

July 2009

Gaming Machine Arrangements 2012

Regulatory Impact Statement

Gambling Regulation Amendment (Fees) Regulations 2009



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Also published on www.gamblinglicences.vic.gov.au.

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KEY FINDINGS

The Victorian Government announced that Victoria's gaming machine industry would transition from a gaming operator structure to venue operator arrangements in 2012. Hotels and clubs will be able to bid for ten-year gaming machine entitlements via a gaming auction to be held in the second quarter of 2010. Clubs will also be able to buy gaming machine entitlements through a pre-auction club offer. Venue operators holding entitlements will be able to operate gaming machines in an approved venue when the new venue operator arrangements come into effect in 2012.

The Government is proposing to make Regulations under the *Gambling Regulation Act 2003* to prescribe the fees that the Victorian Commission for Gambling Regulation (the VCGR) will charge for administering the:

- *transfer of gaming machine entitlements* - when an entitlement holder transfers their entitlement; and
- *reallocation of forfeited gaming machine entitlements* - where entitlements are forfeited and revert to the State.

The 'problem' addressed by the proposed Regulations, then, is that the VCGR will incur costs in facilitating the transfer of gaming machine entitlements, or facilitating the reallocation of forfeited entitlements, that need to be recovered.

The ultimate objective of the proposed Regulations is to prescribe fees that meet the costs of the efficient and effective administration of gaming machine entitlement transfers and reallocations. The objectives of the proposed Regulations can potentially be achieved by several options, of which three are tested in this RIS. The fees outlined under the following options are purely related to the costs under the different options. However, a fee unit of less than 1 is not feasible under drafting instructions for the Regulations. Therefore, to adopt any of these options would require an adjustment to reflect the requirement for full fee units.

- *Option 1: Basic service* - the VCGR would perform the basic services needed to administer the transfer and reallocation of entitlements, with fees determined on a full cost recovery basis. Under this option, it is assumed that a Manager would take on the role of reviewing all complex applications. A solicitor's advice would not be sought in relation to transfers; rather, the Licensing Analyst would rely on their own judgement and internal guidelines. The fee payable under this option would be a fixed fee of \$248.38 (21.25 fee units, based on the value of fee units gazetted on 15 May 2009), plus a fee of \$10.16 (0.87 fee units) per entitlement.
- *Option 2: Comprehensive service* - the VCGR would undertake a more comprehensive range of services to administer the transfer and reallocation of entitlements, with fees determined on a full cost recovery basis. Under this option, the Executive Commissioner and the Director LOPB would have a role in reviewing and approving complex applications, and solicitor's advice would be sought in relation to each transfer. The fee payable under this option would be a fixed fee of \$326 (27.89 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement.

- *Option 3: Differentiated fee* - the VCGR would apply a different fee depending on whether a transfer is classified as being simple or complex. For the purposes of this assessment, it is assumed that the VCGR would provide a comprehensive transfer service. The fee payable under this option would be:
 - for simple applications, a fixed fee of \$113.28 (9.69 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement; and
 - for complex applications, a fixed fee of \$417.12 (35.68 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement.

Option 2 is the preferred option as it scores highest overall when assessed against criteria of service quality, efficiency and simplicity, and represents an improvement relative to the base case (where the services would be funded through general taxation).

Based on drafting advice from the Office of the Chief Parliamentary Counsel, the fee units payable for each entitlement transferred have been rounded up (to 1 fee unit, which equates to a fee of \$11.69). To account for the increase in cost recovery as a result of this adjustment, the other fee units payable have been rounded down (to 21 fee units, which equates to a fee of \$245.49). The calculations supporting these adjustments have been explained in detail in section 6.1 of the RIS.

Thus, the preferred option, which is reflected in the proposed Regulations, is an undifferentiated, comprehensive service, and a total fee payable (based on 2009-10 values for fee units) of \$245.49 for the transaction (21 fee units), and \$11.69 per entitlement (1 fee unit).

1 INTRODUCTION

1.1 Policy context

The Government passed the *Gambling Regulation Amendment (Licensing) Act 2009* through Parliament on 11 June 2009. This amends the *Gambling Regulation Act 2003*, and will see the end of the gaming operator duopoly by introducing new arrangements that will allow venues to run their own gaming businesses.

