

OFFICIAL



COST RECOVERY IMPLEMENTATION STATEMENT

Development of food regulatory measures

1 July 2024 to 30 June 2025

Version 1.2

Charging for regulatory activity involves government entities charging individuals or organisations in the non-government sector some or all of the minimum efficient costs of a specific government activity. The Cost Recovery Policy along with the Australian Government Charging Framework (the Charging Framework) sets out the policy under which government entities design, implement and review charging for regulatory activities, consistent with the *Public Governance, Performance and Accountability Act 2013*. The Cost Recovery Implementation Statement is the public document to ensure the transparency and accountability for the level of the charging and to demonstrate that the purpose for charging, as decided by Government, is being achieved.

OFFICIAL

1. INTRODUCTION

1.1 Purpose of the Cost Recovery Implementation Statement

This Cost Recovery Implementation Statement (CRIS) provides information on how Food Standards Australia New Zealand (FSANZ) implements cost recovery for developing food regulatory measures. It outlines the fees that will apply for the 2024-25 financial year and provides financial forecasts for the 2024-25 financial year and three forward years.

FSANZ will maintain the CRIS until the activity or cost recovery for the activity has been discontinued.

1.2 Application to change the Food Standards Code

FSANZ recovers costs associated with applications to vary the Australia New Zealand Food Standards Code (the Code) in two circumstances:

- the applicant has requested to have the consideration of the application expedited; or
- the application is to develop or vary a standard and the development or variation of the standard would confer an exclusive capturable commercial benefit on the applicant.

Food standards can be varied in response to an application from an agency, body, or individual, or a proposal prepared on FSANZ's initiative. Decisions by the FSANZ Board to approve variations to the Code are subject to consideration by the Food Ministers Meeting (previously known as the Australia and New Zealand Ministerial Forum on Food Regulation), whose members are ministers from the Australian, State, Territory and New Zealand Governments. The decision of the FSANZ Board to approve a variation for consideration by the Food Ministers' Meeting is a non-delegable decision.

The *Food Standards Australia New Zealand Act 1991* (FSANZ Act) establishes procedures for the assessment of applications to amend the Code. Similar procedures are established for proposals, but they are not relevant to this CRIS as no costs are recovered for proposals.

FSANZ assesses applications under one of four procedures, which are established and described in the FSANZ Act:

general procedure – the default procedure under which most applications and proposals are assessed. The general procedure is described in Subdivision D Division 1 of Part 3 of the FSANZ Act. It must be applied unless the conditions for the other procedures exist¹.

minor procedure – is only used if a variation does not alter the legal effect of a standard i.e. the procedure is only for correcting matters such as typographical errors. The procedure is not relevant to paid applications as cost recovery of minor procedure applications was repealed in 2019.

major procedure – is used for applications that would create a new food regulatory measure, would significantly change the scope of a measure or involve scientific or technical complexity, requiring extended consultation. Essentially, a major procedure application is a general procedure application with an additional round of public consultation after the assessment step.

high level health claim variation procedure – is used to make a change in Schedule 4 of the Code to the list of high level health claims (section S4—4). The levels for this procedure mirror, generally, those for the general procedure. The high level health claim variation application

