited capacity to pay.

Option 1 is assigned a score of -6 under Criterion 2: Access to Justice as this option increases fees by about 56% of Option 2 (which scored -10).

⁴¹ These proportions are based on historical gross estate values for applications received by the Probate Office in the first six months of the 2023–24 financial year.

⁴² This has been abbreviated to “Rep. Gross Estate Value” in future tables for brevity.

Table 6.6: Comparison of total fees paid under Option 1 to the Base Case

Rep. Gross Estate Value	Option	Online Adv. Fee	Application Fee	Small Estate Optional Service Fee	Total Fees (2024–25)	Change
Estate A	Base	\$26.10	\$68.60	\$251.50	\$346.20	-11.8%
	Option 1	\$35.90	\$0.00	\$269.40	\$305.30	
Estate B	Base	\$26.10	\$68.60		\$94.70	-62.1%
	Option 1	\$35.90	\$0.00		\$35.90	
Estate C	Base	\$26.10	\$68.60		\$94.70	213.8%
	Option 1	\$35.90	\$261.30		\$297.20	
Estate D	Base	\$26.10	\$68.60		\$94.70	481.0%
	Option 1	\$35.90	\$514.40		\$550.30	
Estate E	Base	\$26.10	\$367.40		\$393.50	170.5%
	Option 1	\$35.90	\$1,028.80		\$1,064.70	

Option 2: Uplift

Under Option 2, there are fees for all court users who may be considered to have a limited capacity to pay are increased, ranging from 74.1% to 612.7%. Once weightings have been applied, Option 2: Uplift increases fees by 294% and increases fees the most of all options.

As such, a score of -10 is assigned to Option 2 under Criterion 2: Access to Justice as Option 2 increases fees by about twice as much as Option 1.

Table 6.7: Comparison of total fees paid under Option 2 to the Base Case

Rep. Gross Estate Value	Option	Online Adv. Fee	Application Fee ⁴³	Small Estate Optional Service Fee	Total Fees (2024–25)	Change
Estate A	Base	\$26.10	\$68.60	\$251.50	\$346.20	155.2%
	Option 2	\$164.90	\$0.00	\$718.50	\$883.40	
Estate B	Base	\$26.10	\$68.60		\$94.70	74.1%
	Option 2	\$164.90	\$0.00		\$164.90	
Estate C	Base	\$26.10	\$68.60		\$94.70	433.2%
	Option 2	\$164.90	\$340.00		\$504.90	
Estate D	Base	\$26.10	\$68.60		\$94.70	612.7%
	Option 2	\$164.90	\$510.00		\$674.90	
Estate E	Base	\$26.10	\$367.40		\$393.50	201.1%
	Option 2	\$164.90	\$1,020.00		\$1,184.90	

⁴³ Because the application fee is calculated using 0.17% of the gross value of the estate, a specific estate value is required. Figures used for calculation are: Estate A - \$100,000; Estate B - \$100,000; Estate C - \$200,000; Estate D - \$300,000; Estate E - \$600,000.



Option 3: Flat Increase

Under Option 3, there is a ‘flat increase’ to all fees by approximately 250%, and so equivalently, there is also a weighted increase in fees of 250% for those who may be considered to have a limited capacity to pay.

Option 3 is assigned a score of -9 under Criterion 2: Access to Justice as this option increases fees by about 85% of Option 2 (which is scored -10).

Table 6.8: Comparison of total fees paid under Option 3 to the Base Case

Rep. Gross Estate Value	Option	Online Adv. Fee	Application Fee	Small Estate Optional Service Fee	Total Fees (2024–25)	Change
Estate A	Base	\$26.10	\$68.60	\$251.50	\$346.20	250.0%
	Option 3	\$91.40	\$240.10	\$880.20	\$1,211.70	
Estate B	Base	\$26.10	\$68.60		\$94.70	250.0%
	Option 3	\$91.40	\$240.10		\$331.50	
Estate C	Base	\$26.10	\$68.60		\$94.70	250.0%
	Option 3	\$91.40	\$240.10		\$331.50	
Estate D	Base	\$26.10	\$68.60		\$94.70	250.0%
	Option 3	\$91.40	\$240.10		\$331.50	
Estate E	Base	\$26.10	\$367.40		\$393.50	250.0%
	Option 3	\$91.40	\$1,286.00		\$1,377.40	