With these measures in place, hotels and clubs will be able to bid for ten-year gaming machine entitlements via a gaming auction to be held in the second quarter of 2010. Clubs will also be able to buy gaming machine entitlements through a pre-auction club offer. Those holding entitlements will be able to operate gaming machines when the new venue operator arrangements come into effect in 2012.

Once entitlements are allocated, venue operators will be able to transfer those entitlements under the Transfer and Allocation rules determined by the Minister. The Government aims to deter businesses from buying entitlements, with the intention of selling them for a profit, rather than using them in their own venue. Where gaming machine entitlements are traded at any time prior to six months after the new venue operator arrangements commencing, the entitlement holder will be required to pay 50¹ per cent tax on any profit to the State.

There are also some circumstances where entitlements will be forfeited and revert to the State including the following:

- where the entitlement holder does not pay for the entitlements in accordance with the terms of the agreement between the State and the entitlement holder;
- on cancellation of the venue operator's licence under disciplinary action;
- where the venue operator's licence expires or is surrendered and the licensee has not transferred the entitlements to another venue operator prior to the expiry or surrender of the licence; and
- on application of the 'use it or lose it' provisions².

Therefore, the VCGR will incur costs in facilitating the transfer of gaming machine entitlements, or facilitating the reallocation of forfeited entitlements.

¹ As at the time of printing, the *Gambling Regulation Amendment Bill 2009* is in Parliament which, if successfully passed, will increase the amount of tax from 50 per cent to 75 per cent.

² Sections 3.4A.22–3.4A.24 of the Act require that entitlements must be used in an approved venue within six months of the entitlements coming into operation in 2012. Similarly, any entitlements that are acquired after the commencement of the new industry structure through a transfer scheme must also be used within six months of being transferred. Any entitlements not used within this period would revert to the State and be made available to the market.

1.2 The regulatory proposal

The Government is proposing to make further Regulations (the ‘proposed Regulations’) under the Gambling Regulation Act. The proposed Regulations prescribe the fees that the VCGR will charge for administering the:

- *transfer of gaming machine entitlements* — when an entitlement holder transfers their entitlement; and
- *reallocation of forfeited gaming machine entitlements* — where entitlements are forfeited and revert to the State.

1.3 The role of the RIS

Section 10 of the *Subordinate Legislation Act 1994* requires that a Regulatory Impact Statement (RIS) be prepared in respect of a proposed statutory rule or amendment. Exemptions to this requirement can be sought if it can be shown that the proposed rule is not likely to impose ‘an appreciable economic or social burden on a sector of the public’.

The fees prescribed by the proposed Regulations are considered to constitute an appreciable economic burden on at least one sector of the public — those entities intending to purchase gaming machine entitlements — and therefore require the preparation of a RIS.

The process followed in the development of this RIS has been determined after discussions with the Victorian Competition and Efficiency Commission and reflects the requirements of the *Victorian Guide to Regulation*.

1.4 Submissions

The purpose of inviting submissions addressing the Regulations is to ensure that all interested parties are treated impartially and have the same opportunity to participate in this process. It will also ensure that interested parties have equal access to relevant information and advice.

The Gambling Licences Review will only consider submissions relating to the Regulations. The Gambling Licences Review will not consider any parts of submissions that seek to revisit decisions already announced by the Government.

Submissions must be received by the Gambling Licences Review by 4pm Australian Eastern Daylight Time, Friday 14 August. Late submissions will not be accepted.

Submissions from organisations must, in addition to a submission via email, be sent in hardcopy to the Gambling Licences Review under cover of the company letterhead and signed by an authorised company representative.

Written submissions commenting on proposed provisions for the gaming machine arrangements in should be sent by email to gamingmachines@justice.vic.gov.au.

Respondents without online access may post their submission to:

Gambling Licences Review
Office of Gaming and Racing
Department of Justice
P.O. Box 18055
Melbourne Victoria 8003

Submissions sent via Australia Post must be date stamped before the closing date for submissions.

Publication of submissions

Submissions will be published on the Gambling Licences Review website.

