



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

The pasteurised garden organics 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 pasteurised garden organics 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 pasteurised garden organics order 2016'.

1. Waste to which this exemption applies

- 1.1. This exemption applies to pasteurised garden organics that are, or are intended to be, applied to land as a soil amendment.
- 1.2. **Pasteurised garden organics** means mulch and/or garden organics that have undergone the process of pasteurisation as a minimum.

2. Persons to whom this exemption applies

- 2.1. This exemption applies to any person who applies, or intends to apply, pasteurised garden organics 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 pasteurised garden organics is carried out.

5. Revocation

- 5.1. 'The pasteurised garden organics 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 pasteurised garden organics 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 pasteurised garden organics are 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 pasteurised garden organics are received at the premises, the material must meet all chemical and other material requirements for pasteurised garden organics which are required on or before the supply of pasteurised garden organics under 'the pasteurised garden organics order 2016'.
- 7.2. The pasteurised garden organics 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 pasteurised garden organics to land occurs within a reasonable period of time after its receipt.

8. Definitions

In this exemption:

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.

consumer means a person who applies, or intends to apply, pasteurised garden organics to land.

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.

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.

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, 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 before claiming compliance with 'the pasteurised garden organics order 2016'. A written record of the validation report must be kept for a minimum period of six years.

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.

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

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
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(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 pasteurised garden organics 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 pasteurised garden organics 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 pasteurised garden organics order 2016' requires that pasteurised garden organics must not contain engineered wood products, the EPA recognises that pasteurised garden organics 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 pasteurised garden organics. These procedures must be formally documented and their implementation demonstrated. However, as noted in 'the pasteurised garden organics order 2016', pasteurised garden organics must not contain any asbestos, or preservative treated or coated wood residues.

Pasteurised garden organics 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 pasteurised garden organics 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.