



Australian Government
Department of Agriculture,
Fisheries and Forestry

Policy on refunds and remissions for cost-recovery charges

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Acknowledgement of Country

We acknowledge the continuous connection of First Nations Traditional Owners and Custodians to the lands, seas and waters of Australia. We recognise their care for and cultivation of Country. We pay respect to Elders past and present, and recognise their knowledge and contribution to the productivity, innovation and sustainability of Australia's agriculture, fisheries and forestry industries.

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Introduction

The Department of Agriculture, Fisheries and Forestry incurs a range of costs in the performance of its functions and the exercise of its powers under its portfolio legislation. The department is responsible for collecting prescribed fees and charges from industry and the public, on the basis of recovering its costs related to those activities, unless a remission or refund is justified according to the legislative criteria.

This policy is intended to assist industry participants to understand how to request remissions or refunds of cost-recovery charges under the relevant provisions of the *Biosecurity Act 2015*, *Export Control Act 2020*, *Imported Food Control Act 1992* and *Imported Food Charges (Collection) Act 2015*.

Glossary

Term	Definition
charge	An amount imposed under charging legislation (Scope of remission and refund provisions). For example, it is imposed to recover costs of activities that support the permit system. These include, recovering costs related to the maintenance of the Biosecurity Import Conditions (BICON) system, the New Export Documentation System (NEXDOC), the Imported Food Inspection Scheme (IFIS), and the development and ongoing review of import conditions.
cost-recovery	Refers to the department's activities to collect prescribed fees and charges from industry and the public associated with its regulatory activities, which are done in accordance with the Australian Government Charging Framework.
cost-recovery charge	In general, this term may refer to both fees and charges, as well as related late payment fees. In the context of each legislative scheme, see Scope of remission and refund provisions .
fee	A fee specified in the relevant legislation for provision of a fee-bearing activity or service. For example, it is imposed to recover costs of the assessment work undertaken by biosecurity, export or food control officers to determine and manage biosecurity and other risks in relation to the import and exports of goods.
late payment fee	A type of cost-recovery charge that must be paid in addition to a basic charge that has not been paid on or before the time it is due and payable under the relevant legislation.
refund	To pay back to a person or organisation the amount of a cost-recovery charge paid by that person or organisation to the Commonwealth.
remit (or remission as the noun of the verb remit)	To cancel a cost-recovery charge (in whole or part) that is payable but has not yet been paid by a person or organisation to the Commonwealth. The <i>Imported Food Control Act 1992</i> instead uses 'waiver' in place of 'remission'.

1 Scope of remission and refund provisions

The remission and refund provisions apply to cost-recovery charges that are imposed by their respective legislation (Table 1).

Table 1 Application of remission and refund provisions to cost-recovery charges

Remission or refund provision	Application to cost-recovery charges
Biosecurity: Section 613(1) of the <i>Biosecurity Act 2015</i>	<ul style="list-style-type: none"> • A fee for a fee-bearing activity ^a • A charge imposed by the biosecurity charging legislation ^b • A related late payment fee
Export control: Section 405(1) of the <i>Export Control Act 2020</i>	<ul style="list-style-type: none"> • A fee for a fee-bearing activity ^c • A charge imposed by the export control charging legislation ^d • A related late payment fee
Imported food control: <ul style="list-style-type: none"> • Sections 36(5)–(6) of the <i>Imported Food Control Act 1992</i> • Section 15(1) of the <i>Imported Food Charges (Collection) Act 2015</i> 	<ul style="list-style-type: none"> • A fee for a chargeable service ^e • A charge imposed by the imported food control charging legislation ^f and related late payment fee

a Biosecurity Regulation 2016. **b** *Biosecurity Charges Imposition (Customs) Act 2015*, *Biosecurity Charges Imposition (Excise) Act 2015*, *Biosecurity Charges Imposition (General) Act 2015*, *Biosecurity Charges Imposition (Customs) Regulation 2016*, *Biosecurity Charges Imposition (General) Regulation 2016*. **c** Prescribed by the *Export Control (Fees and Payments) Rules 2021*. **d** *Export Charges (Imposition—Customs) Act 2015*, *Export Charges (Imposition—Excise) Act 2015*, *Export Charges (Imposition—General) Act 2015*, *Export Charges (Imposition—Customs) Regulations 2021*, *Export Charges (Imposition—General) Regulations 2021*.