Any content considered by the Gambling Licences Review to be defamatory, vilifying or otherwise inappropriate will be removed from submissions for the purposes of publication at the discretion of the Gambling Licences Review Project Director.

Persons making submissions on behalf of another legal person or organisation must be authorised to do so by that legal person or organisation (Authorised Person).

Authorised Persons and persons making submissions on their own behalf must clearly identify matters that they consider to be commercial in confidence. It is not intended that these matters will be published on the website.

The Gambling Licences Review Project Director will determine, in his absolute discretion, whether material provided and identified as such is commercial in confidence. If the Project Director considers material or information identified as being commercial in confidence is not commercial in confidence, he will return the material or information to the person making the submission and advise them of his views, giving them the opportunity to withdraw the information or material. If withdrawn, the material or information will not be published.

For the purposes of this document, commercial in confidence material or information may be taken to include material or information:

- the publication of which would disclose information from a business, commercial or financial undertaking, and the material or information relates to:
 - trade secrets
 - other matters of a business, commercial or financial nature and the disclosure of the information would be likely to expose the undertaking unreasonably to disadvantage.

In deciding whether disclosure of material or information would expose an undertaking unreasonably to commercial disadvantage, for the purposes of

the above, persons providing submissions should give consideration to whether the material or information:

- is already in the public domain
- would be generally available to competitors
- could be disclosed without causing substantial harm to their competitive position.

The Project Director will consider each submission on a case-by-case basis for the purpose of determining whether, in his opinion, information or material is commercial in confidence.

The lodgement of a submission by an Authorised Person or a person making a submission on their own behalf will be deemed to constitute acceptance of the conditions of participation in this process.

1.5 Report outline

The remainder of this report is structured as follows:

- *Chapter 2* describes the nature and extent of the problem;
- *Chapter 3* outlines the Government's desired objectives, and options to achieve these objectives;
- *Chapter 4* assesses the options and identifies the preferred approach;
- *Chapter 5* considers small business and competition impacts;
- *Chapter 6* describes the preferred approach, including its implementation and evaluation; and
- *Appendices* set out cost estimates, bibliography and the proposed Regulations.

2 NATURE AND EXTENT OF THE PROBLEM

2.1 Problem addressed by the proposed Regulations

The 'problem' addressed by the proposed Regulations is that the VCGR will incur costs in facilitating the transfer of gaming machine entitlements, or reallocating forfeited entitlements, that need to be recovered in some way.

The activities that the VCGR will undertake to administer entitlement transfers/reallocations will vary depending on the nature of the application as follows.

- A *simple application* will generally involve a club entitlement application where there are no geographic area conditions involving a capped region, and no penalty interest owing. Simple applications will usually be approved by the Manager, Commercial Licensing and Monitoring Unit (CLAM).
- A *complex application* will generally involve a club entitlement application where there are geographic area conditions involving a capped region and/or there is penalty interest owing. All hotel entitlement applications will be considered as complex. Only the Director, Licensing Operations and Policy Branch (LOPB) will be empowered to approve complex applications, while only the Executive Commissioner will be empowered to refuse complex applications.

The VCGR estimates that around 30 per cent of transfer applications will be simple, with the remaining 70 per cent being complex. This estimate is based on the VCGR's experience in regulating Victoria's gaming industry and in preparing for the new requirements for the gaming machine venue operator model that will take effect from 2012. It is estimated that there will be approximately 624 entitlements transferred each year, which would equate to a cost to the VCGR of \$10,251 per year, and \$85,254 over ten years in net present value terms (discounted at 3.5 per cent).³

Table 2.1 sets out the roles of VCGR staff in reallocating a forfeited entitlement, or transferring an entitlement (as the VCGR will undertake the same administrative steps for both types of transfer). The table also shows how the time involved differs for simple and complex applications.

³ This is based on an estimate of the number of entitlements transferred due to the sale of a business — that is, according to the VCGR's 2007-08 Annual Report, that there are an average of 50 gaming machines per club (271 clubs, number of gaming machines in venues 13,465 = average per venue 50), and 54 in hotels (249 hotels, number of gaming machines in venues 13,332 = average per venue 54). An average of the two is 52 gaming machines per venue. Out of the 520 venues (actual venues, rather than venue operator licences), the annual turnover is around 12 (based on information from the VCGR), therefore the estimated number of entitlements from sale of businesses that may occur per year is 52 x 12 = 624. It should be noted, however, that this may not precisely reflect the actual number of transfers for a variety of reasons (for example, there may be transfers arising from a cessation of business, there is also the potential for speculative trading of entitlements, although the Government has put in place measures to deter speculative trading in the first six months of the new structure).