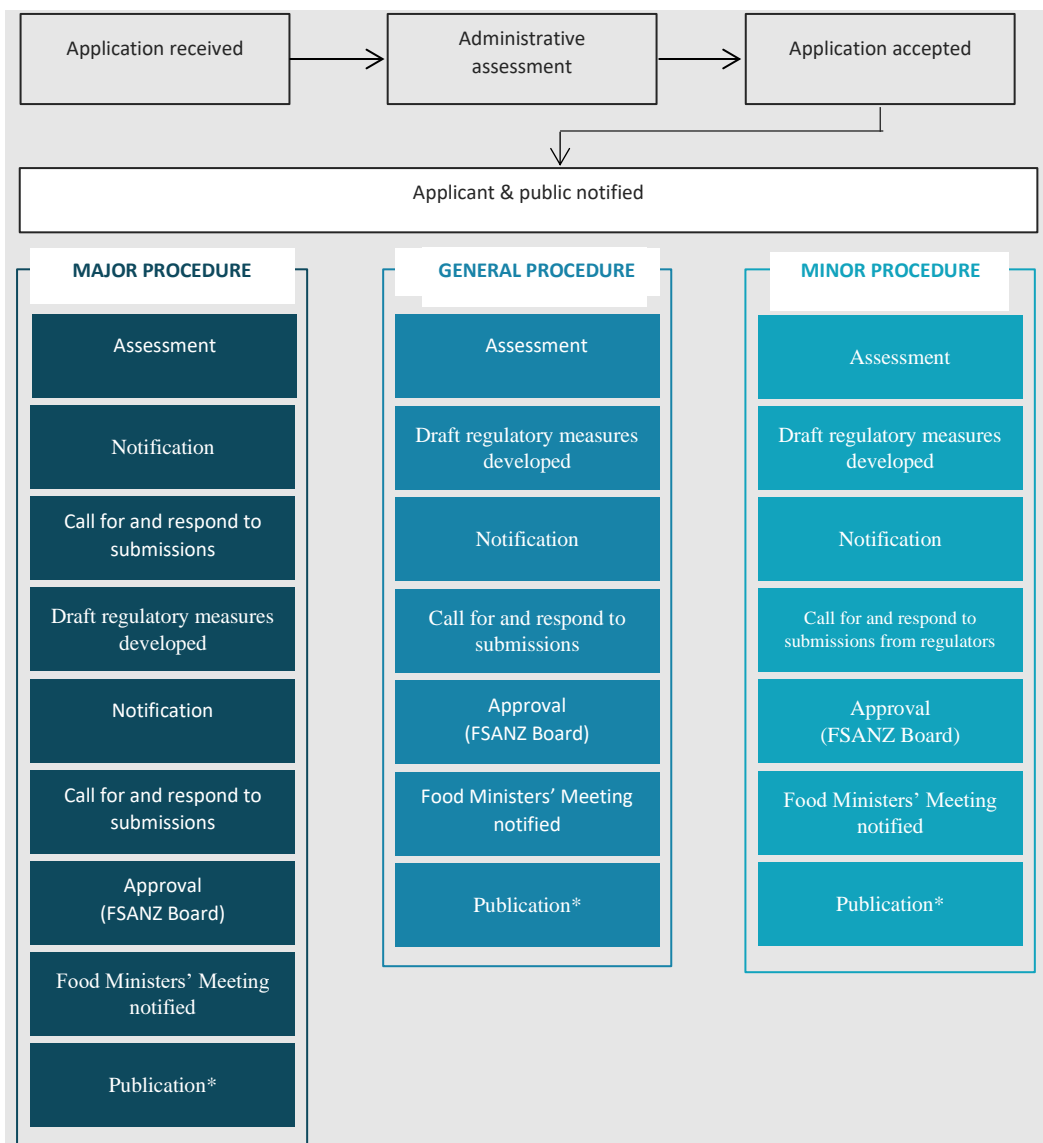
¹ Section 25 FSANZ Act. The other procedures are described in Subdivisions E, F and G.

requires a modification of the general procedure to include consultation with an independent expert committee that is mandated by the FSANZ Act and the Food Regulation Standing Committee, a policy advisory body established by the Food Regulation Agreement between the Australian Government and state and territory governments. FSANZ is not required to consult publicly under this procedure unless the applicant requests public consultation.

1.3 Description of the regulatory charging activity

The assessment of an application (Figure 1) includes activities relating to risk assessment, risk management, risk communication, legal drafting, consultation, general administrative work and standards management work. These activities are undertaken by FSANZ, who employ a range of highly qualified staff such as toxicologists, food technologists, dietary modellers, labelling experts, microbiologists, social scientists and lawyers to undertake this work.

Figure 1: Application assessment process



*Publication of application subject to outcomes of Food Ministers' Meeting.

