



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

## The compost exemption 2016

### 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 compost 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 compost order 2016'.

### 1. Waste to which this exemption applies

- 1.1. This exemption applies to compost that is, or is intended to be, applied to land as a soil amendment.
- 1.2. **Compost** is any combination of mulch, garden organics, food waste, manure and paunch that has undergone composting.

### 2. Persons to whom this exemption applies

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

### 3. Duration

- 3.1. This exemption commences on 25 April 2016 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 the premises at which the consumer's actual, or intended, application of compost is carried out.

## 5. Revocation

- 5.1. 'The compost exemption 2014' which commenced on 24 November 2014 is revoked from 25 April 2016.

## 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 compost 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 compost 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 compost is received at the premises, the material must meet all chemical and other material requirements for compost which are required on or before the supply of compost under 'the compost order 2016'.
- 7.2. The compost can only be applied to land as a soil amendment.
- 7.3. The consumer must ensure that they do not cause or permit the migration of leachate from the land application site.
- 7.4. The consumer must ensure that any application of compost to land occurs 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;
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

**composting** means a process of managed biological transformation:

- (a) to achieve pasteurisation; and
- (b) for a period of not less than a total of 6 weeks of composting and curing at an adequate moisture level (>40 % by weight), and/or until an equivalent level of biological stability can be demonstrated.

Composting does not include drying or dehydration processes.

**consumer** means a person who applies, or intends to apply, compost 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.

**drying or dehydration processes** are those that use externally supplied energy to heat and ventilate food wastes (or any other compostable waste) in order to rapidly dry the waste material over a short time period (typically 24 to 48 hours), either with or without the addition of an inoculum. This is distinct from those processes of managed biological transformation that use heat generated by the aerobic microorganisms that are responsible for decomposition under moist conditions during pasteurisation and composting, and traditional forced aeration composting methods such as aerated static pile composting.

**engineered wood products** means engineered, painted, treated or composite wood products such as particleboard, oriented strand board, plywood, laminated veneer lumber, glulam or fibreboard that are manufactured with glues, resins, water repellents, fire retardants, fungal inhibitors and/or other chemicals.

**food waste** means waste from the manufacture, preparation, sale or consumption of food but does not include grease trap waste or animal waste, and must not be corrosive.

**forestry and sawmill residues** are untreated and uncontaminated plant materials from forestry operations such as logging, silviculture and sawmilling. Forestry and sawmill residues include materials such as bark, woodchip, sawdust and wood fibre that are collected as a source separated material stream for processing.

**garden organics** means plant material that by virtue of the nature and source of the material poses a risk of the presence of physical and chemical contaminants. Garden organics includes material from kerbside waste collections. Garden organics must not contain asbestos, engineered wood products or preservative treated or coated wood residues.

**manure** means faecal matter generated by any animal other than humans and includes any mixture of animal faecal matter and biodegradable animal bedding such as straw or sawdust.

**mulch** means plant material shredded and/or screened to a preferred particle size grading for particular applications. Mulch, by virtue of the nature and source of the plant material, must pose minimal risk of the presence of physical and chemical contaminants. Mulch may include urban wood residues and forestry and sawmill residues. Mulch does not include plant material from kerbside waste collections. Mulch must not contain asbestos, engineered wood products, preservative treated or coated wood residues, or physical contaminants, including but not limited to glass, metal, rigid plastics, flexible plastics, or polystyrene.

**pasteurisation** means a process to significantly reduce the numbers of plant and animal pathogens and plant propagules. Pasteurisation requires that the entire mass of organic material be subjected to either of the following:

- (a) Appropriate turning of outer material to the inside of the windrow so that the whole mass is subjected to a minimum of 3 turns with the internal temperature reaching a minimum of 55°C for 3 consecutive days before each turn. Where materials with a higher risk of containing pathogens are present, including but not limited to manure and food waste, the core temperature of the material mass should be maintained at 55°C or higher for 15 days or longer, and during this period the windrow should be turned a minimum of 5 times.

- (b) An alternative process of pasteurisation that guarantees the same level of pathogen reduction, and the reduction of plant propagules as in (a). Any such alternative process must be clearly defined in writing and validated by a suitably qualified person prior to claiming compliance with this order. A written record of the validation report must be kept for a minimum period of six years.

**paunch** means the undigested food contained in the stomach of ruminant animals. This is generally considered to include partially digested grass, hay and other feed products such as grain.

**processor** means a person who processes, mixes, blends, or otherwise incorporates compost into a material in its final form for supply to a consumer.

**preservative treated or coated wood residues** means wood residues that are preservative treated with chemicals such as copper chrome arsenate (CCA), high temperature creosote (HTC), pigmented emulsified creosote (PEC) and light organic solvent preservative (LOSP) and/or coated with substances such as varnish or paint.

**urban wood residues** means untreated, unpainted, and uncontaminated urban derived timber and wood material that is collected as a separate material stream for processing. Urban wood residues include materials such as off-cuts, saw dust, wood shavings, packaging crates and pallets.

**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](http://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 compost 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 scientific 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 compost 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).

Whilst the 'the compost order 2016' requires that compost must not contain engineered wood products, the EPA recognises that compost may contain extremely low and incidental amounts of engineered wood products. The processor must implement procedures to prevent the presence of engineered wood products in the compost. These procedures must be formally documented and their implementation demonstrated. However, as noted in 'the compost order 2016', compost must not contain any asbestos, or preservative treated or coated wood residues.

'The compost order 2016' does not require sampling and testing of compost for biological stability and maturity. However the EPA strongly encourages the land application of compost that contains stable organic matter content and an absence of phytotoxic compounds and pathogens. Immature and poorly stabilised compost can potentially generate offensive odours, contain viable plant propagules and cause initial adverse impacts on plant growth following land application.

Compost that meets the conditions of this exemption should be applied to land by the consumer within 2 weeks of being received. Where there are extenuating circumstances the compost should be land applied within 4 weeks. The EPA considers that 6 weeks would be the absolute limit in all circumstances.

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