The estimated annual cost to the VCGR of \$10,251 is calculated by adding the estimated fixed costs of \$3,912 (12 transactions x \$326 per transaction) with the estimated variable costs of \$6,340 (624 entitlements x \$10.16 per entitlement).

Table 2.1

REALLOCATION OF FORFEITED ENTITLEMENT / TRANSFER OF ENTITLEMENT

VCGR officer	Staff cost*	\$ per minute	Simple application		Complex application	
			Time (min)	Cost	Time (min)	Cost
FIXED COST (PER TRANSACTION)						
Executive Commissioner						
• Review and refuse complex applications	EO-2 \$395,898	\$3.66	0	\$0	20	\$73.15
Director LOPB						
• Review all complex applications	EO-3					
• Approve complex applications	\$307,545	\$2.84	0	\$0	20	\$56.83
Manager CLAM						
• Review all complex applications	VPSG-6					
• Approve simple applications	\$207,196	\$1.91	5	\$9.57	20	\$38.23
Senior Analyst						
• Review complex applications	VPSG-5					
• Verify simple applications	\$156,614	\$1.45	5	\$7.23	20	\$28.94
Licensing Analyst						
• Retrieve files						
• Assess and analyse application						
• Seek legal advice						
• Prepare details for Transfer Market website						
• Confirm completion of offer						
• Assess source of funds for proposed purchase						
• Make recommendation of application						
• Advise parties of decision	VPSG-3					
• Return files	\$109,923	\$1.02	65	\$66.01	130	\$132.02
Records Manager (IT Management)						
• Update Transfer Market website	VPSG-3					
• Update VCGR website	\$109,923	\$1.02	30	\$30.47	30	\$30.47
Solicitor	VPSG-6					
• Provide advice	\$207,196	\$1.91	0	\$0	30	\$57.43
FIXED COST (PER TRANSACTION)				\$113.28	\$417.12	
AVERAGE FIXED COST**				\$325.96		
VARIABLE COST (PER ENTITLEMENT)						
Licensing Analyst						
• Check conditions of each entitlement	VPSG-3					
• Update database for each entitlement	\$109,923	\$1.02	10	\$10.16	10	\$10.164
VARIABLE COST (PER ENTITLEMENT)				\$10.16		

Source: Adapted from Victorian Commission for Gambling Regulation 2009.

Note: The VCGR estimated the time to perform each activity based on the time taken to complete similar activities in other areas.

* Staff cost is based upon the mid-point of the salary range of each position classification, rather than actual salaries. An additional 92 per cent of salary is added to provide for on-costs (which include WorkCover, superannuation, payroll) and corporate overheads, based on the VCGR's calculations.

** This fee represents a weighted average of the simple (30 per cent) and complex (70 per cent) transactions.

3 OPTIONS TO ACHIEVE OBJECTIVES

3.1 The Government's objectives

The ultimate objective of the proposed Regulations is to prescribe fees that meet the costs of the efficient and effective administration of gaming machine entitlement transfers and reallocations.

3.2 Options to achieve the desired objectives

The objectives of the proposed Regulations can potentially be achieved by several options. The options that will be tested in this RIS are as follows.

- *Option 1: Basic service* - the VCGR would perform the basic services needed to administer the transfer of entitlements, with fees determined on a full cost recovery basis. Under this option, it is assumed that the Manager CLAM would take on the role of reviewing all complex applications. Under this option, solicitor's advice would not be sought in relation to transfers; rather, the Licensing Analyst would rely on their own judgement and internal guidelines. The fee payable under this option would be a fixed fee of \$248.38 (21.25 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement.
- *Option 2: Comprehensive service* - the VCGR would undertake a more comprehensive range of services to administer the transfer of entitlements, with fees determined on a full cost recovery basis. Under this option, the Executive Commissioner and the Director LOPB would have a role in reviewing and approving complex applications, and solicitor's advice would be sought in relation to each transfer to ensure that it is done correctly. The fee payable under this option would be a fixed fee of \$326 (27.89 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement.
- *Option 3: Differentiated fee* - the VCGR would apply a different fee depending on whether a transfer is classified as being simple or complex. For the purposes of this assessment, it is assumed that the VCGR would provide a comprehensive transfer service. The fee payable under this option would be:
 - for simple applications, a fixed fee of \$113.28 (9.69 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement; and
 - for complex applications, a fixed fee of \$417.12 (35.68 fee units), plus a fee of \$10.16 (0.87 fee units) per entitlement.

