

**Plastic single-use cutlery exemption 2022**  
***Plastic Reduction and Circular Economy Act 2021***

**Notice granting an exemption under section 61**

I, Tony Chappel, Chief Executive Officer, on behalf of the Environment Protection Authority (EPA) grant the following exemptions from section 9(1) of the *Plastic Reduction and Circular Economy Act 2021* for the supply of plastic single-use cutlery, under section 61 of the Act:

**1. Exemption for the supply of plastic single-use cutlery – exempt facilities**

A person is exempt from section 9(1) of the Act for the supply of plastic single-use **cutlery** if:

- (1) the supply occurs before 1 November 2024; and
- (2) the **cutlery** is supplied:
  - (a) to, by, or at an **exempt facility** where its use is required to help prevent violence, injury or harm; or
  - (b) to enable the supply to an **exempt facility** where its use is required to help prevent violence, injury or harm.

**Notes:**

- (1) Preventing harm does not extend to preventing infection.
- (2) In determining whether use of plastic single-use **cutlery** is required to help prevent violence, injury or harm, the focus is on the behaviour of individuals at an **exempt facility** and the ability to weaponise alternatives to plastic single-use **cutlery**.

**Example where use may be required to help prevent violence, injury or harm:**

Use of plastic single-use **cutlery** at an **exempt facility** during food service where individuals might engage in behaviour that is likely to cause violence, injury or harm. Such behaviour includes using, or threatening to use, alternatives to plastic single-use **cutlery** as weapons to cause injury to themselves or others.

**The following conditions apply to this exemption:**

- (1) A manufacturer, producer or wholesaler who supplies plastic single-use **cutlery** must undertake due diligence to ensure that supply will meet clause 1.
- (2) For the purposes of clause 1, a fee must not be charged for the supply of plastic single-use **cutlery** at an **exempt facility**.

**2. Exemption for the supply of plastic single-use cutlery – public hospitals**

A person is exempt from section 9(1) of the Act for the supply of plastic single-use **cutlery** if:

- (1) the supply occurs before 1 November 2023; and

- (2) the **cutlery** is supplied:
  - (a) to, by, or at a **public hospital**; or
  - (b) to enable the supply to a **public hospital**.

**The following conditions apply to this exemption:**

- (1) A manufacturer, producer or wholesaler who supplies plastic single-use **cutlery** must undertake due diligence to ensure that supply will meet clause 2.
- (2) For the purposes of clause 2, a fee must not be charged for the supply of plastic single-use **cutlery** at a **public hospital**.
- (3) Plastic single-use **cutlery** must only be supplied at a **public hospital** in exceptional or emergency situations when the **public hospital** is prevented from using alternative cutlery.
- (4) Condition 3 of this clause does not apply where the **public hospital** is an **exempt public hospital**.

**Definitions**

- (1) In this notice:

**Act** means the *Plastic Reduction and Circular Economy Act 2021*.

**cutlery** has the same meaning as in section 3 of Schedule 1 to the Act.

**exempt facility** means any of the following:

- (a) a correctional centre, correctional complex, residential facility or transitional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999*;
- (b) a detention centre within the meaning of the *Children (Detention Centres) Act 1987*;
- (c) a facility, place or premises at which a person may be detained or held in custody according to law;
- (d) a facility at which residential care, within the meaning of the *Aged Care Act 1997* of the Commonwealth, is provided;
- (e) a group home or residential care facility within the meaning of the *Standard Instrument (Local Environmental Plans) Order 2006*;
- (f) a mental health facility within the meaning of the *Mental Health Act 2007*;
- (g) a public or private hospital, being only those areas used to provide professional health care services to people admitted as in-patients, or to patients in an emergency department, including ancillary accommodation facilities for persons receiving health care.

**exempt public hospital** means any of the following **public hospitals**:

- (a) Blacktown Hospital;
- (b) Campbelltown Hospital;
- (c) Liverpool Hospital;
- (d) Nepean Hospital;
- (e) Prince of Wales Hospital;
- (f) Royal Hospital for Women;
- (g) St George Hospital;
- (h) Sutherland Hospital;
- (i) Sydney Children's Hospital;
- (j) Westmead Hospital.

**public hospital** has the same meaning as in the *Health Services Act 1997*.

- (2) Words and expressions in this notice have the same meaning as in the Act, unless otherwise defined.
- (3) To avoid doubt, there is no limit on the number of plastic single-use **cutlery** that can be supplied under the clauses in this notice.

#### **When this exemption commences**

This exemption commences on 1 November 2022. The EPA may vary or revoke this exemption by a further notice published in the NSW Government Gazette.

#### **Power under which this exemption is made**

This exemption is granted under section 61 of the Act.



**Tony Chappel**  
**Chief Executive Officer**  
**Environment Protection Authority**

28 October 2022