2 POLICY AND STATUTORY AUTHORITY TO COST RECOVER

2.1 What policy outcomes will the activity achieve?

The activities are appropriate for cost recovery for the following reasons:

- they provide an important means of improving the efficiency and equity with which Government services are provided
- the charging of fees sends a price signal to individuals or groups about the cost or value of a government activity and
- the services are requested by an identifiable group of parties who cause effort for the assessment of their applications.

This CRIS describes the cost recoverable activities that have contributed to the achievement of the FSANZ Outcome as outlined in the 2023-24 Health Portfolio Budget Statement.

A safe food supply and well-informed consumers in Australia and New Zealand, including through the development of food regulatory measures and the promotion of their consistent implementation, coordination of food recall activities and the monitoring of consumer and industry food practices.

2.2 Who will pay the regulatory charges?

Fees will be charged to applicants that fulfil one of the criteria under the FSANZ Act:

- a) the applicant has requested to have the consideration of the application expedited; or
- b) the application is to develop or vary a standard and the development or variation of the standard would confer an exclusive capturable commercial benefit on the applicant.

2.3 Government policy approval to cost recover the activity

In 1999, the FSANZ Act was amended to authorise FSANZ to charge a fee, Government's Second Reading speech² to the 1999 Bill explicitly recognised charging based on full cost recovery. There has been no government decision to recover partial costs. Cost recovery is implemented through enforcement of provisions of the *Food Standards Australia New Zealand Regulations 1994* (FSANZ Regulations).

2.4 Statutory authority to charge

FSANZ's authority to recover costs is set out in section 146 of the FSANZ Act which provides that the regulations may fix charges for services provided by FSANZ.

Part 4, sections 6B to 9 of the FSANZ Regulations establish the rates of charging, identify the circumstances in which instalments may be paid and the process for paying refunds.

²<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=CHAMBER;id=chamber%2Fhansards%2F1999-12-06%2F0006;query=Id%3A%22chamber%2Fhansards%2F1999-12-06%2F0000%22>

3 COST RECOVERY MODEL

Cost recovery fees are charged where a direct relationship exists between the regulatory activity and the individual or organisation requesting that specific activity. All regulated entities are charged a fee depending on the level of the procedure undertaken.

3.1 Regulatory activities included in the model

The following business processes are included in each application fee. The table also outlines the relevant section of the FSANZ Act that provides authority to undertake the business process and details of the activities conducted that a relevant fee would be liable to be paid.

Table 1. Business processes

| Business process | Relative section of FSANZ Act | Activities included: |
|--|--------------------------------------|--|
| a) Receiving and processing an application | Section 22, 26 and 27 | <ul style="list-style-type: none"> • receipt of application by the Standards Management Officer • nomination of project manager • preparation of advice about acceptance or rejection of application • decision to accept or reject an application must be made by the Board or a delegated Senior Executive Officer. |
| b) Assessing an application | Section 29 | <ul style="list-style-type: none"> • assessments are performed by specialist risk managers, risk assessors and risk communicators • The level of staff engaged in the assessment task will vary depending on the issues raised by the application. |
| c) Drafting variations to the Code | Section 30 | <ul style="list-style-type: none"> • specialist lawyers on instructions from the project manager develop drafting instructions based on what is included in the assessment item. |
| d) Public notification of decision | Section 28 and 34 | <ul style="list-style-type: none"> • the Standards Management Officer and the Communications team prepare and publish notification documentation. |
| e) Call for, and response to, submissions | Section 31, 32(2), 32(3) | <ul style="list-style-type: none"> • the project manager and risk management team seek public engagement and consider responses, resource requirements are dependent on the level of engagement. |
| f) Approval | Section 33 | <ul style="list-style-type: none"> • A decision to approve or reject a draft variation must be made by the FSANZ Board • FSANZ must prepare and publish a report that provides reasons for the decision in a mandatory format • this activity includes input from the Board, the Board Secretariat, Standards Management, the project manager and risk managers and legal advisers. |