For all options, the buyer of the entitlement would pay the transfer fee. For forfeited entitlements, the VCGR would deduct the fees related to the transfer from proceeds forwarded to the previous entitlement holder.

In any situation where an entitlement holder's gaming machine entitlements have reverted to the State:

- all amounts owing to the State for the entitlement will become immediately due and payable;
- the State will be able to reallocate the entitlement via the transfer scheme; and
- the State will pass on to the original entitlement holder the amount obtained for the entitlement on transfer less: any amounts owing to the State by the entitlement holder; any prescribed fees; and any fines imposed by the State.

Appendix A provides more detail of the tasks associated with each option, and the resulting cost estimates.

3.3 Criteria to assess options

The options will be assessed according to the following criteria.

- *Service quality* - administer entitlement transfers in a timely, efficient and responsible manner.
- *Efficiency* - by recovering costs fully, fees promote the efficient allocation of resources, and the value that consumers place on a good or service equals the cost of production.
- *Simplicity* - fees are designed without undue complexity, which may otherwise limit compliance and make administering the fees more challenging.

Another criterion that is often used relates to cost recovery, however given that all of the options fully recover costs, this has not been used.

In terms of weightings, the department considers service quality to be a particularly important criterion and it is therefore given a weighting of 50 per cent. This reflects the high value of entitlements, and the importance of undertaking due process in administering their transfer. The other two objectives, notably efficiency and simplicity, are allocated weightings of 25 per cent. The extent to which each option presents an advantage or disadvantage compared to the base case is assessed using a scale of -5 to +5.

The options will be assessed against the criteria relative to the base case. The base case is this situation in the absence of the proposed Regulations.

Given that Victoria's gaming machine industry would still transition to a venue operator structure, as set out in the *Gambling Regulation Amendment (Licensing) Act 2009*, the VCGR's administration of entitlement transfers and reallocations would also still occur. However, without the Regulations, the VCGR would not be able to charge fees for administering entitlement transfers. As such, the cost of providing this service would be funded through general taxation.

4 ASSESSMENT OF THE OPTIONS

Service Quality

Option 2 positions the VCGR to administer entitlement transfers in a timely, efficient and responsible manner. This option would promote confidence in the VCGR's administration of gaming machine transfers by drawing upon specialist advice - including from a solicitor and senior members of the VCGR - for all complex applications.

However, Option 2 is not assessed as providing any better or worse service quality than the base case (where, it is assumed that the level of service is also comprehensive, but is funded through taxation rather than fees), or Option 3.

Under Option 1, removing senior decision makers from the process to review and approve complex applications, and not seeking legal advice in relation to any application, could potentially increase the risk of errors being made in the transfer or reallocation of entitlements. This, in turn, could delay the transfer or reallocation of some entitlements (or cause other issues after the transfer or reallocation, to the extent that any errors are subsequently detected).

Efficiency

All three options would send a price signal about the value of the resources used to administer entitlement transfers to those paying the resulting fee. As such, all represent a significant improvement in allocative efficiency compared to the base case.

That said, Option 3 would more closely align the fee with the resources used to administer entitlement transfers. On the other hand, the VCGR would incur additional costs to assess each application to determine the appropriate fees, which may give rise to arguments about 'gold plating', and therefore, the extent to which an efficient level of costs are recovered. Taking both into account, Option 3 is assessed as being more efficient than the base case to the same extent as Option 1 and Option 2.

Simplicity

Levying a fee, regardless of whether it is based on simple or comprehensive service levels, would involve slightly more administrative complexity than the base case (where no fees apply). For this reason, Option 1 and Option 2 receive slightly negative scores against this criterion relative to the base case.

