



A Guide to Making an Appeal

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

If you are not satisfied with a decision, assessment, ruling, determination, or direction of the Chief Executive of the New Zealand Customs Service, you may be able to appeal this decision to the Customs Appeal Authority.

Appeals to the Authority

The Customs Appeal Authority 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 2018.

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.

Part 4 of the 'Notice of Appeal' form requests an outline of the facts of the case. This is asking for a description of the facts that you believe support your appeal. Part 5 of the form requests the grounds of your appeal. The grounds of your appeal should explain why you are appealing the decision, and why you think the decision is wrong. Part 6 of the form asks you to list the documents you are relying on. Documents include anything that you believe supports 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. You must explain why you need an extension of time to file your appeal. 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.

What are the fees and costs?

Fee

A fee of **\$410** is payable when you file your 'Notice of Appeal'. Please make all cheques payable to: **Ministry of Justice**. Please do not send cash.

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
 - a Veteran's Pension
 - you are wholly dependent on New Zealand Superannuation

You must fill out an 'Application for Waiver of Fees' form which you can download from www.justice.govt.nz/tribunals

Costs

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

If you fail to appear at the time fixed for a hearing, or do not give sufficient notice that you are no longer pursuing your appeal, the Authority may order you to pay reasonable costs to the New Zealand Customs Service.

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/tribunals

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 will be represented by its in-house lawyer.

What happens next?

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

A pre-hearing telephone conference will be scheduled as soon as possible. The purpose of this telephone conference is to identify the issues, facts, and law relevant to your appeal. The conference will also determine whether or not there is a possibility of settlement before the hearing.

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.

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.

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 other representative of the Chief Executive (usually the person who issued the decision, assessment, ruling, determination, or direction on behalf of the Chief Executive)

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.

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.

Authority Contact Details



The Registrar, Customs Appeal Authority
Tribunals Unit
Private Bag 32-001, Panama Street, Wellington 6146
Level 1, 86 Customhouse Quay, Wellington 6011

www.justice.govt.nz/tribunals

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