

## Questions and Answers - Waste Exemptions Review

[What is an exemption?](#)

[Why are you reviewing the exemptions process?](#)

[What are you proposing should change?](#)

[How are you consulting customers and other interested parties?](#)

[How can my business take part in the consultation?](#)

[Who should take part in the consultation?](#)

[Why should I take part in the consultation?](#)

[When will you make a decision?](#)

[When will the changes take place?](#)

[What will be the benefits to the environment?](#)

[What will be the benefits to business?](#)

[What if the new system needs updating in the future?](#)

[How does this fit with your permitting system?](#)

[How will your proposals affect current exemptions and environmental permits?](#)

[How does the review link to the Environment Agency's low-risk approach?](#)

[What is a standard permit?](#)

[What happens if I need a permit?](#)

[I don't feel able to comment on the proposals without seeing what the standard permit will look like. When are the new standard permits going to be consulted on?](#)

[What happens if I need to demonstrate technical competence?](#)

[I currently have a notifiable exemption, what will happen to me?](#)

[I'm in the construction business – how might this affect me?](#)

[I'm in the agriculture business – how might this affect me?](#)

[I'm in the metal recycling industry – how might this affect me?](#)

[I'm in the WEEE recycling and processing business – how might this affect me?](#)

[I store or process waste – how might this affect me?](#)

[I carry out composting activities as part of my business – how might this affect me?](#)

[I operate a large composting facility under a paragraph 12 exemption, how will the proposals affect me?](#)

[I am in the paper collection or production business – how might this affect me?](#)

[I landspread waste under a paragraph 7 exemption, how will the proposals affect me?](#)

[I registered a paragraph 9 exemption for ecological benefit of restoring land, how will the proposals affect me?](#)

[I have a registered a paragraph 19 exemption for creating a golf course, how will the proposals affect me?](#)

[I have a paragraph 13/14 exemption for manufacture, what will happen to me?](#)

[I am working under a low-risk position. What will happen to me?](#)

[Will I need to register for temporary storage of waste at my site?](#)

[Why is there a proposal for re-registering every three years? What is wrong with the current system?](#)

[What would happen if I didn't register an exemption?](#)

[Why are you proposing to charge for the exemptions?](#)

[What will my charge cover?](#)

[How often will I be charged?](#)

### **What is an exemption?**

An exemption allows businesses to carry out certain waste management activities without an environmental permit.

If you have an exemption it does not mean that you are free from all regulatory control. For example, you have an obligation to ensure that the exempt activity does not pollute the environment or harm human health.

Exemptions provide a lower level of regulation for low-risk activities. They can be given for the disposal of non-hazardous waste at the site of its production, or for the recovery of waste (reuse or recycling).

### **Why are you reviewing the exemptions process?**

Most of the exemptions currently available have been in place since 1994 and have had little review or amendment. They need to keep pace with the changing world of waste management in which new techniques and technologies have been developed. The risks posed by certain operations have also changed. Experience has shown there can be abuse of the lower regulatory control which exemptions give.

This review of exemptions will also complete the new environmental permitting regime. This brought together waste management licensing and pollution prevention control permitting, in April 2008.

### **What are you proposing should change?**

We propose to simplify the process and create exemptions and permits which better reflect the risk they pose to the environment.

Some operations and quantities of waste which currently require a permit will change to mean that they only require an exemption. For others the reverse will be true.

Some sector-specific examples are given below. The proposals will be available on Defra's and WAG's web pages when the consultation starts.

### **How are you consulting customers and other interested parties?**

In 2007 we spoke to customers, their industry representatives and other interested parties at meetings and workshops, to seek their views on the principles of a revised exemptions process. Over September and October 08 we will engage with them again to seek their views on our proposals for a new suite of exemptions and exemptions system.

### **How can my business take part in the consultation?**

customer service line

08708 506 506

[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

incident hotline

0800 80 70 60

floodline

0845 988 1188

You can come to the workshops and meetings being held across the country. To register your interest at a workshop you should email [exemptions@defra.gsi.gov.uk](mailto:exemptions@defra.gsi.gov.uk). Or, you can provide feedback via the internet at [www.defra.gov.uk/environment/waste/management/exemptions/index.htm](http://www.defra.gov.uk/environment/waste/management/exemptions/index.htm)

### **Who should take part in the consultation?**

It is important that we receive responses from as many areas of industry as possible, to ensure we have considered all issues during the consultation. The proposals will affect anyone currently operating under an exemption or an Environment Agency low-risk position. They will either need to register an exemption for the first time, or re-register an existing exemption and pay a small fee.

Our approach to reviewing exemptions is based on the risk posed by each activity. Feedback to our informal consultation last year showed that this approach is broadly supported but we need to give more detail on exactly which activities will be exempt and which permitted in future.

