

Authorised Version No. 001
Planning and Environment (Fees)
Regulations 2016

S.R. No. 120/2016

Authorised Version as at
13 October 2016

TABLE OF PROVISIONS

<i>Regulation</i>	<i>Page</i>
1 Objectives	1
2 Authorising provision	2
3 Commencement	2
4 Revocation	2
5 Definitions	2
6 Fees for stages of amendments to planning schemes	3
7 Fee for requesting the Minister to prepare an amendment to planning scheme exempted from certain requirements	7
8 Fee for requesting the Minister to prepare an amendment to a planning scheme prescribed under section 20A	7
9 Fees for applications for permits under section 47	8
10 Composite fee for combined permit applications	14
11 Fees for applications to amend permits under section 72	14
12 Fees for request to amend an application for a permit or an application for an amendment to a permit	16
13 Composite fee for combined application to amend permit	17
14 Fee for application for permit when planning scheme amendment requested	17
15 Fee for application for certificate of compliance	18
16 Fee for application for agreement to a proposal to amend or end an agreement under section 173 of the Act	18
17 Fee for application for planning certificate	18
18 Fee for determining whether anything has been done to the satisfaction of a person or body	19
19 Power to waive or rebate fee relating to amendment of a planning scheme	19
20 Power to waive or rebate fee that does not relate to an amendment to a planning scheme	21
21 Reasons for waiver or rebate of fee to be recorded	22

<i>Regulation</i>	<i>Page</i>
Endnotes	23
1 General information	23
2 Table of Amendments	25
3 Amendments Not in Operation	26
4 Explanatory details	27

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1 Objectives

The objectives of these Regulations are—

- (a) to prescribe fees for the stages of amendments to planning schemes; and
- (b) to prescribe fees for considering applications for permits and applications for amendments to permits; and
- (c) to prescribe fees for considering combined permit applications or combined amendment to permit applications; and
- (d) to prescribe the fee for considering a request to amend an application for—
 - (i) a permit; or
 - (ii) an amendment to a permit—after notice of an application has been given under section 52 of the Act; and
- (e) to prescribe the fee for considering a combined amendment to a planning scheme and a permit application; and
- (f) to prescribe the fee for considering an application for a certificate of compliance; and

- (g) to prescribe the fee for considering an application for agreement to a proposal to amend or end an agreement under section 173 of the Act; and
- (h) to prescribe the fee for considering an application for a planning certificate; and
- (i) to prescribe the fee for determining whether anything has been done to the satisfaction of a responsible authority, Minister, public authority, municipal council or a referral authority; and
- (j) to empower a responsible authority, a planning authority or the Minister to waive or rebate the payment of a fee in specified circumstances.

2 Authorising provision

These Regulations are made under section 203 of the **Planning and Environment Act 1987**.

3 Commencement

These Regulations come into operation on 13 October 2016.

4 Revocation

The Planning and Environment (Fees) Interim Regulations 2015¹ are **revoked**.

5 Definitions

In these Regulations—

the Act means the **Planning and Environment Act 1987**;

VicSmart application means an application for a permit to which the VicSmart planning assessment process applies in accordance with any applicable planning scheme.

6 Fees for stages of amendments to planning schemes

- (1) The fee for the whole or any part of a stage of the process for amending a planning scheme specified in Column 1 of the Table at the foot of this regulation is the fee specified in Column 2 of that Table corresponding to that stage.
- (2) Despite subregulation (1) no fee is payable for an amendment to a planning scheme prepared by the Minister—
 - (a) in respect of which the Minister has exempted himself or herself from the requirements referred to in section 20(4) of the Act; or
 - (b) that is an amendment to a planning scheme of a class of amendment prescribed for the purposes of section 20A(1) of the Act.
- (3) Despite subregulation (1), for one year after the commencement of these Regulations the fee for the whole or any part of a stage of the process for amending a planning scheme is 50% of the fee prescribed under subregulation (1) for that stage.
- (4) A fee prescribed in subregulation (1) or (3) relating to a stage of the process of amending a planning scheme is to be paid—
 - (a) by the person who requested the amendment to the person specified in Column 3 of the Table at the foot of this regulation corresponding to that stage; and
 - (b) at the time specified in Column 4 of that Table corresponding to that stage.