6.2.3 Criterion 3 – Reflective of Costs

Table 6.9: Criterion 3 – Reflective of Costs

Criterion 3 – Reflective of Costs	Weighting	Option 1	Option 2	Option 3
Fees charged should be reflective of the cost of the service to the Probate Office.	25%	-6	-10	-9
Weighted Score		-1.50	-2.50	-2.25

Under this criterion, a number of fees are proposed to be changed, which has a direct impact on how closely they reflect the costs of the Probate Office in providing the service. These services include:

- Online advertisement of a notice of intention to apply (initial advertisement)
- Online advertisement of a notice of intention to apply (re-advertisement)
- Processing of applications for a grant of representation
- Provision of the small estate optional service
- Other administrative services

In the analysis of this criterion across all options, the fees used to represent these services are as follows:

- Online advertisement fee (and re-advertisement fee, where such a fee exists)
- Application fee for the median gross estate value⁴⁴
- Small estate optional service fee
- Fee for authenticating an order amending parchment

⁴⁴ In 2024-25, the median gross estate value is expected to be approximately \$650,000.

To accurately weight the scores, weightings are applied based on how often each service is provided⁴⁵. These weightings are as follows:

Table 6.10: Score weightings under Criterion 3

Service	Weighting
Online advertisement (initial)	44%
Online advertisement (re-advertisement)	10%
Processing applications for a grant of representation	44%
Provision of the small estate optional service	1%
Other administrative services	1%
Total	100%

Under this criterion, a positive score is given for an option where fees more closely reflect the cost to the Probate Office for providing a service when compared to the Base Case. Conversely, a negative score is given for an option where fees are less reflective of the cost to the Probate Office for providing a service.

In this section, this is referred to as a “weighted fee differential” once a scoring has been weighted for how often each service is provided by the Probate Office.

Base Case

Under the Base Case, the Regulations would continue without being remade, and so services continue to be provided at the same level of cost recovery. Accordingly, there would neither be an improvement nor reduction in how reflective of costs an imposed fee would be. The following table provides for the estimated cost of the analysed services, and the respective fee for the provision for that service under the Base Case.

Once weighted, the difference between fees charged and the estimated unit cost of the provision of services under the Base Case is 82%.

The Base Case is awarded a score of 0, and a weighted fee differential of 82% is the counterfactual against which the three options will be compared to.

⁴⁵ These proportions are based on service provision data received by the Probate Office in the first six months of the 2023–24 financial year.

Table 6.11: Comparison of Base Case fees to the estimated unit cost of service

Service	Estimated Unit Cost	Base Case Fee (2024–25)	Difference ⁴⁶
Online advertisement (initial)	\$33.30	\$26.10	22%
Online advertisement (re-advertisement)	\$62.40	\$26.10	58%
Processing applications for a grant of representation	\$114.40	\$367.40	221%
Provision of the small estate optional service	\$374.40	\$251.50	33%
Other administrative services	\$25.00	\$21.20	15%

Option 1: Balanced

Under Option 1, there is a narrowing of the difference between fees charged and costs incurred for a number of services, including the provision of online advertisement and small estate optional service. However, there is also a significant increase in the differential for the processing of applications for a grant of representation to 811% for applications made under the median gross estate value.

The weighted fee differential between the fees charged and the estimated unit cost of the provision of services under Option 1: Balanced is 352%, or a difference of 270% to the Base Case.

Option 1 is assigned a proportional score of -6 under Criterion 3: Reflective of Costs as this option provides for a fee to cost differential of 55% of Option 2 (which is scored -10).

Table 6.12: Comparison of Option 1 fees to the estimated unit cost of service

Service	Estimated Unit Cost	Option 1 Fee (2024–25)	Difference ⁴⁷
Online advertisement (initial)	\$33.30	\$35.90	8%
Online advertisement (re-advertisement)	\$62.40	\$49.00	22%
Processing applications for a grant of representation	\$114.40	\$1,028.80	799%
Provision of the small estate optional service	\$374.40	\$269.40	28%
Other administrative services	\$25.00	\$21.20	15%

⁴⁶ Under this criterion, what is being assessed is how closely a fee resembles the unit cost for providing a service - regardless of whether the difference is positive or negative. As a result, only an absolute (i.e. non-negative) value is provided.