| Business process | Relative section of FSANZ Act | Activities included: |
|---|-------------------------------|--|
| g) Records Management | | <ul style="list-style-type: none"> the Standards Management Officer, with some minor input by the Communications teams ensure that the documentation complies with Australian Government law and policy relating to the management of information. |
| h) Notification and registration of amendments to the Code. Registration of compilations | Section 92 | <ul style="list-style-type: none"> food regulatory measures or variation are published by Gazette notice in Australia and New Zealand, and on the FSANZ website. the Code is a legislative instrument that must be published in the Australian Government's Federal Register of Legislation. this is work that is managed by Standards Management Officer with signing under appropriate Delegated authority. |

While there can be minor variations, all elements, other than b. and e. are relatively generic for most applications. Elements b. and e. are variable because each application presents its own set of risk analysis issues.

3.2 Costs and assumptions of the regulatory charging activity

In line with the CRGs, the activity-based costing model includes the following costs³:

Direct costs: Direct costs included in this model are staff salaries (including on-costs for superannuation and leave) for those directly involved in the activity, committee costs and supplier costs (e.g. contractors, consultants and legal).

Indirect costs: Indirect costs included in this model are allocated as overheads for staff directly involved in performing the activities using the Department of Finance's approved costing methodology. Indirect costs include staff training and development, workers compensation premium, human resources support, organisational services, desktop ICT services and property operating expenses.

Activity-based costing methodology has been applied to allocate costs to activities and outputs using volume-based cost drivers. This method enables more informed analysis of the efficiency of outputs and business processes. Costs were estimated on the following basis:

- the regulatory activities to be delivered were identified in consultation with relevant staff;
- FSANZ Board costs were estimated based on the number of members and meetings, and include wages/salary of members, travel allowances, accommodation, flights and catering as applicable;
- the number of applications and hours required to complete an application was calculated by analysing applications over a 3-year period;
- staff costs were determined based on the FSANZ enterprise agreement, Remuneration Tribunal Determination and employment contracts; and
- overheads as recommended by the Department of Finance.

³ Definition of the direct and indirect costs are from the Cost Recovery Policy.

OFFICIAL

Using the activity-based cost model, the estimated unit cost for each procedure level were determined as follows (all costs and prices are in AUD):

Table 3. Estimated unit cost per activity by procedure level, effective from 1 July 2024 (2024-25 financial year)

| Procedure Level 2023-24 | Direct costs | Indirect costs | Total cost | Fee payable |
|---|---------------------|-----------------------|-------------------|--------------------|
| General 1 or High level health claims 1 | \$ 37,167 | \$ 10,311 | \$ 47,478 | \$ 47,478 |
| General 2 or High level health claims 2 | \$ 49,157 | \$ 13,061 | \$ 62,218 | \$ 62,218 |
| General 3 or High level health claims 3 | \$ 63,327 | \$ 16,311 | \$ 79,638 | \$ 79,638 |
| General 4 or High level health claims 4 | \$ 74,227 | \$ 18,811 | \$ 93,038 | \$ 93,038 |
| General 5 or High level health claims 5 | \$ 74,227 | \$ 18,811 | \$ 93,038 | \$ 93,038 |
| Major Procedure | \$ 105,837 | \$ 26,061 | \$ 131,898 | \$ 131,898 |

Each procedural level includes a fixed non-refundable charge of \$22,608 that is made up of \$16,797 in direct costs and \$5,811 in indirect costs. This fixed non-refundable charge includes costs associated with receiving and processing an application, drafting variations to the Code, public notification, records management, approval, publication and compilation.