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

Table			
<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Stage in the process for amending a planning scheme</i>	<i>Fee</i>	<i>Person to whom fee is paid</i>	<i>Time at which fee must be paid</i>
Stage 1 which consists of— (a) considering a request to amend a planning scheme; and (b) taking action required by Division 1 of Part 3 of the Act; and (c) considering any submissions which do not seek a change to the amendment; and (d) if applicable, abandoning the amendment.	206 fee units	The planning authority	The time at which the amendment is requested.
Stage 2 which consists of— (a) considering— (i) up to and including 10 submissions which seek a change to an amendment, and where necessary referring the submissions to a panel; or	1021 fee units; or	The planning authority	Before the planning authority considers submissions.

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Stage in the process for amending a planning scheme</i>	<i>Fee</i>	<i>Person to whom fee is paid</i>	<i>Time at which fee must be paid</i>
<p>(ii) 11 to (and including) 20 submissions which seek a change to an amendment, and where necessary referring the submissions to a panel; or</p> <p>(iii) submissions that exceed 20 submissions which seek to change an amendment, and where necessary referring the submissions to a panel; and</p> <p>(b) providing assistance to a panel in accordance with section 158 of the Act; and</p> <p>(c) making a submission to a panel appointed under Part 8 of the Act at a hearing referred to in section 24(b) of the Act; and</p>	<p>2040 fee units; or</p> <p>2727 fee units</p>		

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Stage in the process for amending a planning scheme</i>	<i>Fee</i>	<i>Person to whom fee is paid</i>	<i>Time at which fee must be paid</i>
(d) considering the panel's report in accordance with section 27 of the Act; and			
(e) after considering submissions and the panel's report, abandoning the amendment.			
Stage 3 which consists of—	32.5 fee units if the Minister is not the planning authority or nil fee if the Minister is the planning authority	The planning authority	Before the planning authority adopts the amendment.
(a) adopting the amendment or a part of the amendment in accordance with section 29 of the Act; and			
(b) submitting the amendment for approval by the Minister in accordance with section 31 of the Act; and			
(c) giving the notice of the approval of the amendment required by section 36(2) of the Act.			

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>Stage in the process for amending a planning scheme</i>	<i>Fee</i>	<i>Person to whom fee is paid</i>	<i>Time at which fee must be paid</i>
Stage 4 which consists of— (a) consideration by the Minister of a request to approve the amendment in accordance with section 35 of the Act; and (b) giving notice of approval of the amendment in accordance with section 36(1) of the Act.	32.5 fee units if the Minister is not the planning authority or nil fee units if the Minister is the planning authority	The Minister	At the time the planning authority submits the amendment to the Minister for approval.

7 Fee for requesting the Minister to prepare an amendment to planning scheme exempted from certain requirements

- (1) The fee for requesting the Minister to prepare an amendment to a planning scheme in respect of which the Minister exempts himself or herself from the requirements referred to in section 20(4) of the Act is 270 fee units.
- (2) A person who requests an amendment referred to in subregulation (1) must pay the fee prescribed under that subregulation to the Minister at the time of making the request.

8 Fee for requesting the Minister to prepare an amendment to a planning scheme prescribed under section 20A

- (1) The fee for requesting the Minister to prepare an amendment to a planning scheme of a class of amendment prescribed for the purposes of section 20A(1) of the Act is 65 fee units.

- (2) A person who requests an amendment referred to in subregulation (1) must pay the fee prescribed under that subregulation to the Minister at the time of making the request.

9 Fees for applications for permits under section 47

- (1) For the purposes of section 47(1)(b) of the Act, the fee for an application for a permit (other than an application under section 96(1) of the Act) is the fee specified in Column 2 of the Table at the foot of this regulation corresponding to that class of permit.
- (2) Despite subregulation (1), for one year after the commencement of these Regulations the fee for an application for a class 15 permit is 50% of the fee specified in Column 2 of the Table at the foot of this regulation corresponding to that class of permit.

Table

<i>Column 1</i>		<i>Column 2</i>
<i>Class of permit</i>		<i>Application fee</i>
Class 1	A permit relating to use of land.	89 fee units
Class 2	A permit (other than a class 7 permit or a permit to subdivide or consolidate land) to— (a) develop land for a single dwelling per lot; or (b) use and develop land for a single dwelling per lot; or	13.5 fee units