⁴⁷ Ibid.



Option 2: Uplift

Under Option 2, there is a narrowing of the difference between the fee charged and costs incurred only for the Probate Office’s provision of other administrative services. For every other service, there is a significant widening between the fees charged and the costs incurred.

The weighted fee differential between the fees charged and the estimated unit cost of the provision of services under Option 2: Uplift is 572%, or a difference of 490% to the Base Case.

Of all the options, Option 2: Uplift creates the largest fee to cost differential relative to the Base Case (see below), so a score of -10 is assigned to Criterion 3: Reflective of Costs.

Table 6.13: Comparison of Option 2 fees to the estimated unit cost of service

Service	Estimated Unit Cost	Option 2 Fee (2024–25)	Difference ⁴⁸
Online advertisement (initial)	\$33.30	\$164.90	396%
Online advertisement (re-advertisement)	\$62.40	\$164.90	164%
Processing applications for a grant of representation	\$114.40	\$1,105.00	866%
Provision of the small estate optional service	\$374.40	\$718.50	92%
Other administrative services	\$25.00	\$22.90	8%

Option 3: Flat Increase

Under Option 2, there is a narrowing of the difference between the fee charged and costs incurred only for the Probate Office’s provision of online advertisements where a re-advertisement is required. For every other service, there is a significant widening between the fees charged and the costs incurred.

The weighted fee differential between the fees charged and the estimated unit cost of the provision of services under Option 3: Flat Increase is 535%, or a difference of 453% to the Base Case.

Option 3 is assigned a proportional score of -9 as under Criterion 3: Reflective of Costs as this option provides for a fee to cost differential of 92% of Option 2 (which is scored -10).

⁴⁸ Under this criterion, what is being assessed is how closely a fee resembles the unit cost for providing a service - regardless of whether the difference is positive or negative. As a result, only an absolute (i.e. non-negative) value is provided.



Table 6.14: Comparison of Option 3 fees to the estimated unit cost of service

Service	Estimated Unit Cost	Option 3 Fee (2024–25)	Difference⁴⁹
Online advertisement (initial)	\$33.30	\$91.40	175%
Online advertisement (re-advertisement)	\$62.40	\$91.40	47%
Processing applications for a grant of representation	\$114.40	\$1,286.00	1024%
Provision of the small estate optional service	\$374.40	\$880.20	135%
Other administrative services	\$25.00	\$74.30	197%

⁴⁹ Under this criterion, what is being assessed is how closely a fee resembles the unit cost for providing a service - regardless of whether the difference is positive or negative. As a result, only an absolute (i.e. non-negative) value is provided.



6.2.4 Criterion 4 - Simplicity

Table 6.4: Criterion 4 - Simplicity

Criterion 4 – Simplicity	Weighting	Option 1	Option 2	Option 3
Fees should, as far as practicable, be structured in a way that reduces complexity for users of the courts, as well as for the Supreme Court in administering the system.	10%	-3	-5	0
Weighted Score		-0.30	-0.50	-0.00

Base Case

Under the Base Case, the Regulations would continue without being remade, and so there would be no changes to the level of complexity of the fee system for court users nor the Supreme Court.

The Base Case is included as a point of comparison for the other options analysed below and is therefore awarded a score of 0.

Option 1: Balanced

Under Option 1, three new fee tiers are established when compared to the Base Case:

- One new fee for the republication or amendment of an online advertisement
- Two new fee tiers for the application for a grant of representation

This has a minor impact on the level of complexity of the fee structure and accordingly, Option 1: Balanced receives a score of -3 under Criterion 4: Simplicity.

Option 2: Uplift

Under Option 2, there is a reduction in the number of fee tiers for the application for a grant of representation when compared to the Base Case.

This is because a percentage calculation is used (based on the gross estate value) to determine the application fee for a grant of representation. This replaces the majority of fee tiers under the Base Case. This percentage calculation reduces the level of complexity for court users, as there would be single calculation required to determine the fees payable, regardless of the gross value of the estate.