Option 3 would be the most administratively complex of the options. The VCGR would need to make an initial assessment upon receiving each application for transfer to determine whether the application is simple or complex. While some transfer applications can be easily classified as simple or complex (for example, all hotel entitlement transfers will be complex), other transfers require further assessment (for example, those entitlements with penalty interest owing will be complex). The VCGR would need to advise entitlement holders how an entitlement transfer will be classified and the associated fee. The buyer of the entitlements would need to confirm this before the VCGR administers the transfer. This would add to the VCGR's effort to administer each transfer, and would add time and expense to the transfer process.

A summary of the assessments of these options is provided in Table 4.1.

As can be seen, Option 2 scores highest against the criteria. This represents an improvement over the base case, and so is the preferred option.

Table 4.1

ASSESSMENT OF THE OPTIONS

Criterion	Weighting (per cent)	Option 1		Option 2		Option 3	
		Score	Weighted score	Score	Weighted score	Score	Weighted score
Service quality	50	-3	-1.5	0	0	0	0
Efficiency	25	+4	+1.0	+4	+1.0	+4	+1.0
Simplicity	25	-2	-0.5	-2	-0.5	-4	-1.0
Total	100	-1	-1.0	+2	+0.5	+0	0

5 IMPACTS ON SMALL BUSINESS AND COMPETITION

5.1 Small business impacts

It is good practice for Regulatory Impact Statements to include specific analysis of the impact of the regulatory proposal on small business. The purpose of this is to ensure that government regulation does not unduly impact on business productivity and growth in Victoria, with particular emphasis being given to how proposed measures will affect small businesses.

In this case, small businesses are not expected to be significantly affected by the proposed fees. As only twelve transfers are expected to occur each year, few small businesses will transfer entitlements. To the extent that small businesses hold fewer entitlements than larger businesses, those small businesses that transfer entitlements will pay a relatively smaller transfer fee due to the fee's variable component. Relative to the expected value of the entitlements, the transfer fee is not expected to be significant. As a result, the transfer fees are not assessed as having a particularly significant impact on small business.

5.2 Competition assessment

Any new legislation in Victoria must not restrict competition unless it can be demonstrated that:

- the benefits of the restriction, as a whole, outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

In general, fees are not considered to have adverse competition impacts when they are set on a full cost recovery basis (as is the case here), as they simply ensure that regulated parties are paying the costs.

6 THE PREFERRED OPTION

6.1 Summary of preferred option

The preferred option is for the VCGR to provide a comprehensive entitlement transfer/reallocation service, consistent with its recommended process.

As the assessment found, Option 2 best positions the VCGR to administer entitlement transfers in a timely, efficient and responsible manner. While this option is slightly more administratively complex than the base case, levying a fee would send a price signal about the value of the resources used to administer entitlement transfers to those paying the fee. Consequently, fees should be recovered on a cost recovery basis.

Based on drafting advice from the Office of the Chief Parliamentary Counsel, the fee units payable for each entitlement transferred have been rounded up (to 1 fee unit, which equates to a fee of \$11.69). To account for the slight increase in cost recovery as a result, the other fee units payable have been rounded down (to 21 fee units, which equates to a fee of \$245.49). As outlined in Section 2.1 above, the estimated annual cost to the VCGR associated with transfers and reallocations is expected to be \$10,251, calculated by adding the estimated fixed costs of \$3,912 (12 transactions x \$326 per transaction) with the estimated variable costs of \$6,340 (624 entitlements x \$10.16 per entitlement). Given that rounding up the fee unit for the transfer of an entitlement equates to a fee of \$11.69, based on 624 entitlements being transferred, this would generate \$7294.56 in revenue. This would leave \$2956.80 (\$10,251 minus \$7294.56) to be recovered through fees for each transaction (there are 12 transactions each year, equating to a fee of \$246.40, or 21.08 fee units). Rounding these fee units down (to 21 fee units) results in a fee of \$245.49, which would mean that the VCGR would slightly under-recover costs overall by \$10.92 each year, based on \$2956.80 to be recovered through fees for transactions versus \$2945.88 actually recovered (12 transactions x \$245.49).

