

# A guide to making an appeal

## Customs Appeal Authority

### Using this guide

This guide will provide you with the information needed to complete your notice of appeal application form against a decision of the Customs Appeal Authority (CAA).

### Are you unhappy with a ruling of the New Zealand Customs Service?

The Customs Appeal Authority (CAA) is an independent judicial body administered by the Ministry of Justice. It hears appeals against decisions, assessments, rulings, determinations, or directions of the Chief Executive.

Appeals before the Authority are in the nature of a rehearing. This means that the Authority can re-examine all or part of the evidence, as if it were being presented for the first time. It can confirm, reverse, or amend a decision in accordance with the Customs and Excise Act 1996.

The Authority is composed of one person appointed by the Governor-General upon the recommendation of the Ministers of Customs, and Justice. Hearings are held throughout New Zealand.

Step 4 of the 'Notice of Appeal' form requests an outline of the facts you believe support your appeal. Step 5 of the form requests the grounds of your appeal. The grounds of your appeal should explain why you think the decision is wrong. Step 6 of the form asks you to list the documents you rely on. Documents include materials you believe support your case.

### When should you file your appeal?

You must file your 'Notice of Appeal' with the Authority, within 20 working days of the date of the New Zealand Customs Service decision. If you need more time to prepare your appeal, you must request an extension of time. Your request must be submitted in writing to the Registrar of the Authority.

An extension of time to file your appeal requires good reasons. An application for extension of time may not always be granted.

The application must be made to the Authority within the original 20 days for filing an appeal, otherwise the right of appeal to the Customs Appeal Authority is lost.

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## What are the fees and costs?

### Fee

A fee of \$410 is payable when you file your 'Notice of Appeal'. Please refer to the Customs Appeal Authority website for information on how to pay; <https://www.justice.govt.nz/tribunals/customs-appeal-authority/apply/>

### Fee Waiver

Within the time allowed for filing your appeal, you may apply to the Registrar of the Authority, for a waiver of the filing fee if:

- You have been granted legal aid in respect of your appeal, or
- You have not been granted legal aid but are dependent for the payment of your living expenses on any of the following:
  - Unemployment Benefit
  - Sickness Benefit
  - Domestic Purposes Benefit
  - Emergency Benefit
  - Independent Youth Benefit
  - Invalid's Benefit
  - Widow's Benefit
  - Veteran's Pension
  - you are wholly dependent on New Zealand Superannuation
  - your income potentially qualifies you for legal aid

You must fill out an 'Application for fee waiver' form which you can download from [www.justice.govt.nz/caa](http://www.justice.govt.nz/caa)

### Costs

The Authority may order one party to pay the other party reasonable costs and expenses (including witness expenses).

If a party fails to appear at the time fixed for a hearing, or does not give sufficient notice that they are no longer pursuing an appeal, the Authority may order them to pay reasonable costs to the New Zealand Customs Service.

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## How to appeal?

To file an appeal, you must fill out a 'Notice of Appeal' form and file it with the Authority together with the **\$410** filing fee (see 'Fee Waiver'). You can file your application in person, or by post. The addresses can be found at the end of this guide.

You can download a 'Notice of Appeal' form from [www.justice.govt.nz/caa](http://www.justice.govt.nz/caa).

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## **Do you need to have a lawyer?**

No, you do not need to have a lawyer. You may choose to present your own case or have a lawyer, or an advocate do this for you. An advocate may be a lawyer or an experienced person who knows the process and who may be able to help you present your case. What is important is that your case is presented clearly.

If you do use a lawyer, you may be entitled to receive legal aid to help with legal costs. A lawyer, your local Citizens Advice Bureau or Community Law Centre can advise on this.

The Chief Executive of the New Zealand Customs Service is usually represented by a lawyer.

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## **What happens next?**

Once your appeal has been filed, the Authority will send a copy of your 'Notice of Appeal' to the Chief Executive.

The Authority will schedule a telephone call with all the parties to identify the issues, facts, and law relevant to your appeal. The parties must attend the call unless the Authority consents to their non-attendance.

The purpose of the telephone call is to clarify the issues to be determined in the appeal and set a timetable for filing further evidence and a hearing date. It may also determine whether or not there is a possibility of settlement before the hearing.

The telephone call will identify any matters required to be determined prior to the appeal, such as rulings on evidence or witnesses or whether the appeal may be decided on the papers. The telephone call will also be an opportunity for the parties to raise any concerns they have relating to the process leading to the appeal. The Authority will determine the process to identify what facts are disputed and what the parties say about the law.

After the telephone call, the Authority may, if necessary, issue a minute making directions addressing the discussion in the telephone call. Both parties must comply with any directions made by the Authority. If either party is unable to comply with any directions, they must inform the Authority before that direction is due to be complied with.

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## **Will there be a hearing?**

If you and the Chief Executive agree, and the Authority believes that it is proper and there is no dispute about the facts, your appeal may be decided 'on the papers'. A decision 'on the papers' is based only on written submissions of both parties. This means you do not have to attend a hearing.

If, however, the Authority considers a hearing to be necessary (usually, to hear witness evidence and have the witness cross-examined), the Authority will advise you of the date, time, and place of your hearing.

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## **Do you require an interpreter?**

If you require an interpreter, please complete the details on the 'Notice of Appeal.' It is important you include what language you speak.

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## What happens at a hearing?

Hearings before the Authority are formal and open to the public.

### Who will be at the hearing?

- The Authority
- You and your lawyer or agent (unless you are representing yourself)
- A New Zealand Customs Service lawyer and another representative of the Chief Executive
- Witnesses

### What happens at the hearing?

Both parties will have the opportunity to present their case. There will be an opportunity to present witnesses. Questions can be asked of witnesses, including you if you give evidence.

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## How do I find out about the decision?

Following the hearing, the Authority will issue a written decision to all parties, which will include reasons for its decision.

If you think the Authority got the law or facts wrong in making its decision, you can file an appeal to the High Court on questions of law or fact.

Appeals to the High Court must be filed within 20 working days after the date your appeal decision is issued.

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## Authority contact details

Customs Appeal Authority  
SX 11159  
Wellington  
New Zealand

Address: Level 1, 86 Customhouse Quay, Wellington 6011  
Phone: 04 462 6660  
Email: [tribunals@justice.govt.nz](mailto:tribunals@justice.govt.nz)  
Website: [www.justice.govt.nz/caa](http://www.justice.govt.nz/caa)