Conversely, it would be significantly more complex for the Supreme Court in administration of this particular fee, as the existing software within the court is unable to perform this calculation to determine the appropriate fee. Rather, there is a requirement that each individual possible fee possibility be coded within the software as a new fee tier, resulting in hundreds of thousands of individual fee tiers.



On balance, Option 2: Uplift creates a significantly more complicated fee structure for the Supreme Court to administer, even if it does reduce the overall level of complexity for users of the court to understand.

Accordingly, Option 2: Balanced receives a score of -5 under Criterion 4: Simplicity.

Option 3: Flat Increase

Under Option 3, there is no change to the fee structure when compared to the Base Case.

Accordingly, Option 3: Flat Increase receives a score of 0 under Criterion 4: Simplicity.



7. Preferred Option

7.1 Identification of the Preferred Option

Table 7.1 below presents a summary of the MCA scores assigned to the individual criterion and reflects the discussion through the previous section of the RIS. The scores are weighted as per the criteria weightings outlined in section 6.1.2, in order to produce a weighted score for each option.

The results of the MCA determine that Option 1 is preferred to the Base Case, as it has the highest weighted score of all the options considered.

Table 7.1: Results of the multi-criteria analysis

Criteria		Weighting	Option 1: Balanced	Option 2: Uplift	Option 3: Flat Increase
Criterion 1: Fiscal Sustainability	Fees should seek to support the overall fiscal sustainability of the Supreme Court.	40%	3.60	4.00	3.60
Criterion 2: Access to Justice	Fees should seek to safeguard access to justice through ensuring that services are accessible for those who are likely to have a limited capacity to pay and/or are administering small estates.	25%	-1.50	-2.50	-2.25
Criterion 3: Reflective of Costs	Fees charged should be reflective of the cost of the service to the Probate Office.	25%	-1.50	-2.50	-2.25
Criterion 4: Simplicity	Fees should, as far as practicable, be structured in a way that reduces complexity for users of the courts, as well as for the Supreme Court in administering the system.	10%	-0.30	-0.50	0.00
Weighted Score			0.30	-1.50	-0.90

Under the preferred option, there are a number of changes to the overall fee structure when compared to the Base Case. This includes:

- introducing a new \$0 fee tier for small estates⁵⁰, reflecting a potentially lower ability to pay.
- increasing the application fee for a grant of representation to a proportion based on the gross value of estate⁵¹.
- creating two fee tiers for advertisement and re-advertisement to encourage improved accuracy in online notices and reflecting the additional work and costs incurred by the Probate Office in re-advertising a notice.
- a minor increase in the fee for the preparation of a small estate, better reflecting the full costs incurred by the Probate Office.

The preferred option has the following characteristics when compared to the Base Case:

- **Online Advertisement** - A new fee structure is proposed for online advertisement fees. Due to the increased unit cost of the online advertisement service, a 38% fee increase (when compared to the Base Case) is proposed under this option. Additionally, a new re-advertisement fee is also proposed at a higher level than the advertisement fee, reflecting the additional costs incurred by the Probate Office in assisting users to amend advertisements for re-advertisement.
- **Application for a Grant of Representation** – Fees proposed for users applying for a grant of representation would remain tiered in a similar manner to the current Regulations. Fees for estates with a gross estate value defined as a small estate^{52,53} would be reduced to \$0. Not charging a fee reflects that small estate applicants likely have limited financial means to apply for a grant of representation. For applications for estates with larger gross estate values, fees would be increased based on a proportion of the gross value of the estates captured within that fee tier.
- **Small Estate Optional Service** – There is an increase to the application preparation fee to \$269.40 in 2024-25. However, the total quantum of fees paid by small estate applications who utilise this service would fall from \$346.20 in 2024-25 (\$251.50 for the optional service, \$26.10 for an online advertisement and \$68.60 for an application for a grant of representation) to \$305.30 in when the proposed regulations are implemented.
- **Other Fees** – All other fees are proposed to be kept the same at the same fee units as they exist currently under the Base Case.

The proposed fees and charges (including a comparison of existing and proposed fees) is included in Table 7.2.

⁵⁰ A small estate is when a person's assets at their date of death are below the value set by government. The value which determines what is considered a small estate is established under s71(1A) of the *Administration and Probate Act 1958*. In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.