Charges are based on standard hourly rates these can be found in the table below:

Table 4. Standard hourly rates from 1 July 2024 (2024-25 financial year)

| Office, Position, Classification of Authority Personnel | Direct costs | Indirect costs | Total cost per hour |
|--|---------------------|-----------------------|----------------------------|
| Chairperson of the Board | \$ 383 | \$ 174 | \$ 557 |
| Member of the Board | \$ 328 | \$ 174 | \$ 502 |
| Chief Executive Officer | \$ 282 | \$ 33 | \$ 315 |
| SES Officer | \$ 227 | \$ 30 | \$ 257 |
| Principle research scientist | \$ 175 | \$ 28 | \$ 203 |
| Executive Officer Level 2.6 or Legal 2 | \$ 155 | \$ 28 | \$ 182 |
| Executive Officer Level 2.5 | \$ 151 | \$ 27 | \$ 178 |
| Executive Officer Level 2.4 | \$ 144 | \$ 27 | \$ 172 |
| Executive Officer Level 2.3 | \$ 140 | \$ 27 | \$ 167 |
| Executive Officer Level 2.2 or Legal 1.9 | \$ 132 | \$ 27 | \$ 159 |
| Executive Officer Level 2.1 | \$ 124 | \$ 26 | \$ 151 |
| Executive Officer Level 1.3 or Legal 1.8 | \$ 117 | \$ 26 | \$ 143 |
| Executive Officer Level 1.2 | \$ 111 | \$ 26 | \$ 137 |
| Executive Officer Level 1.1 or Legal 1.7 | \$ 105 | \$ 26 | \$ 131 |
| Australian Public Service Level 6 or Legal 1.6 | \$ 96 | \$ 25 | \$ 121 |
| Australian Public Service Level 1-5 or Legal 1.1 to 1.5 | \$ 82 | \$ 25 | \$ 107 |

3.3 Cost recovery fees

The following table outlines the indicative cost recovery fees payable for an application in each procedural level.

Details of the invoicing processes will be provided to applicants (sponsors) in supporting documentation. The fee will be payable at the time of application.

Table 5: Fees payable for each procedure level

| Procedure | Maximum variable hours | Fixed charge | Variable charge | Administrati on charge | Total fee payable |
|---|------------------------|--------------|-----------------|------------------------|-------------------|
| General 1 or High level health claims 1 | 180 | \$ 22,608 | \$ 24,120 | \$ 750 | \$ 47,478 |
| General 2 or High level health claims 2 | 290 | \$ 22,608 | \$ 38,860 | \$ 750 | \$ 62,218 |
| General 3 or High level health claims 3 | 420 | \$ 22,608 | \$ 56,280 | \$ 750 | \$ 79,638 |
| General 4 or High level health claims 4 | 520 | \$ 22,608 | \$ 69,680 | \$ 750 | \$ 93,038 |
| General 5 or High level health claims 5 | More than 520 | \$ 22,608 | \$ 69,680 | \$ 750 | \$ 93,038 |
| Major Procedure | 810 or more | \$ 22,608 | \$ 108,540 | \$ 750 | \$ 131,898 |

4 RISK ASSESSMENT

When analysing risk, FSANZ has considered our operating environment and the following factors that influence cost recovery:

- complexity
- materiality
- sensitivity.

FSANZ has determined that the risk is 'low'. The risk rating does not determine whether cost recovery is appropriate, or whether some activities are more suitable for cost recovery than others.

5 STAKEHOLDER ENGAGEMENT

For cost-recovered activities, stakeholder engagement is particularly important as cost recovery charges have a direct impact on those who pay them. Consequently, FSANZ will utilise existing channels and consultative forums to ensure stakeholders are kept informed throughout the cost recovery process.

The CRIS will be reviewed and updated at least annually and published on the agency's website for stakeholders. An updated CRIS will be published outlining the changes to cost recovery arrangements, prior to commencement of the new charges.

The CRIS was available on the FSANZ Consultation Hub for public consultation between 25 September and 20 October 2023, no submissions were received.

6 FINANCIAL ESTIMATES

Table 6 reflects the forecast expenses along with the estimated revenue for 2023-24, 2024-25 and three forward years. Should there be any change to the cost recovery fees and charges as set out in this CRIS, a new financial estimates table will be provided.