6.2 Change in the administrative burden

Given that the proposed fees are defined as a direct financial cost under the Government's Reducing the Regulatory Burden initiative, the fees do not impose an administrative burden. As such, a Standard Cost Model calculation is not required.

6.3 Implementation and evaluation

The fees will be collected by the VCGR. The VCGR will also monitor the number of transfers and reallocations, and the extent to which these are simple versus complex, to minimise the risk of over- or under- recovering costs. As the cost estimates in this RIS are based upon the expected proportion of simple and complex transfers and reallocations, any significant variation that occurs in practice should prompt a review of the costs and fees.

Stakeholders will be able to comment on this RIS when it is publicly released. The RIS will be exhibited for at least 28 days on the Gambling Licences Review website, and advertised in accordance with the requirements of the *Subordinate Legislation Act 1994*. There is a preference for a 28 day consultation period.

APPENDIX A. ESTIMATED TASKS, COSTS AND FEES

A1. Basic service

Table A1

REALLOCATION OF FORFEITED ENTITLEMENT / TRANSFER OF ENTITLEMENT

VCGR officer	Staff cost*	\$ per minute	Simple application		Complex application	
			Time (min)	Cost	Time (min)	Cost
FIXED COST (PER TRANSACTION)						
Manager CLAM						
• Review and approve or refuse all complex applications	VPSG-6					
• Approve simple applications	\$207,196	\$1.91	5	\$9.57	60	\$114.85
Senior Analyst						
• Review complex applications	VPSG-5					
• Verify simple applications	\$156,614	\$1.45	5	\$7.23	20	\$28.94
Licensing Analyst						
• Retrieve files						
• Assess and analyse application						
• Refer to legal guidelines						
• Prepare details for Transfer Market website						
• Confirm completion of offer						
• Assess source of funds for proposed purchase						
• Make recommendation of application						
• Advise parties of decision	VPSG-3					
• Return files	\$109,923	\$1.02	65	\$66.01	130	\$132.02
Records Manager (IT Management)						
• Update Transfer Market website	VPSG-3					
• Update VCGR website	\$109,923	\$1.02	30	\$30.47	30	\$30.47
FIXED COST (PER TRANSACTION)			\$113.28		\$306.28	
AVERAGE FIXED COST**			\$248.38			
VARIABLE COST (PER ENTITLEMENT)						
Licensing Analyst						
• Check conditions of each entitlement	VPSG-3					
• Update database for each entitlement	\$109,923	\$1.02	10	\$10.16	10	\$10.16
VARIABLE COST (PER ENTITLEMENT)			\$10.16			

Source: Adapted from Victorian Commission for Gambling Regulation 2009.

Note: This model of service assumes that the Manager CLAM takes on the role of reviewing all complex applications, using the time previously allocated to the Executive Commissioner and the Director LOPB. A solicitor would not provide legal advice for transfers.

* Staff cost is based upon the mid-point of the salary range of each position classification, rather than actual salaries. An additional 92 per cent of salary is added to provide for on-costs and corporate overheads, based on the VCGR's calculations.

** This fee represents a weighted average of the simple (30 per cent) and complex (70 per cent) transactions.

The fee for transferring entitlements would be a fixed fee of \$248.38 (21.25 fee units), and a variable fee of \$10.16 (0.87 fee units) per entitlement.⁴

⁴ For entitlement transfers, the fee would be paid by the buyer of the entitlement. For forfeited entitlements, the VCGR would deduct the cost of sale from proceeds forwarded to the previous entitlement holder.