⁵¹ This increases from a percentage of 0.2 per cent in the lowest fee-paying tier to 0.3 per cent in the highest fee-paying tier based off the lowest gross value of the estate captured within each tier.

⁵² This is defined under section 71 of the *Administration and Probate Act 1958*.

⁵³ In 2024–25, it is expected that a small estate will be defined as when the gross value of an estate is below \$129,850.

Table 7.2: Proposed fees under the preferred option

Item	Description	Base Case ⁵⁴ (2024–25)	Preferred Option (2024–25)	Change in Fee Value	Percent Change
	Online Advertisement Posting on the Court's website of –				
4.1	a) a notice of intention to apply for a grant of representation	\$26.10 (1.6 fee units)	\$35.90 (2.2 fee units)	\$9.80	37.5%
	b) a notice of intention to apply for the affixing of the seal of the Court to any probate, letters of administration or grant or order	\$26.10 (1.6 fee units)	\$35.90 (2.2 fee units)	\$9.80	37.5%
	c) a notice of intention to administer an estate by State Trustees under section 79 of the <i>Administration and Probate Act 1958</i>	\$26.10 (1.6 fee units)	\$35.90 (2.2 fee units)	\$9.80	37.5%
	d) a republished or amended notice of intention	\$26.10 (1.6 fee units)	\$49.00 (3 fee units)	\$22.90	87.5%
	Application for a Grant of Representation On filing an application for any grant of representation or on filing an originating motion under Rule 7.04(1) of Chapter III –				
4.2	a) if the gross value of the estate is less than the value of a small estate	\$68.60 (4.2 fee units)	\$0.00 (Nil)	-\$68.60	-100.0%
	b) if the gross value of the estate is equal to the value of a small estate or more but is less than \$250,000	\$68.60 (4.2 fee units)	\$261.30 (16 fee units)	\$192.70	281%
	c) if the gross value of the estate is \$250,000 or more but less than \$500,000	\$68.60 (4.2 fee units)	\$514.40 (31.5 fee units)	\$445.80	650.0%
	d) if the gross value of the estate is \$500,000 or more but less than \$1 million	\$367.40 (22.5 fee units)	\$1,028.80 (63 fee units)	\$661.40	180.0%
	e) if the gross value of the estate is \$1 million or more but less than \$2.5 million	\$685.90/\$1,502.40 (42/92 fee units)	\$2,563.80 (157 fee units)	\$1,878.00/ \$1,061.50	273.8%/ 70.7%
	f) if the gross value of the estate is \$2.5 million or more but less than \$5 million	\$1,502.40/\$2,318.90 (92/142 fee units)	\$7,185.20 (440 fee units)	\$5,682.80/ \$4,866.30	378.3%/ 209.9%
	g) if the gross value of the estate is \$5 million or more	\$2,318.90 (142 fee units)	\$15,407.40 (943.5 fee units)	\$13,088.50	564.4%
4.3	On filing a caveat in the Probate jurisdiction	\$334.80 (20.5 fee units)	\$334.80 (20.5 fee units)	\$0.00	0.0%
4.4	On filing a notice of appointment of the Incorporated Nominal Defendant as Administrator <i>ad litem</i> under the <i>Transport Accident Act 1986</i>	\$29.40 (1.8 fee units)	\$29.40 (1.8 fee units)	\$0.00	0.0%
4.5	For preparation by the Registrar of Probates or Assistant Registrar of Probates of an application in relation to a small estate	\$251.50 (15.4 fee units)	\$269.40 (16.5 fee units)	\$18.00	7.1%
4.6	For authenticating an order amending parchment	\$21.20 (1.3 fee units)	\$21.20 (1.3 fee units)	\$0.00	0.0%
4.7	Certificate of Registrar of Probates verifying copy document	\$21.20 (1.3 fee units)	\$21.20 (1.3 fee units)	\$0.00	0.0%
4.8	Exemplification	\$29.40 (1.8 fee units)	\$29.40 (1.8 fee units)	\$0.00	0.0%

⁵⁴ Due to the changes to the structure of the tiers, there are multiple Base Case fees referenced where appropriate.