Table 6. Financial estimates for application cost recovery activities for 2023-24, 2024-25 and three forward years (new cost recovery arrangements)

| Forecast Financial Estimates | 2023-24 \$ '000 | 2024-25 \$ '000 | 2025-26 \$ '000 | 2026-27 \$ '000 | 2027-28 \$ '000 |
|------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Combined Expenses = X | 950 | 1,000 | 1,050 | 1,100 | 1,150 |
| Combined Revenue = Y | 950 | 1,000 | 1,050 | 1,100 | 1,150 |
| Balance = revenue - expenses | - | - | - | - | - |
| Cumulative Balance | - | - | - | - | - |

Revenue will largely reflect the costs of assessing an application, the application of Australian Accounting Standards Board Accounting Standard 15 requires that revenue only be recognised in line with the performance of the obligation, which in the case of an application to change the food code is recognised when expenses are incurred. Any excess fees are refunded to the applicant in line with the regulations.

7 PERFORMANCE

7.1 Financial Performance

FSANZ's cost recovery arrangements commenced on 1 July 2000 and have been reviewed on an ad hoc basis, with reviews conducted in 2002, 2009–10, annually between 2012 and 2016 and in 2019. In accordance with Australian Accounting Standards revenue from applications is recognised when expenses are incurred during the undertaking of the application process.

Table 7. Financial Performance for application cost recovery activities between 2019-20 and 2023-24

| Financial Item | 2019-20 \$ '000 | 2020-21 \$ '000 | 2021-22 \$ '000 | 2022-23 \$ '000 | 2023-24 \$ '000 |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|
| Estimates | | | | | |
| Revenue = X | 300 | 450 | 600 | 1,000 | 950 |
| Expenses = Y | 300 | 450 | 600 | 1,000 | 950 |
| Balance = X-Y | - | - | - | - | - |
| Remissions, rebates and adjustments =Z | - | - | - | - | - |
| Net Balance = balance - Z | - | - | - | - | - |
| Actuals | | | | | |
| Revenue = X | 558 | 743 | 955 | 909 | 800 |
| Expenses = Y | 558 | 743 | 960 | 910 | 956 |
| Balance = X-Y | - | - | -5 | -1 | - |
| Remissions, rebates and adjustments =Z | - | - | - | - | - |
| Net Balance = balance - Z | - | - | -5 | -1 | -156 |
| Cumulative Balance | - | - | -5 | -6 | -162 |

The financial performance table will be updated after each financial year has ended to report on the actual financial performance compared with the forecast financial performance.

7.2 Non-financial Performance

In line with FSANZ's Performance Framework, the key performance indicator for Application activity is that Applications to amend the Food Regulatory Measures are considered within statutory timeframes (per Portfolio Budget Statements - FSANZ Outcome 1 Performance Measures). Outcomes are reported in the FSANZ annual report, which can be accessed through the FSANZ Website.

8 KEY FORWARD DATES AND EVENTS

| Activity | Date |
|-----------------------|-----------|
| Annual update of fees | June 2025 |

9 CRIS APPROVAL AND CHANGE REGISTER

| Date of CRIS Change | CRIS Change | Approver | Basis for Change |
|---------------------|---|---|--|
| 05/06/2018 | Certification of the draft CRIS | Food Standards Australia New Zealand Board | New regulatory charging activity |
| 05/09/2018 | Certification of CRIS2018:1 | Food Standards Australia New Zealand Board | Certification, after consultation |
| 31/07/2023 | Presentation changes to improve readability and update to financial performance measures. | Food Standards Australia New Zealand CEO | Outdated information. |
| 31/1/2024 | Approval of CRIS for 2024-25 | Assistant Minister for Health and Aged Care | Approval of revised cost recovery arrangements |
| 30/06/2024 | Update to fees and presentation changes | Food Standards Australia New Zealand CEO | Revised fees |
| 1/10/2024 | Update to financial performance information | Food Standards Australia New Zealand CFO | Actual financial year results finalised. |