A2 Comprehensive service

Table A2

REALLOCATION OF FORFEITED ENTITLEMENT / TRANSFER OF ENTITLEMENT

VCGR officer	Staff cost*	\$ per minute	Simple application		Complex application	
			Time (min)	Cost	Time (min)	Cost
FIXED COST (PER TRANSACTION)						
Executive Commissioner						
• Review and refuse complex applications	EO-2 \$395,898	\$3.66	0	\$0	20	\$73.15
Director LOPB						
• Review all complex applications	EO-3					
• Approve complex applications	\$307,545	\$2.84	0	\$0	20	\$56.83
Manager CLAM						
• Review all complex applications	VPSG-6					
• Approve simple applications	\$207,196	\$1.91	5	\$9.57	20	\$38.28
Senior Analyst						
• Review complex applications	VPSG-5					
• Verify simple applications	\$156,614	\$1.45	5	\$7.23	20	\$28.943
Licensing Analyst						
• Retrieve files						
• Assess and analyse application						
• Seek legal advice						
• Prepare details for website						
• Confirm completion of offer						
• Assess source of funds for proposed purchase						
• Make recommendation of application						
• Advise parties of decision	VPSG-3					
• Return files	\$109,923	\$1.02	65	\$66.01	130	\$132.02
Records Manager (IT Management)						
• Update Transfer Market website	VPSG-3					
• Update VCGR website	\$109,923	\$1.02	30	\$30.47	30	\$30.47
Solicitor	VPSG-6					
• Provide advice	\$207,196	\$1.91	0	\$0	30	\$57.43
FIXED COST (PER TRANSACTION)				\$113.28	\$417.12	
AVERAGE FIXED COST**				\$325.96		
VARIABLE COST (PER ENTITLEMENT)						
Licensing Analyst						
• Check conditions of each entitlement	VPSG-3					
• Update database for each entitlement	\$109,923	\$1.02	10	\$10.16	10	\$10.16
VARIABLE COST (PER ENTITLEMENT)				\$10.16		

Source: Adapted from Victorian Commission for Gambling Regulation 2009.

* Staff cost is based upon the mid-point of the salary range of each position classification, rather than actual salaries. An additional 92 per cent of salary is added to provide for on-costs, which include WorkCover, superannuation, payroll and corporate overheads, based on the VCGR's calculations.

** This fee represents a weighted average of the simple (30 per cent) and complex (70 per cent) transactions.

The fee for forfeiting or transferring entitlements would be a fixed fee of \$326 (27.89 fee units), and a variable fee of \$10.16 (0.87 fee units) per entitlement.⁵

⁵ For entitlement transfers, the fee would be paid by the buyer of the entitlement. For forfeited entitlements, the VCGR would deduct the cost of sale from proceeds forwarded to the previous entitlement holder.

APPENDIX B. BIBLIOGRAPHY

Bradford, CS 2004, 'Does size matter? An economic analysis of small business exemptions from regulation', *Journal of Small & Emerging Business Law*, Vol. 8, No. 1, pp. 1–37.

Department of Justice 2008, *Gambling Regulation Further Amendment (Licensing) Bill Exposure Draft — Explanatory Statement*, December, Melbourne.

Department of Treasury and Finance, *Guidelines for Setting Fees and User Charges Imposed by Departments and General Government Agencies 2006–07*, Melbourne.

Government of Victoria 2007, *Victorian Guide to Regulation*, Department of Treasury and Finance, Melbourne.

APPENDIX C. THE PROPOSED REGULATIONS

STATUTORY RULES 2009

S.R. No.

Gambling Regulation Act 2003

Gambling Regulation Amendment (Fees) Regulations 2009

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister:

Tony Robinson
Minister for Gaming

Clerk of the Executive Council

1. Objective

The objective of these Regulations is to amend the Gambling Regulation Regulations 2005 to prescribe certain fees in relation to the transfer of gaming machine entitlements.

2. Authorising provision

These Regulations are made under section 11.2.1 of the **Gambling Regulation Act 2003**.

3. Commencement

These Regulations come into operation on 1 October 2009.

4. New Division 1A of Part 9 inserted

After Division 1 of Part 9 of the Gambling Regulation Regulations 20051 insert—

"Division 1A—Gaming machine entitlements

94A Fee payable for gaming machine entitlement transfers

For the purposes of section 3.4A.15(1) of the **Gambling Regulation Act 2003**, the prescribed fee is the amount calculated by adding together 21 fee units and 1 fee units for each gaming machine entitlement that forms part of the transfer.

94B Costs of sale of forfeited gaming machine entitlements that are allocated again

For the purposes of section 3.4A.33(2)(a) of the **Gambling Regulation Act 2003**, the prescribed costs of sale is the amount calculated by adding together 21 fee units and 1 fee units for each gaming machine entitlement that forms part of the sale.