7.2 Impacts of the Preferred Option

The potential revenue generated by Option 1 depends on the number of applications the Probate Office receives. The future costs of the Supreme Court of Victoria are dependent on a variety of factors, including:

- the number of cases brought before the Supreme Court.
- the number of matters requiring administration (including matters brought to the Probate Office)
- increases to the cost of labour and the upkeep of both digital and physical assets.

However, historical data can be used to illustrate potential impacts of the preferred option.

7.2.1 Impact of the preferred option on demand for the service

Implementation of the preferred option will have a negligible impact on the volume of matters received by the Probate Office. This is because applications for a grant of representation only occur when it is required for an administration of an estate (which itself is reliant on demographic factors) and is largely not responsive to the level of the fee charged.

7.2.2 Impact of the preferred option on competition and small business

As the Probate Office is the sole provider of grants of representation and online advertisements regarding the notification of an intent to apply, the fee increases will have no impact on competition.

Under the preferred model, there is a 7.1% increase to the small estate fee to \$269.40, and as such, there will be a minor reduction to the difference in pricing between the small estate optional service and the market prices of similar services (which presently ranges from \$700-\$2000). Equivalently, this represents a minor reduction to the level of competition between the government and private sector in the provision of such services.

It is best practice for RISs to analyse impacts on small business. Businesses may be involved in applying for grants for representation however there is unlikely to be significant differences in impacts to small businesses compared to larger businesses.

7.2.3 Cost Recovery – Supreme Court of Victoria

Under the proposed options, there will be a significant improvement to the level of cost recovery within the Court.

After the proposed Regulations come into effect, it is expected that fee revenues across the entirety of the Supreme Court will increase to around \$62.0 million for the 2025 calendar year⁵⁵, of which \$46.7 million is attributable to the Probate Office. This

⁵⁵ Please note that the proposed Regulations are expected to commence on 29 December 2024.

represents a projected cost recovery rate of 41.0 per cent, approximately doubling the level of cost recovery in 2022-23, which was 23.6 per cent.

Under the preferred model, there is also an over-recovery of the costs of the Probate Office of 1086%. The fee revenue that is over-recovered will support the broader suite of services provided by the Court. This includes services which are either unable to generate income due to the nature of the activities or where there is a public benefit to provide Court services in the interests of promoting access to justice and a fairer justice system. The Court's criminal hearings fall into both of those categories and make up a significant proportion of the Court's work. Criminal hearings are important to a safe and just society.

7.2.4 Jurisdictional Comparison of Impacts on Estates

The *Victorian Guide to Regulation* requires that less onerous approaches in other jurisdictions be considered in the RIS. The proposed fees are therefore compared to the Base Case as well as other comparable jurisdictions in this section.

To obtain a grant of representation in Victoria, it is minimally required for an applicant to advertise a notice of intention, as well as file an application, therefore the impacts of the preferred option on estates administered in Victoria have been calculated solely on the basis of these two fees (i.e. total fees).

Table 7.3: Comparison of the fees under the preferred option to the Base Case and other selected jurisdictions

Jurisdiction ⁵⁶	10 th Percentile	25 th Percentile	Median	75 th Percentile	90 th Percentile
Rounded Gross Estate Value, Victoria ⁵⁷ (2023–24)	\$110,000	\$300,000	\$650,000	\$950,000	\$2,000,000
Victoria, Base Case (Total Fees, 2024–25)	\$94.70	\$94.70	\$393.50	\$393.50	\$1,528.50
Victoria, Preferred Option (Total Fees, 2024–25)	\$35.90	\$550.30	\$1,064.70	\$1,064.70	\$2,599.70
NSW (Total Fees, 2023–24)	\$916.00	\$1,224.00	\$1,850.00	\$1,850.00	\$4,044.00
Queensland (Total Fees, 2023–24)	\$964.90	\$964.90	\$964.90	\$964.90	\$964.90
South Australia (Total Fees, 2023–24)	\$929.00	\$1,858.00	\$2,475.00	\$2,475.00	\$3,715.00

Under the preferred option, estates administered in Victoria will generally continue to be subject to a lower economic burden when compared to similarly sized states (e.g. NSW and Queensland) or states with similar fee structures to Victoria (e.g. South Australia).