2 Criteria for remission or refund

The request will be assessed according to the legislative criteria of the relevant scheme, as outlined below. A remission or refund of a cost-recovery charge may only occur if:

- under the biosecurity legislation, the agriculture minister or delegate is satisfied there are exceptional circumstances that justify doing so (*Biosecurity Act 2015*, section 613(1))
- under the export control legislation, the secretary of the department or delegate is satisfied that there are circumstances that justify doing so (*Export Control Act 2020*, section 405(1)), or
- under the imported food control legislation
 - in relation to fees for chargeable services that were rendered, the secretary of the department or delegate considers it appropriate in all the circumstances to waive the fee (*Imported Food Control Act*, section 36(5))
 - in relation to fees for chargeable services, whether the fee was paid but the service was not rendered (*Imported Food Control Act*, section 36(6)), or
 - in relation to imported food charges and related late payment fees, the secretary of the department or delegate considers it appropriate to do so (*Imported Food Charges (Collection) Act 2015*, section 15(1)).

The decision-maker will consider whether the request meets the criteria, having regard to all of the circumstances, including any submissions you provide, and the broader context of the regulatory scheme.

2.1 Biosecurity legislation – exceptional circumstances

Under the biosecurity legislation, a remission or refund of a cost-recovery charge may only occur if the minister or their delegate is satisfied there are exceptional circumstances that justify doing so (*Biosecurity Act 2015*, section 613(1)).

‘Exceptional circumstances’ is not a defined term in the biosecurity legislation. The department adopts its ordinary meaning.

Generally, the department considers that circumstances may be exceptional where they are unusual, special, or uncommon in some way, or not regularly, routinely, or normally occurring. However, they do not need to be unique, rare, or unprecedented.

Whether ‘exceptional circumstances’ exist depends on the facts of each case and on the evidence available to the department at the time of the decision. Each decision to remit or refund will turn on its own merits.

The following are examples of what may or may not be considered to be exceptional circumstances. These examples are to be used as a guide only, to illustrate the types of circumstances that may or may not fulfil the criteria.

Examples of circumstances that may be exceptional

- **Applicant errors** – for example, a person accidentally submits duplicate permit applications for the same consignment or accidentally creates and pays for an application charge and/or assessment fee for a duplicate permit, and the request is accompanied by evidence that the duplicate permit was not needed and proofs of payment.
- **Department error** – for example, due to a departmental system error, an application was never assessed and the department withdrew the application; or where a person makes a permit application on incorrect advice given by the department. The request would need to be accompanied by evidence of the actions taken by the applicant and the department.
- **Unexpected death of an animal** – for example, a family pet unexpectedly dies shortly after lodging a permit application concerning that pet. The request would need to be accompanied by recent evidence from a veterinarian.

Examples of circumstances that are unlikely to be exceptional

- **Application unsuccessful** – for example, where a person has applied for a permit relating to certain goods, the application was assessed, and the permit was refused.
- **Change of mind or change of circumstances** – for example:
 - where a person has simply changed their mind about importing goods or makes changes to a reservation with no rationale or explanation

- where a person decides not to proceed with a permit application or a reservation over concerns for the animal's health following veterinary advice
- where there is a change in travel plans, employment or pre-existing health condition.
- **Futile application** – for example, if a person applied for a permit to import goods that are not permitted entry to Australia.