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>
<i>Class of permit</i>	<i>Application fee</i>
<p style="text-align: center;">(c) undertake development ancillary to the use of land for a single dwelling per lot—</p> <p style="text-align: center;">if the estimated cost of development is more than \$100 000 but no more than \$500 000.</p> <p>Class 5</p>	<p>94 fee units</p>
<p style="text-align: center;">(a) develop land for a single dwelling per lot; or</p> <p style="text-align: center;">(b) use and develop land for a single dwelling per lot; or</p> <p style="text-align: center;">(c) undertake development ancillary to the use of land for a single dwelling per lot—</p> <p style="text-align: center;">if the estimated cost of development is more than \$500 000 but not more than \$1 000 000.</p> <p>Class 6</p>	<p>101 fee units</p>

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>
<i>Class of permit</i>	<i>Application fee</i>
(c) undertake development ancillary to the use of land for a single dwelling per lot— if the estimated cost of development is more than \$1 000 000 but not more than \$2 000 000.	
Class 7	A permit that is the subject of a VicSmart application, if the estimated cost of the development is \$10 000 or less.
Class 8	A permit that is the subject of a VicSmart application, if the estimated cost of the development is more than \$10 000.
Class 9	A permit that is the subject of a VicSmart application to subdivide or consolidate land.
Class 10	A permit to develop land (other than a class 2, class 3, class 7 or class 8 permit or a permit to subdivide or consolidate land) if the estimated cost of development is less than \$100 000.
Class 11	A permit to develop land (other than a class 4, class 5 or class 8 permit or a permit to subdivide or consolidate land) if the estimated cost of development is more than \$100 000 and not more than \$1 000 000.

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>	
<i>Class of permit</i>	<i>Application fee</i>	
Class 12	A permit to develop land (other than a class 6 or class 8 permit or a permit to subdivide or consolidate land) if the estimated cost of development is more than \$1 000 000 and not more than \$5 000 000.	230.5 fee units
Class 13	A permit to develop land (other than a class 8 permit or a permit to subdivide or consolidate land) if the estimated cost of development is more than \$5 000 000 and not more than \$15 000 000.	587.5 fee units
Class 14	A permit to develop land (other than a class 8 permit or a permit to subdivide or consolidate land) if the estimated cost of development is more than \$15 000 000 and not more than \$50 000 000.	1732.5 fee units
Class 15	A permit to develop land (other than a class 8 permit or a permit to subdivide or consolidate land) if the estimated cost of development is more than \$50 000 000.	3894 fee units
Class 16	A permit to subdivide an existing building (other than a class 9 permit).	89 fee units
Class 17	A permit to subdivide land into 2 lots (other than a class 9 or class 16 permit).	89 fee units

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>
<i>Class of permit</i>	<i>Application fee</i>
Class 18	A permit to effect a realignment of a common boundary between lots or to consolidate 2 or more lots (other than a class 9 permit). 89 fee units
Class 19	A permit to subdivide land (other than a class 9, class 16, class 17 or class 18 permit). 89 fee units per 100 lots created
Class 20	A permit to— (a) create, vary or remove a restriction within the meaning of the Subdivision Act 1988 ; or (b) create or remove a right of way; or (c) create, vary or remove an easement other than a right of way; or (d) vary or remove a condition in the nature of an easement (other than a right of way) in a Crown grant. 89 fee units
Class 21	A permit not otherwise provided for in this regulation. 89 fee units

10 Composite fee for combined permit applications

The fee for an application for more than one class of permit set out in the Table at the foot of regulation 9 is the sum of—

- (a) the highest of the fees which would have applied if separate applications had been made; and
- (b) 50% of each of the other fees which would have applied if separate applications had been made.

11 Fees for applications to amend permits under section 72

For the purposes of section 72 of the Act, the fee for an application to amend a permit is the fee specified in Column 2 of the Table at the foot of this regulation corresponding to that class of amendment to a permit.

Table

<i>Column 1</i>	<i>Column 2</i>
<i>Class of amendment to permit</i>	<i>Application fee</i>
Class 1	89 fee units
An amendment to a permit to—	
(a) change the use of land allowed by the permit; or	
(b) allow a new use of land.	