### **Why should I take part in the consultation?**

To benefit from an exemption, existing and new operators will have to meet the revised specification and quantity limits. If your activity will no longer benefit from an exemption you will need to apply for an environmental permit in accordance with the transitional arrangements detailed in the regulations. In some cases, holders of environmental permits will benefit from an exemption and will be able to surrender their permit.

The consultation is your opportunity to tell us what you think of the proposals. We would like you to tell us whether you think we've got the quantity limits, general rules and waste types right.

### **When will you make a decision?**

We will make decisions on a new system following the consultation. We will start to implement it in October 2009.

### **When will the changes take place?**

We won't change any exemptions or permits until October 2009. For some groups implementation won't take place until 2012.

### **What will be the benefits to the environment?**

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- Our aim is to encourage more operators carrying out genuine low-risk waste recovery and recycling, by allowing them to operate under an exemption rather than to need a permit.
- On the other hand, some organisations have been operating under an exemption, but they carry out high-risk activities which require a higher level of regulation and control.
- Our revised regulation activity will be more proportionate to the risk to the environment of different operators' waste recovery and disposal operations activities
- The new exemptions system will promote compliance. It will enable us to increase our protection of the environment by channelling resources where they are most needed.

### **What will be the benefits to business?**

- The review aims to minimise the administration around exemptions. It will be simpler for an operator to understand an exemption and to apply for one.
- We are aiming to simplify regulation and make exemptions fairer. We will reduce anomalies in which operations and waste types need an exemption and which require a permit.
- This will enable a lower level of interaction between us and exempt operators.
- Exemptions will also be easier to understand. We will give you clear, concise and helpful guidance to make it easy for you to know what you need to do under your waste exemption.
- You will be able to make more choices about the size and scale of your waste management activities.

### **What if the new system needs updating in the future?**

We will update the process as necessary, to maintain exemptions with a consistent level of risk. We will ensure exemptions stay 'fit for purpose' and keep them up-to-date with new technologies and innovation.

### **How does this fit with your permitting system?**

Exemptions will control the lower-risk end of permitting. They will compliment the new environmental permitting regime.

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## How will your proposals affect current exemptions and environmental permits?

- We propose to replace exemptions for higher-risk activities with standard permits.
- You will be able to easily identify and access the exemption you need as it will be grouped with similar types of exempt activity to yours.
- You will be able to register all your exemptions in a single transaction.
- Following a separate consultation we will develop standard rules under the new environmental permitting regime.

## How does the review link to the Environment Agency's low-risk approach?

Our *Low Risk Initiative* will continue throughout the review. We have recognised that putting permitting and compliance effort into low-risk, non-exempt waste activities is not best practice.

We have developed a list of low-risk waste activities. If an activity appears on this list we take the view that it would not be in the public interest to require an environmental permit for the activity – provided it is carried out in accordance with Article 4 of the Waste Framework Directive. You can find more information at [www.environment-agency.gov.uk/subjects/waste/1416460/1334460/1098094/](http://www.environment-agency.gov.uk/subjects/waste/1416460/1334460/1098094/)

## What is a standard permit?

A standard permit is an environmental permit with one condition. It is linked to a fixed package of standard rules for a particular type of activity.

## What happens if I need a permit?

We will develop new standard permits where appropriate, which may be different from those currently available. We will consult with interested parties about new permits.

## I don't feel able to comment on the proposals without seeing what the standard permit will look like. When are the new standard permits going to be consulted on?

The conditions (rules) of standard permits are developed nationally. They take into account the hazards and risks associated with the permitted operation, with input from industry. We will develop the new standard permits in this way, with a view to them being in place for October 2009.

## **What happens if I need to demonstrate technical competence?**

The consultation asks for your views regarding proposed technical competence requirements for the revised exemptions.

## **I currently have a notifiable exemption, what will happen to me?**

After analysing responses from the first consultation we decided we will increase the use of exemptions for as wide a range of low-risk operations as possible. Also, we'll remove the current two-tier system of notifiable and simple exemptions by restricting the extent of exemptions for higher-risk operations. This will mean we can regulate higher-risk activities through one or more standard permits.

Permits will take better account of variations in the risk posed for a given size and scale of activity – and so will be in line with the objective of proportionate, risk-based regulation.

If you've been operating at the lower-risk end of notifiable exemptions, it may be that you will be able to operate under a simple exemption.

## **I'm in the construction business – how might this affect me?**

Some of your activities that currently require annual notification of your exemption will become simple exemptions. For example, this could be where you use less than 500 tonnes of inert material in your construction works. Some of your activities that currently require a notification may no longer be exempt and you will need to apply for an environmental permit. For example, this could be where you produce more than 500 tonnes of aggregates from inert waste or where you use more than 500 tonnes in a construction works.