Due to the flat fee structure levied in Queensland, there is a relatively lower impact on higher value estates than in Victoria. It has previously been explained in Section 5 as to why it would not be appropriate to adopt such a model in Victoria.

For high-value estates, over \$2.5 million, the economic burden is generally higher than in comparable states. This represents a higher burden on less than ten per cent of estates and balances providing greater access to justice for probate applicants for lower value estates. The fees are capped to ensure each individual estate still pays a fee that is reflective of the service and private benefit the estate receives from that service.

It is also acknowledged that for the significant proportion of estates administered in Victoria, the preferred option imposes an increase to total fees when compared to the Base Case. However, it is noted that it would not be possible to improve cost recovery without an increase to fees.

⁵⁶ 2024-25 fees for other jurisdictions have yet to be published and so total fees for the 2023–24.

⁵⁷ Gross estate value percentiles have been calculated based on data collected by the Probate Office for the 2023–24 financial year.



8. Implementation Plan

The courts regularly publish the latest information on fee amounts (e.g. when fee amounts change every 1 July due to increases to fee units). When the proposed Regulations commence on 29 December 2024, the Supreme Court will update its published information about fees to enable parties to determine the correct fees to be paid.

The changes to Probate Office fees under the recommended option include changes to the bands for which Probate Office fees are payable. The Supreme Court will need to change the fee values and fee tiers in its online probate application system and any associated documentation to reflect the revised fee structure. The Supreme Court will develop communication that outlines the changes to the fees and fee structure and inform law firms and the public of changes via the Supreme Court website.

In order to incorporate the probate fee changes, Court Services Victoria will need to upgrade the online probate application system. This upgrade will also help to ensure the stability of the platform for the system's ongoing use. The upgrades to this platform and its ongoing maintenance will be funded through the increase to Probate Office fees.

The Supreme Court of Victoria will continue to resource and monitor the changes to probate office fees through its existing processes. DJCS will support the implementation of changes to probate office fees in conjunction with the Supreme Court.

There is no requirement to introduce new enforcement arrangements arising from the proposed updates to these Regulations. The Court has a system in place to charge and collect the fees set out in the Regulations. Probate office fees for grants of representation are required to be paid upfront before the activity can commence.



9. Evaluation Strategy

To evaluate the effectiveness of the increases to probate office fees, DJCS will undertake an evaluation in 2027 (as part of the sunseting of the Supreme Court (Fees) Regulations 2018).

This is consistent with the Victorian Guide to Regulation, under which mid-term evaluations (usually five years after implementation) are required for high-impact changes (above an \$8 million threshold).

As the remaking of the regulations will be prior to five years, it is also a suitable point at which to evaluate that the amended regulation is achieving its intended outcomes, that no unintended consequences are observed and opportunities for adjustment can be considered.

The following is the timeline of the proposed Evaluation Strategy:

Table 9.1: Timeline for regulations

Year	Existing Regulations	Proposed Amendment Regulations (Subject of this RIS)
2018	The Regulations came into operation.	
2024		Expected introduction of the proposed amendment Regulations.
2027	Commencement of review process pursuant to the 10-year sunseting provision.	Expected mid-cycle review of the proposed amendment Regulations.
	DJCS proposes to conduct both reviews concurrently.	
2028	Tenth year of the regulations. Expiry of existing regulation (sunseting).	
2029		Fifth year of the proposed amendment Regulations and expected date for mid-cycle review (this has been rephased for 2027).

This evaluation will incorporate the following:

- Assessing whether the changes have improved access to probate services for those with lesser capacity in the community (e.g., self-represented litigants and those with small estates).
- Addressing whether increases to Probate Office fees are improving the fiscal sustainability of the Supreme Court.
- Reflecting any feedback from the Supreme Court, stakeholders and users on the simplicity of the new fees and fee structures. The Law Institute of Victoria will be