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>	
<i>Class of amendment to permit</i>	<i>Application fee</i>	
Class 2	An amendment to a permit (other than a permit to develop land for a single dwelling per lot or to use and develop land for a single dwelling per lot or to undertake development ancillary to the use of land for a single dwelling per lot)— (a) to change the statement of what the permit allows; or (b) to change any or all of the conditions which apply to the permit.	89 fee units
Class 3	An amendment to a class 2 permit.	13.5 fee units
Class 4	An amendment to a class 3 permit.	42.5 fee units
Class 5	An amendment to a class 4 permit.	87 fee units
Class 6	An amendment to a class 5 or 6 permit.	94 fee units
Class 7	An amendment to a class 7 permit.	13.5 fee units
Class 8	An amendment to a class 8 permit.	29 fee units
Class 9	An amendment to a class 9 permit.	13.5 fee units
Class 10	An amendment to a class 10 permit.	77.5 fee units
Class 11	An amendment to a class 11 permit.	104.5 fee units

Planning and Environment (Fees) Regulations 2016
S.R. No. 120/2016

<i>Column 1</i>	<i>Column 2</i>
<i>Class of amendment to permit</i>	<i>Application fee</i>
Class 12 An amendment to a class 12, 13, 14 or 15 permit.	230.5 fee units
Class 13 An amendment to a class 16 permit.	89 fee units
Class 14 An amendment to a class 17 permit.	89 fee units
Class 15 An amendment to a class 18 permit.	89 fee units
Class 16 An amendment to a class 19 permit.	89 fee units per 100 lots created
Class 17 An amendment to a class 20 permit.	89 fee units
Class 18 An amendment to a class 21 permit.	89 fee units

12 Fees for request to amend an application for a permit or an application for an amendment to a permit

- (1) For the purposes of section 57A(3)(a) of the Act, the fee for a request to amend an application for a permit after notice of the application has been given under section 52 of the Act is 40% of the application fee for that class of permit set out in the Table at the foot of regulation 9 and any additional fee prescribed under subregulation (3).
- (2) For the purposes of section 57A(3)(a) of the Act, the fee for a request to amend an application to amend a permit after notice of the application has been given under section 52 of the Act is 40% of the application fee for that class of amendment to a permit set out in the Table at the foot of

regulation 11 and any additional fee prescribed under subregulation (3).

- (3) If an amendment to an application for a permit referred to in subregulation (1) or an amendment to an application to amend a permit referred to in subregulation (2) were to have the effect of changing the class of that permit to a permit of a new class having a higher application fee set out in the Table at the foot of regulation 9, the applicant must pay an additional fee being the difference between the application fee for the permit that is to be amended and the application fee for the new class of permit set out in that Table.

13 Composite fee for combined application to amend permit

The fee for an application for any combination of matters set out in one or more classes of application in the Table at the foot of regulation 11 is the sum of—

- (a) the highest of the fees which would have applied if separate applications had been made; and
- (b) 50% of each of the other fees which would have applied if separate applications had been made.

14 Fee for application for permit when planning scheme amendment requested

- (1) For the purposes of section 96A(4)(a) of the Act, the fee for an application for a permit when an amendment to a planning scheme is requested is 50% of the fee which would have applied if the application for the permit had been made separately.

- (2) If the application for a permit referred to in subregulation (1) is for more than one class of permit set out in the Table at the foot of regulation 9, the fee for the permit is the highest of the fees which would have applied if separate applications for the permits had been made.

Note

The fee for the purposes of section 96A(4)(a) is in addition to any fee or fees for the amendment to the planning scheme prescribed under regulation 6.

15 Fee for application for certificate of compliance

For the purposes of section 97N(2) of the Act, the fee for an application for a certificate of compliance is 22 fee units.

16 Fee for application for agreement to a proposal to amend or end an agreement under section 173 of the Act

For the purposes of section 178A(2)(c) of the Act, the fee for an application for agreement by the responsible authority to a proposal to amend or end an agreement under section 173 of the Act is 44.5 fee units.

17 Fee for application for planning certificate

For the purposes of section 198(2) of the Act, the fee for an application for a planning certificate is—

- (a) 1.5 fee units where the application is not made electronically;
- (b) \$7.00 where the application is made and finalised electronically.

18 Fee for determining whether anything has been done to the satisfaction of a person or body

- (1) If a planning scheme specifies that a matter must be done to the satisfaction of a responsible authority, Minister, public authority, municipal council or a referral authority, the fee for determining if that matter has been done satisfactorily is 22 fee units.
- (2) The person who seeks a determination under subregulation (1) must pay the fee prescribed under that subregulation to the person who or which is to make the determination when the determination is requested.

