



EXEMPTION NOTICE

Exemption number	SUP0001/2022/1
Issued under	Regulation 20(1)
Exemption type	Class of persons
Exemption holders	Suppliers and purchasers of the prescribed plastic items listed in Table 1 of this Exemption Notice
ACN	N/A
Registered business address	N/A
DWER file number	DWERVT9714~2
Date of issue	1 July 2022
Duration	1 July 2022 to 30 June 2023

Table 1: Prescribed plastic items and exempt specified circumstance

Prescribed plastic item	Specified exempt circumstance	Exemption reason
A cup made from plastic lined paperboard; A bowl made from plastic lined paperboard; or A food container made from plastic lined paperboard	The supply of a prescribed plastic item listed in this table is only exempt under this notice where that prescribed plastic item: <ul style="list-style-type: none">has a current and valid EN13432 composting or TUV OK compost HOME certification; andhas a current application before the Australasian Bioplastics Association (ABA) for its certification under the Australian composting standards AS4736:2006 or AS5810:2010 awaiting a determination.	Transitional supply, pending AS4736 or AS5810 certification



Declaration

In accordance with regulation 20(1) of the *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018* I consider that it is reasonably necessary to grant Exemption SUP0001/2022/1.

I HEREBY EXEMPT the Exemption Holder from regulation 7(1) of the *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018*, subject to the conditions set out in this notice.

A handwritten signature in blue ink, appearing to read 'Michelle Andrews'.

Michelle Andrews

DIRECTOR GENERAL

Department of Water and Environmental Regulation

06 July 2022

Interpretation

In this Exemption Notice:

- (a) the words 'including', 'includes' and 'include' in conditions mean "including but not limited to", and similar, as appropriate;
- (b) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (c) any reference to an Australian or other standard, guideline, or code of practice in this Exemption Notice:
 - (i) if dated, refers to that particular version; and
 - (ii) if not dated, refers to the latest version and therefore may be subject to change over time;
- (d) unless specified otherwise, any reference to a section of an Act refers to that section of the EP Act; and
- (e) unless specified otherwise, all definitions are in accordance with the EP Act.

Conditions

General conditions

1. A supplier for the purpose of this Exemption Notice, is a manufacturer, wholesale or retail company that sells or supplies one or more of the prescribed plastic items listed in Table 1 of this Exemption Notice to a purchaser or consumer, and that manufacturer, wholesale or retail company has a valid:
 - (a) Australian Company Number (ACN) registered with the Australian Securities and Investments Commission (ASIC) to operate within Australia; or
 - (b) Australian Business Number (ABN) registered with the Business Registration Service to operate within Australia.

2. A purchaser for the purpose of this Exemption Notice, is a:
 - (a) Wholesale company;
 - (b) Retail company;
 - (c) Registered food or beverage retailer;
 - (d) State Government department;
 - (e) Local Government agency;
 - (f) Incorporated Club or Association;
 - (g) Licensed charity;
 - (h) Incorporated not-for-profit organisation; or
 - (i) School or education facility (early learning, primary, secondary or tertiary institutions):

that purchases any of the prescribed plastic items listed in Table 1 from a manufacturer, wholesale or retail company to sell or supply to a customer or consumer.

Conditions of supply

3. This Exemption Notice allows suppliers and purchasers of the prescribed plastic items listed in Table 1 of this Exemption Notice, to sell or supply the prescribed plastic items in the specified exempt circumstance and for the corresponding exemption reason only.

Supplier requirements

4. A supplier using this Exemption Notice for an exemption under the regulations for a prescribed plastic item listed in Table 1 of this Exemption Notice, must provide each purchaser of the supplied prescribed plastic item(s) with:
 - (a) a copy of the current and valid EN13432 composting or TUV OK compost HOME certification for the prescribed plastic item being supplied; and
 - (b) written evidence that the prescribed plastic item being supplied has a current application before the Australasian Bioplastics Association for certification under the Australian Standards for composting, AS4736:2006 or AS5810:2010, awaiting determination:

in order to sell or supply that prescribed plastic item.

Purchaser requirements

5. A purchaser using this Exemption Notice for an exemption under the regulations for a prescribed plastic item listed in Table 1 of this Exemption Notice, must obtain and keep the following records for each prescribed plastic item they have purchased from a supplier:
 - (a) a copy of the current and valid EN13432 composting or TUV OK compost HOME certification for the prescribed plastic item(s) purchased; and
 - (b) written evidence that the prescribed plastic item(s) purchased have a current application before the Australasian Bioplastics Association for certification under the Australian Standards for composting, AS4736:2006 or AS5810:2010, awaiting determination;

in order to sell or supply that prescribed plastic item to a customer or consumer.

Australian Standards certification decision

6. Within 30 business days of the date of determination by the Australasian Bioplastics Association for an application of certification under Australian Standards AS4736:2006 or AS5810:2010 for a prescribed plastic item supplied under this Exemption Notice, the supplier must:
 - (a) notify any purchasers who have received or purchased the prescribed plastic item(s) during the duration of this Exemption Notice and for which the certification application applies, the determination made by the Australasian Bioplastics Association for that certification application; and
 - (b) clearly identify on their website, supply records and customer ordering systems, the outcome of that determination for the prescribed plastic item(s) supplied under this Exemption Notice.
7. If an application for certification for a prescribed plastic item made under Australian Standards AS4736:2006 or AS5810:2010 is refused by the Australasian Bioplastics Association the supplier must:
 - (a) immediately cease selling or supplying the prescribed plastic item which has received a refused determination by the Australasian Bioplastics Association; and
 - (b) notify the CEO of the refused certification determination, within 10 business days of the date of determination.

