



Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

The solid food waste exemption 2014

Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014 (Waste Regulation); and
- exempts a consumer of solid food waste from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with 'the solid food waste order 2014'.

1. Waste to which this exemption applies

- 1.1. This exemption applies to solid food waste that is, or is intended to be, applied to land as a soil amendment.
- 1.2. Solid food waste means solid food waste from the manufacture, preparation, sale or consumption of food but does not include post-consumer food waste, grease trap waste, animal waste or liquid waste.

2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies, or intends to apply, solid food waste to land as set out in 1.1.

3. Duration

- 3.1. This exemption commences on 24 November 2014 and is valid until revoked by the EPA by notice published in the Government Gazette.

4. Premises to which this exemption applies

- 4.1. This exemption applies to premises at which the consumer's actual or intended application of solid food waste is carried out.

5. Revocation

- 5.1. 'The solid food waste exemption' which commenced on 6 June 2014, is revoked from 24 November 2014.

6. Exemption

- 6.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of solid food waste to land as a soil amendment at the premises:
 - section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
 - Part 4 of the Waste Regulation;
 - section 88 of the POEO Act; and
 - clause 109 and 110 of the Waste Regulation.
- 6.2. The exemption does not apply in circumstances where solid food waste is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

7. Conditions of exemption

The exemption is subject to the following conditions:

- 7.1. At the time the solid food waste is received at the premises, the material must meet all material characteristics for solid food waste which are required on or before the supply of solid food waste under 'the solid food waste order 2014'.
- 7.2. Where solid food waste has decomposed or changed characteristics such that it meets the definition of liquid food waste prior to land application, 'the liquid food waste exemption 2014' must apply.
- 7.3. The solid food waste can only be applied to land as a soil amendment.
- 7.4. The solid food waste can only be ploughed or mixed into the land and must be incorporated into the topsoil at the time of application. Incorporation means that the solid food waste is completely covered by soil following land application.
- 7.5. The consumer must ensure that the solid food waste is appropriately contained on receipt at the land application site, such that leaching or runoff of waste is prevented prior to land application. The containment must also ensure minimal risk of exposure to and transfer of pathogenic materials from the site by vectors (animals, birds and insects).
- 7.6. The consumer must calculate application rates prior to the solid food waste being land applied. The application rates must be equal to or less than the agronomic rate for the most limiting factor.
- 7.7. The consumer must ensure that they do not cause or permit the migration of leachate from the premises from solid food waste following receipt at the land application site, but prior to land application, and when applying solid food waste to land.

- 7.8. The consumer must apply a livestock-withholding period of 30 days (90 days for lactating and newborn animals) following the land application of solid food waste.
- 7.9. Where solid food waste is intended to be land applied within 4 weeks of any other exempted waste, an investigation to determine the suitability of the proposed application must be undertaken prior to the waste being received at the application site. A report must be prepared including, but not necessarily limited to, information detailing how the receiving site will benefit from multiple wastes being applied, how the matrices and constituents of the different wastes will interact, and what application rates will be appropriate to minimise the potential for environmental harm. The investigation should determine whether the land application will deliver a net benefit. Where a net benefit is not demonstrated the land application of solid food waste must not proceed. A written record of the report must be kept for a minimum period of three years.
- 7.10. The consumer must keep a written record of the following for a period of six years:
- the quantity of any solid food waste received; and
 - the name and address of the supplier of the solid food waste received.
- 7.11. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 7.12. The consumer must ensure that any application of solid food waste to land must occur within a reasonable period of time after its receipt.

8. Definitions

In this exemption:

animal waste means dead animals and animal parts and any mixture of dead animals and animal parts.

application or apply to land means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

consumer means a person who applies, or intends to apply, solid food waste to land.

corrosive means a substance having properties that may damage or destroy living organisms and components of the soil, including soil organic matter. Commonly this includes strong acids and strong bases, or weak acids and weak bases occurring in concentrated form.

liquid food waste means liquid food waste from the manufacture, preparation, sale or consumption of food.

liquid waste means any waste (other than special waste) that exhibits any of the following:

- a) has an angle of repose of less than 5 degrees above horizontal, or
- b) becomes free-flowing at or below 60°C or when it is transported, or
- c) is generally not capable of being picked up by a spade or shovel.

As defined in the POEO Act.

post-consumer food waste means food waste generated by the end consumer of food and collected from kerbside collections either as a single stream or co-collected with garden waste.

**Manager Waste Strategy and Innovation
Environment Protection Authority
(by delegation)**

Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption. The current version of this exemption will be available on www.epa.nsw.gov.au

In gazetting or otherwise issuing this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not the solid food waste is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site(s).

The receipt of solid food waste remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the special requirements for asbestos waste (Part 7 of the Waste Regulation), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.