19 Power to waive or rebate fee relating to amendment of a planning scheme

A planning authority or the Minister may wholly or in part waive or rebate the payment of a fee for considering a request to amend a planning scheme or carrying out any stage of the process for amending a planning scheme if—

- (a) the request has been withdrawn and a new request submitted in its place; or
- (b) the amendment combines separate items from more than one request for an amendment to a planning scheme into one amendment; or
- (c) in the opinion of the planning authority or the Minister—
 - (i) the request imposes on the planning authority or the Minister (as the case may be) no appreciable burden or a lesser burden than usual for supplying that service; or

- (ii) the primary intention of the amendment is to substantially assist in the implementation of State, regional or local policy; or
- (iii) the primary intention of the amendment is to upgrade and improve the planning scheme in the public interest; or
- (iv) the amendment implements a review of the planning scheme completed under section 12B of the Act; or
- (v) the amendment rewrites and restructures the planning scheme so that it may be more readily understood, without changing the planning policy; or
- (vi) the primary intention of the amendment is to make the planning scheme consistent in form and content with the directions or guidelines issued by the Minister under section 7 of the Act; or
- (vii) the primary intention of the amendment is to remove errors or anomalies in the planning scheme; or
- (viii) the request has been made by a person or group of persons standing to gain no financial benefit from the amendment; or
- (ix) the amendment is not intended to financially benefit an owner or group of owners of land.

20 Power to waive or rebate fee that does not relate to an amendment to a planning scheme

A responsible authority or the Minister may wholly or in part waive or rebate the payment of a fee, which the responsible authority or the Minister has received in connection with matters that do not relate to an amendment to a planning scheme, if—

- (a) an application is withdrawn and a new application is submitted in its place; or
- (b) in the opinion of the responsible authority or the Minister the payment of the fee is not warranted because—
 - (i) of the minor nature of the consideration of the matter decided or to be decided; or
 - (ii) the requested service imposes on the responsible authority or the Minister (as the case may be) no appreciable burden or a lesser burden than usual for supplying that service; or
- (c) in the opinion of the responsible authority or the Minister (as the case may be) the application or determination assists—
 - (i) the proper development of the State, region or municipal district; or
 - (ii) the proper development of part of the State, region or municipal district; or
 - (iii) the preservation of buildings or places in the State, region or municipal district which are of historical or environmental interest; or
- (d) the application relates to land used exclusively for charitable purposes.

21 Reasons for waiver or rebate of fee to be recorded

If a planning authority, responsible authority or the Minister wholly or partly waives or rebates the payment of a fee under regulation 19 or 20, the authority or Minister (as the case requires) must cause the matters taken into account and which formed the basis of the decision to waive or rebate the fee to be recorded in writing.

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

The Planning and Environment (Fees) Regulations 2016, S.R. No. 120/2016 were made on 27 September 2016 by the Governor in Council under section 203 of the **Planning and Environment Act 1987**, No. 45/1987 and came into operation on 13 October 2016: regulation 3.

The Planning and Environment (Fees) Regulations 2016 will sunset 10 years after the day of making on 27 September 2026 (see section 5 of the **Subordinate Legislation Act 1994**).

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided regulation, rule or clause of a Schedule is amended by the insertion of one or more subregulations, subrules or subclauses the original regulation, rule or clause becomes subregulation, subrule or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original regulation, rule or clause.

Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any heading inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. This includes headings to Parts, Divisions or Subdivisions in a Schedule; Orders; Parts into which an Order is divided; clauses; regulations; rules; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A)(2B).

- **Examples, diagrams or notes**

All examples, diagrams or notes included in a Statutory Rule which is made on or after 1 January 2001 form part of that Statutory Rule. Any examples, diagrams or notes inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, form part of that Statutory Rule. See section 36(3A).

- **Punctuation**

All punctuation included in a Statutory Rule which is made on or after 1 January 2001 forms part of that Statutory Rule. Any punctuation inserted in a Statutory Rule which was made before 1 January 2001, by a Statutory Rule made on or after 1 January 2001, forms part of that Statutory Rule. See section 36(3B).

- **Provision numbers**

All provision numbers included in a Statutory Rule form part of that Statutory Rule, whether inserted in the Statutory Rule before, on or after 1 January 2001. Provision numbers include regulation numbers, rule numbers, subregulation numbers, subrule numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of a Statutory Rule is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of a Statutory Rule. See section 36(3)(3D)(3E).

2 Table of Amendments

There are no amendments made to the Planning and Environment (Fees) Regulations 2016 by statutory rules, subordinate instruments and Acts.

3 Amendments Not in Operation

There are no amendments which were Not in Operation at the date of this publication.

4 Explanatory details

¹ Reg. 4: S.R. No. 116/2015.

Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2016 is \$13.94. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.