8. If an application for certification for a prescribed plastic item made under Australian Standards AS4736:2006 or AS5810:2010 is refused by the Australasian Bioplastics Association, the purchaser:
 - (a) must immediately cease purchasing the prescribed plastic item which has received a refused determination by the Australasian Bioplastics Association, from the supplier; and
 - (b) may continue to supply any prescribed plastic items already purchased from the supplier prior to the date of determination, to a customer or consumer for the remaining duration of this Exemption Notice.

Records

9. A supplier or purchaser using this Exemption Notice for an exemption under the regulations for a prescribed plastic item listed in Table 1 of this Exemption Notice must maintain accurate and auditable books for the prescribed plastic item(s) sold, supplied or purchased under this Exemption Notice. These books must include:
 - (a) a copy of the current and valid EN13432 composting or TUV OK compost HOME certification for each prescribed plastic item; and
 - (b) written evidence that the Exemption Holder has sought certification from the Australasian Bioplastics Association for each prescribed plastic item under the Australian Standards for composting AS4736:2006 or AS5810:2010.
10. The books specified under condition 9 must:
 - (a) be legible;
 - (b) if amended, be amended in such a way that the original version(s) and any subsequent amendments remain legible and are capable of retrieval;
 - (c) be retained by the Exemption Holder for the duration of the Exemption Notice; and
 - (d) be available to be produced to an inspector or the CEO as required.

Non-compliance reporting

11. Within 14 business days of becoming aware of any non-compliance with the conditions of this Exemption Notice, a supplier or purchaser using this Exemption Notice for an exemption under the regulations for a prescribed plastic item listed in Table 1 of this Exemption Notice must notify the CEO in writing of that non-compliance and include in that notification the following information:
 - (a) which condition was not complied with;
 - (b) the time and date when the non-compliance occurred;
 - (c) the details and result of any investigation undertaken into the cause of the non-compliance;
 - (d) what action has been taken and the date on which it was taken to prevent the non-compliance occurring again; and
 - (e) what action will be taken and the date by which it will be taken to prevent the non-compliance occurring again.

Revocation or Variation

12. In accordance with regulation 20(5) of the regulations this exemption notice may be revoked or varied by the CEO or a Delegated Officer at any time by written notice.

END OF CONDITIONS

Definitions

In this Exemption Notice, the terms in Table 2 have the meanings defined.

Table 2: Definitions

Term	Definition
ABN	means Australian Business Number, registered with Business Registration Service
ACN	means Australian Company Number, registered with the Australian Securities and Investments Commission (ASIC)
AS	means Australian Standard
ASIC	means the Australian Securities and Investments Commission
AS4736:2006	means Australian Standard AS/NZS 4736:2006 <i>Biodegradable Plastic-Biodegradable Plastics Suitable for Composting and other Microbial Treatment</i> , published by Standards Australia and amended from time to time
AS5810:2010	means Australian Standard AS/NZS 5810:2010 <i>Biodegradable plastics - Biodegradable plastics suitable for home composting</i> , published by Standards Australia and amended from time to time
Australasian Bioplastics Association	means the Australasian Bioplastics Association, ABN 29431733271, that manages the verification scheme for certification of AS composting standards AS4736:2006 and AS5810:2010
books	has the same meaning given to that term under the EP Act
bowl	has the same meaning given to that term in the regulations
CEO	means Chief Executive Officer of the Department of Water and Environmental Regulation. “submit to / notify the CEO” (or similar), means either: Director General Department administering the Environmental Protection Act 1986 Locked Bag 10 Joondalup DC WA 6919 or: plastic-action@dwer.wa.gov.au
cup	has the same meaning given to that term in the regulations
date of determination	means the date that the Australasian Bioplastics Association determines the certification application for a prescribed plastic item
Delegated officer	an officer under section 20 of the EP Act

Term	Definition
EN13432	means European standard EN13432 <i>Packaging - Requirements for packaging recoverable through composting and biodegradation - Test scheme and evaluation criteria for the final acceptance of packaging</i>
EP Act	means the <i>Environmental Protection Act 1986</i> (WA)
Exemption Holder	means suppliers and purchasers of the prescribed plastic items listed in Table 1 of this Exemption Notice
food container	has the same meaning given to that term under the regulations
incorporated	means incorporated under the <i>Associations Incorporation Act 2015</i>
licensed charity	means a charity licensed under the <i>Charitable Collections Act 1946</i>
purchaser	has the meaning set out in condition 2 of this Exemption Notice
registered food or beverage retailers	means an individual, business or premises registered to serve food and/or beverages under the <i>Food Act 2008</i> and/or <i>Food Regulations 2009</i> with their local council or Department of Health.
regulations	<i>means the Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018.</i>
supplier	has the meaning set out in condition 1 of this Exemption Notice
supply	has the same meaning given to that term in the regulations
TUV OK compost HOME certification	means certified by TÜV Austria under the seedling OK compost HOME logo