



## EXEMPTION NOTICE

<b>Exemption number</b>	SUP0001/2022/2
<b>Issued under</b>	Regulation 20(1)
<b>Exemption type</b>	Class of persons
<b>Exemption holders</b>	Suppliers and purchasers of the prescribed plastic items listed in Table 1 of this Exemption Notice
<b>DWER file number</b>	DWERVT9714~2
<b>Date of issue</b>	1 July 2023

Specified exempt circumstance
<p>This class exemption relates to the transitional supply of a prescribed plastic item listed in Table 1 where that prescribed plastic item:</p> <ul style="list-style-type: none"><li>• has a current application before the Australasian Bioplastics Association (ABA) and is awaiting certification under the Australian Composting Standards (AS4736:2006 or AS5810:2010); <b>and/or</b></li><li>• has a current and valid EN13432 composting or TUV OK compost HOME certification*.</li></ul> <p>* The <i>Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018</i> do not recognize European certification. Australian certification must have been achieved to supply items when this class exemption expires.</p>

**Table 1: Prescribed plastic items and expiry**

Stage	Prescribed plastic item	Expiry
Stage 1	A bowl made from plastic lined paperboard	31 December 2023
	A cup for cold beverages, made from plastic lined paperboard	31 December 2023
	A food container made from plastic lined paperboard	31 December 2023
Stage	A cup for hot beverages, made from plastic	1 March 2025



2	lined paperboard	
	A food tray made from plastic lined paperboard	1 March 2025
	A lid for a food container, bowl, tray, or plate made from plastic lined paperboard	1 September 2025

## 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 SUP0001/2022/2.

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.

Michelle Andrews

**DIRECTOR GENERAL**

**Department of Water and Environmental Regulation**

28 June 2023

## 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 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. Defined terms can be found in Table 2 of this Exemption Notice.

## 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.

### Supplier Conditions

3. To sell or supply a prescribed plastic item(s) listed in Table 1 of this Exemption Notice, a supplier must:
  - a) notify the CEO in writing of their use of this exemption notice. This can be done by emailing [plastic-exemptions@dwer.wa.gov.au](mailto:plastic-exemptions@dwer.wa.gov.au) or via postal mail;
  - b) notify purchasers of prescribed plastic item(s) listed in Table 1 of this Exemption Notice that the prescribed plastic item(s) has a current application before the ABA and is awaiting certification under Australian Composting Standards;
  - c) notify purchasers of prescribed plastic item(s) listed in Table 1 of this Exemption Notice that the prescribed plastic item(s) has a current and valid EN13432 composting or TUV OK compost HOME certification for the prescribed plastic item being supplied, if applicable;
  - d) at the request of the purchaser or the Department of Water and Environmental Regulation (Department), provide written evidence that the prescribed plastic item(s) being supplied has a current application before the ABA and is awaiting certification under Australian Composting Standards; and
  - e) at the request of the purchaser or the Department, provide written evidence that the prescribed plastic item(s) being supplied has a current and valid EN13432 composting or TUV OK compost HOME certification for the prescribed plastic item being supplied, if applicable.

### Purchaser Conditions

4. To sell or supply a prescribed plastic item(s) listed in Table 1 of this Exemption Notice to a customer or consumer, a purchaser using this Exemption Notice must:
  - a) obtain and keep written evidence that the prescribed plastic item(s) purchased has a current application before ABA and is awaiting certification under the Australian Composting Standards; and
  - b) obtain and keep written evidence that the prescribed plastic item(s) purchased has a current and valid EN13432 composting or TUV OK compost HOME certification for the prescribed plastic item being purchased, if applicable.

### Australian Standards certification decision

5. Within 7 business days of the date of determination by the ABA for certification under Australian Composting Standards for a prescribed plastic item supplied under this Exemption Notice, the supplier must notify the Department of the outcome.
6. If a prescribed plastic item supplied under this Exemption Notice is refused ABA certification made under Australian Composting Standards the supplier must:
  - a) immediately cease selling or supplying the prescribed plastic item which has received a refused determination by the ABA; and
  - b) notify any purchasers of the prescribed plastic item and instruct them to cease selling or supplying the prescribed plastic item which has received a refused determination by the ABA.

### Records

7. A supplier using this Exemption Notice for a prescribed plastic item(s) listed in Table 1 of this Exemption Notice must maintain records of who they sold or supplied a prescribed plastic item(s) to under this Exemption Notice.

8. These records must include written evidence that the Exemption Holder has sought certification from the ABA for Australian Composting Standards for each prescribed plastic item being sold or supplied under the Exemption Notice and if applicable written evidence of current and valid EN13432 composting or TUV OK compost HOME certification.
9. The records specified under conditions 7 and 8 must be accurate, auditable, legible and;
  - a) if amended, be amended in such a way that the original version(s) and any subsequent amendments remain legible and are capable of retrieval;
  - b) be retained by the Exemption Holder for the duration of the Exemption Notice; and
  - c) be available to be produced to an inspector or the CEO as required.

### Non-compliance reporting

10. 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

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

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**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 (ABA)	means the Australasian Bioplastics Association, ABN 29431733271, that manages the verification scheme for certification of AS composting standards AS4736:2006 and AS5810:2010
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 <i>Environmental Protection Act 1986</i> Locked Bag 10 Joondalup DC WA 6919 or: <a href="mailto:plastic-exemptions@dwer.wa.gov.au">plastic-exemptions@dwer.wa.gov.au</a>
cold cup	means a cup that is used for a cold or room temperature drink/beverage
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 Packaging - Requirements for packaging recoverable through composting and biodegradation - Test scheme and evaluation criteria for the final acceptance of packaging
EP Act	means the <i>Environmental Protection Act 1986 (WA)</i>
Exemption Holder	means suppliers 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
hot cup	means a cup that is used for a hot drink/beverage
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>
lid	has the same meaning given to that term under the regulations
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	means the Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018.
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