Refunds and remissions are not permitted just because exceptional circumstances are identified. The decision-maker will also consider whether the exceptional circumstances justify the refund and remission of the cost-recovery charge having regard to all of the circumstances.

2.2 All cost-recovery legislation – justified or appropriate

It is necessary under the biosecurity, export control and imported food control legislation for the department to consider whether it is justified or appropriate to remit or refund the cost-recovery charge.

In considering whether remission or refund is justified (or whether waiver is appropriate in the context of cost-recovery charges imposed under the *Imported Food Control Act 2015*), the decision-maker will consider all of the circumstances, having regard to the evidence and information before them.

Factors that the decision-maker may consider:

- Whether the circumstances were outside the control of the person or could not be planned for.
- Whether the person has taken reasonable steps to reduce their liability, such as informing the department as early as possible of changes or errors. Repeated mistakes by the same person may no longer be 'exceptional' in the context of their pattern of behaviour. Similarly, if a person has been previously advised of proper process and has not followed it, this may increase the person's liability for incurring the charge.
- Whether the cost-recovery charge is a charge or a fee. If it is a charge, the decision-maker may consider the cost to the department of providing the indirect facility or service.
- If it is a fee, how much work the department has done in relation to the fee for service.
- Whether there were any circumstances that led to the person's decision not to proceed. For example, a person who has submitted an application for a permit withdraws the application after being notified of the outcome of an assessment.

2.3 Multiple cost-recovery charges

If the request relates to multiple cost-recovery charges, the decision-maker may need to make a decision on each of the cost-recovery charges separately, noting they may be subject to different remission or refund criteria, imposed under different legislation and/or have different circumstances.

3 Supporting evidence

The decision-maker will consider any supporting evidence in making the decision on a request for remission or refund of cost-recovery charges. In some but not all cases, the person responsible for

payment may be requested to provide further details to the department relating to the reason for a remission or refund and/or any further evidence.

The request should be supported by evidence sufficient to establish the facts and circumstances claimed, such as the reason why the request for remission or the refund was made. Supporting evidence to accompany the request may include:

- medical or scientific evidence, such as veterinary reports
- authorised copies of identification documents and certificates
- financial statements from the last financial year to present
- statutory declaration
- witness statement
- photographs
- letters and other correspondence.

Examples of supporting documentation that could be provided include:

- a request related to the illness or death of an animal could be accompanied by veterinary reports, a letter from a veterinarian, a statutory declaration and/or certificates evidencing the change of circumstances since incurring the cost-recovery charge
- a request for medical reasons could be accompanied by a medical certificate from the relevant treating practitioner explaining the change of circumstances since incurring the cost-recovery charge
- if the request relates to a financial hardship claim, the request could be accompanied by bank statements and notices evidencing the change in circumstances since incurring the cost-recovery charge.

You are not required to provide evidence in support of your request. However, to ensure your request can be progressed as efficiently as possible, it should be accompanied by all relevant information and documentation to assist the decision-maker in making the decision according to the refund and remission criteria relevant to that cost-recovery charge.

4 Lodging a request for remission or refund

A request for remission or refund of a cost-recovery charge must be made in writing to the department. The minister, secretary and their delegates will not consider verbal requests for remission or refund. The request should identify:

- the cost-recovery charge sought to be remitted or refunded
- whether the cost-recovery charge has been paid
- whether refund or remission is sought in full or part
- whether there are any late payment fees sought to be refunded
- the invoice reference number.

The request should be accompanied by:

- detailed reasons for the request according to the [criteria for remission or refund](#)
- [supporting evidence](#)
- if relevant to the reason for the request, proof of payment (e.g. transaction statement).

Lodge your written request via email CostRecovery@aff.gov.au.

5 Notification of the decision

You will be informed in writing of the outcome of the request. If it is approved, the department will take steps to process the refund and remission to the bank account you nominated in your request.

For assistance related to this policy email CostRecovery@aff.gov.au.