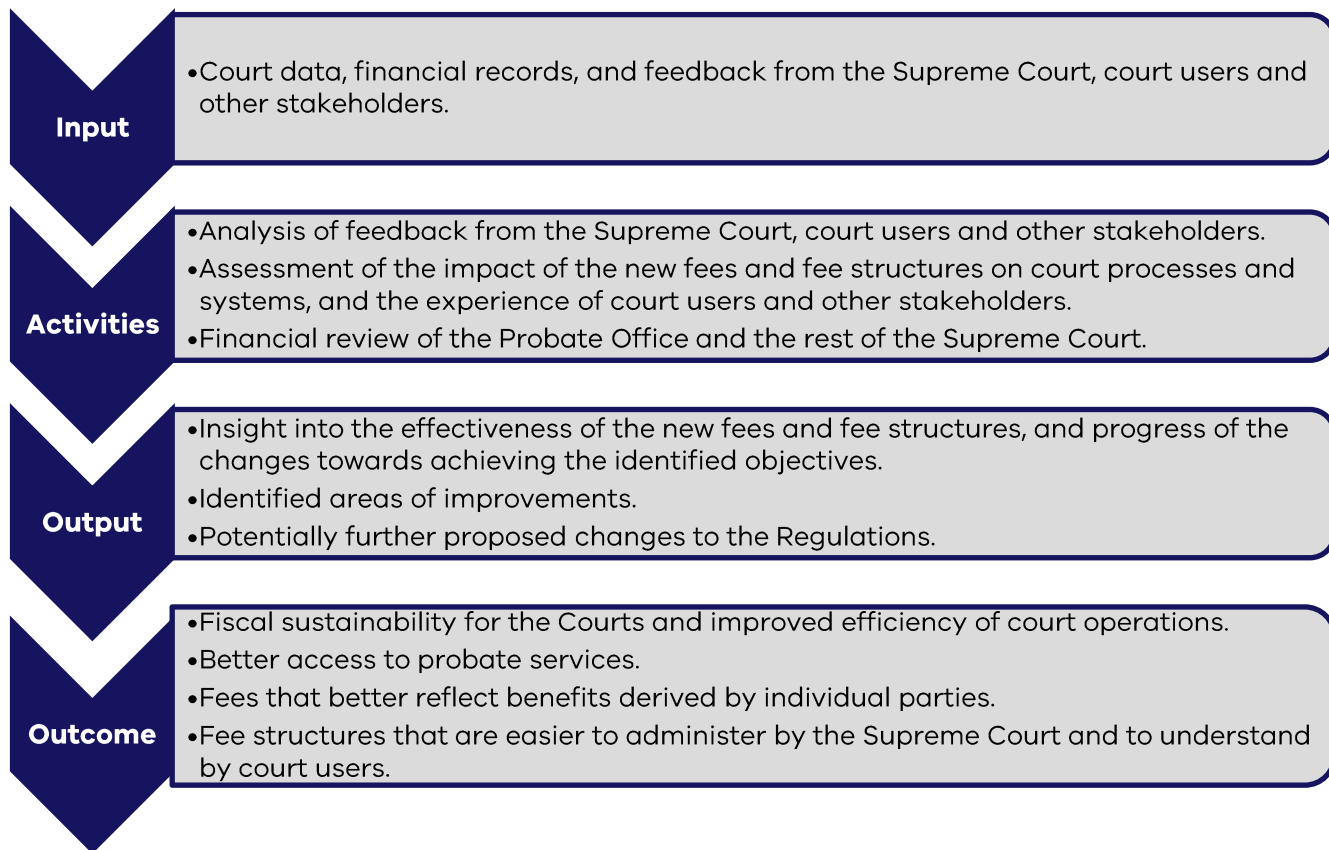
involved to ensure that relevant feedback is collected from the law firms who primarily access the system.

- Providing an opportunity for any further improvements that can be made to the level of probate court fees and the fee structures.

DJCS will use the Supreme Court’s existing information systems for processing probate applications, as well as available administrative data, to monitor implementation. This will include data on the number of probate applications, date of applications and estate values. The effectiveness of the changes to probate court fees meeting the cost of the service will be assessed in based on these data sources.

The evaluation will follow the regulatory program logic model illustrated below:

Figure 9.1: Program Logic



DJCS will liaise with the Commissioner for Better Regulation to ensure its evaluation is adequate and transparent. The evaluation is expected to allow sufficient time for stakeholder consultation and data analysis.

The evaluation of this regulation will take into account relevant findings and information from the review of other court fee regulations. This will help to ensure there is both simplicity and consistency in the application of fee categories across the courts.