We will develop standard permits for activities that were previously regulated under an exemption.

Current exemptions for your sector are intended to encourage genuine recovery operations. However, some operations using construction and demolition waste registered as exempt have been abused. For example, unsuitable materials have been deposited, which raises concern over the long-term impact on the environment.

We want to focus our regulatory effort and resources to achieve maximum benefit to the environment. We believe we should apply more regulatory effort at larger sites processing and/or using suitable construction and demolition waste. By doing so, we can ensure that sites improve their waste acceptance criteria, site infrastructure and ultimately produce better quality recycled materials.

## **I'm in the agriculture business – how might this affect me?**

Our proposals include providing simple exemptions for you to:

- use lined biobeds to dispose of your non-hazardous pesticide washings at the site of production;
- centrally collect non-packaging farm plastics;
- have small anaerobic digesters on farms.

We hope that by providing these exemptions we will encourage you to use the appropriate, environmentally-sound method of disposing of non-hazardous materials you produce on your farm. We also hope that the proposals will encourage you to recycle as much of your waste as possible.

Our proposals do not include giving an exemption for the burning of plastic embedded within tomato hulme. This is because we do not believe that this activity can be undertaken without negatively impacting human health or the surrounding environment. We encourage tomato growers to develop alternatives to plastic supports. You will still be able to burn the plant waste under an exemption.

We do not propose any significant changes to the conditions of exemptions most commonly registered by the agricultural community – for example, burning up to 10 tonnes of plant matter per day. However, you need to be aware that we are proposing that you will need to renew your registration of your exempt activities every three years. We've proposed that this registration fee is £50 for paper and telephone registration with a reduced fee for internet registration. This will be paid per site.

## **I'm in the metal recycling industry – how might this affect me?**

The current paragraph 45 exemption for the recovery of scrap metal or the dismantling of motor vehicle is a wide-ranging exemption with very large quantity limits for both storage and treatment. We are still developing proposals for the recovery of scrap metal: please see the consultation paper for details.

## **I'm in the WEEE recycling and processing business – how might this affect me?**

We propose to change the re-use and refurbishment exemption, which is currently a notifiable exemption, to a simple exemption. There will still be a higher registration fee, to cover the costs of the required annual inspection.

## **I store or process waste – how might this affect me?**

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We don't propose changes to the majority of existing simple exemptions for businesses storing and processing recyclable materials. However, we propose that there should be varying limits on the quantities of waste stored, depending on whether the waste is stored or processed inside or outside a building. For example, for paper this limit will be 500 tonnes outdoors and 3000 indoors.

We also propose new exemptions for the storage, reuse and dismantling of a wide range of materials destined for recovery. For example, we suggest 100 tonnes of footwear and 100 tonnes of wooden pallets.

We propose to regulate higher-risk activities, many of which are currently regulated under notifiable exemptions, by standard permits. This will help ensure that we place more regulatory effort on activities which result in genuine beneficial environmental outcomes. You will have to apply for the permit with evidence of having technical competence and appropriate planning in place. We also propose to move some of the lower-risk activities currently under notifiable exemptions to simple exemptions.

### **I carry out composting activities as part of my business – how might this affect me?**

We have developed our proposal for the new composting exemption in conjunction with the composting task force – a group of industry representatives from a range of organisations. These include the Composting Association; the Community Composting Network; the National Trust; the Royal Horticultural Society; the National Farmers Union; Waste and Resources Action Programme (WRAP); the Chartered Institute of Wastes Management; the Environmental Services Association; and Defra.

The task force worked to develop an exemption for small-scale composting that could be carried out at any site without the need for a risk assessment or a high specification of onsite infrastructure e.g. sealed drainage systems .

The exemption has been split into two quantity limits;

- i. 40 tonnes on site at any one time for organisations composting their own waste on site for use on that site; or
- ii. 25 tonnes on site at any one time for organisations bringing waste onto the site and/or removing the resulting compost for use elsewhere.

This move will mean that community composting groups will fit more comfortably within the rules of the exemption in the latter category.

We have set two limits because there is a higher risk to the environment posed by activities involving the bringing in of waste and/or use of waste

elsewhere. This is due to concerns over the potential levels of contamination of non-suitable material for composting within the waste inputs, and the subsequent quality and suitability for use of the resulting compost.

Sites dealing with larger amounts of waste will be subject to greater regulatory scrutiny. This should mean that the waste is dealt with at sites with the appropriate infrastructure, where potential issues such as odour and bioaerosols are properly monitored and managed.

### **I operate a large composting facility under a paragraph 12 exemption, how will the proposals affect me?**

We propose to replace the current paragraph 12 exemption with the proposed aerobic composting and associated prior treatment (T23) exemption. This new exemption restricts the quantity of waste treated or stored to 40 tonnes if the compost takes place where the waste is produced and the waste is to be used at that site. If waste is being brought on to the site or taken off, the limit is 25 tonnes. If you compost more than this amount of waste the proposals are that you will require an environmental permit.

### **I am in the paper collection or production business – how might this affect me?**

Our proposals introduce varying limits dependent on whether you undertake the activity indoors or outdoors. These limits are 500 and 3,000 tonnes respectively.

If you produce paper pulp or sludge which is spread to land for recovery we propose to regulate all higher-risk exemptions via standard permits in future rather than notifiable exemptions. You will still need to provide evidence to show that the application of paper sludge to suitable land will result in agricultural benefit. You will also have to demonstrate that you have the technical competence to undertake the activity without causing any pollution to the environment.

### **I landspread waste under a paragraph 7 exemption, how will the proposals affect me?**

We propose to replace in part the current paragraph 7 exemption by the proposed spreading waste on agricultural land to confer agricultural benefit exemption (U11). The proposed exemption restricts the waste types and volumes that can be spread to land. If your waste type or the quantity you wish to landspread cannot comply with the specified criteria you will need to apply for an environmental permit.

### **I registered a paragraph 9 exemption for ecological benefit of restoring land, how will the proposals affect me?**

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We propose an exemption for spreading on land to improve soil structure or add nutrients or biomass exemption (U12). The proposed exemption restricts the waste types and quantities that can be spread to land. If you wish to use waste types different to those specified or at greater quantity then you will need to apply for an environmental permit.

**I have a registered a paragraph 19 exemption for creating a golf course, how will the proposals affect me?**

We propose a number of provisions for the use of waste in construction under the following proposed exemptions: use of waste in construction work (U1); use of baled end-of-life tyres in construction work (U2); use of waste in the construction of tracks, paths, bridleways or car parks (U3); and use of waste in the construction of entertainment or educational installations etc (U4). These proposals restrict the quantity of waste that can be used. If the volume/quantity of waste you wish to use is greater than that in the relevant new exemptions you will need to apply for an environmental permit.

**I have a paragraph 13/14 exemption for manufacture, what will happen to me?**

We propose provisions for the manufacture of goods but these recommend restricting the quantities of waste that can be used. The proposed treatment of waste plant matter and wood by chipping, shredding, cutting or pulverising exemption (T6) permits the chipping of up to 500 tonnes of wood per year. The proposed screening & blending of waste exemption (T5) covers such activities to produce an aggregate or growing medium. The proposed use of waste to manufacture finished goods (U10) restricts waste types and quantities. If you wish to use waste types different to those specified or at greater quantity then you will need to apply for an environmental permit.

**I am working under a low-risk position. What will happen to me?**

We have assessed low-risk positions as part of the review of the exemptions. Details of the proposed new exemptions are included in the consultation. If these new exemptions are agreed then you will be required to register these exemptions in order to carry out your waste operation in the future.

**Will I need to register for temporary storage of waste at my site?**

There are some situations where an establishment or undertaking can benefit from an exemption without needing to register it. These are exemptions outside of the Waste Framework Directive (WFD), where the activity does not fall within the definition of disposal and recovery as set out in the WFD.

### **Why is there a proposal for re-registering every three years? What is wrong with the current system?**

Re-registration in some form will enable us to maintain an up-to-date public register. This gained majority support in the informal consultation.

We believe this proposal will improve the public register of exempt waste operations, help producers and carriers to comply with the Duty of Care and allow us to charge proportionate fees for lower-risk, simple exemptions. An up-to-date public register will also help us to inspect more appropriately as we will have more reliable information on what operations are being carried out and where.

### **What would happen if I didn't register an exemption?**

As with the current system, where your establishment or activity needs to be registered it is not exempt unless you have registered the exemption. Failure to register or re-register means the operation ceases to be exempt. You will be liable for the offence of carrying out waste recovery or disposal without a valid environmental permit and we may take enforcement action.

### **Why are you proposing to charge for the exemptions?**

The Environment Agency seeks to recover our costs through a mixture of charges for the registration of notifiable exemptions and funding from government grant-in-aid. Treasury guidance stipulates that charges should normally be set to recover the full cost of the service associated with exercising our regulatory functions. Our recovery of costs is also underpinned by the Polluter Pays Principle and the Defra Charging Handbook. These aim to use charges to recover our full costs, including those which relate to compliance assessment.

### **What will my charge cover?**

We have based the charge on the actual cost to us to administer and regulate these activities.

### **How often will I be charged?**

We propose to link the charge to the proposed three-year re-registration period. Therefore when you re-register your site after three years you will be required to pay the charge at that time.