



Controlled waste fact sheet

Controlled waste exemption

Can exemptions from the Regulations be given?

Yes, under the Environmental Protection (Controlled Waste) Regulations 2004 (the Regulations):

r. 49. (1) The CEO may by written notice exempt a person from compliance with any of the regulations in Parts 2 and 3 if the CEO is satisfied that –

- a) the circumstances in which the exemption is requested are justifiable and accountable; and
- b) the exemption will not adversely affect the operation of these regulations.

What type of regulatory requirements can be exempted?

Exemption from compliance with any or all of the requirements detailed in Parts 2 and 3 of the Regulations may be granted. This includes:

- licensing of carriers, drivers and vehicles and tanks;
- waste holder, carrier, driver and waste facility obligations;
- use of controlled waste tracking forms (CWTF);
- requirements for waste unloading
- transport and disposal requirements for asbestos waste.

How do I apply for an exemption?

You must complete [Form CW 23 – Application](#) for an exemption under Regulation 49 and submit it to the department. There is no fee for making an application for exemption.

r. 50A. (1) A person may apply to the CEO in the approved form for an exemption under regulation 49.

How is an exemption application assessed?

Exemption applications are determined by the Chief Executive Officer (CEO) of the department. The CEO must be satisfied that:

- the circumstances in which the exemption is requested is justifiable and accountable
- the exemption will not adversely affect the operation of the Regulations.

The CEO may require the applicant to provide further information before making a decision on an exemption application. The applicant will be notified of the outcome in writing.

Can I appeal an exemption decision?

There is no provision in the regulations to:

- appeal the CEO's decision regarding an exemption application



- appeal a condition placed on an exemption notice, or
- appeal the revocation of an exemption.

If you have questions regarding the outcome of your exemption application, please contact the department on 08 6364 7000, or email controlled.waste@dwer.wa.gov.au.

Conditions of exemption

An exemption may be granted subject to conditions and these will be clearly stated in the exemption notice.

r. 49. (2B) Without limiting subregulation (2A), the conditions that may be specified in a notice giving an exemption include –

- a) that the person given the exemption must transport the relevant controlled waste to a specified place within a specified period;
- b) that the person given the exemption must transport the relevant controlled waste in accordance with specified requirements;
- c) that the person given the exemption must keep specified records relating to the amount, containment type and location of the relevant controlled waste;
- d) that the person given the exemption must provide a written report to the CEO relating to the transportation and unloading of the relevant controlled waste when required to do so by the CEO.

How long does an exemption last?

All exemption notices will specify the period that the exemption applies.

r. 49. (2D) If the CEO gives an exemption, the CEO must specify in the notice the period for which the exemption applies.

The validity period specified in the exemption notice will vary depending upon the circumstances of the exemption.

An exemption ceases to have effect at the conclusion of the validity period. If the exemption is still necessary a new exemption application should be submitted several months before the expiry of the current exemption.

r. 49. (2) The CEO may by further written notice revoke or vary an exemption.

If an exemption is revoked it will cease to have effect even if the validity period has not lapsed.

What happens if a condition of an exemption notice is breached?

Under the Regulations:

r. 49. (2E) If a condition subject to which an exemption is given is breached, the exemption ceases to have effect.

Penalties may then apply for any previously exempted activities undertaken that subsequently breach the Regulations.



Penalties

Breaches of the Regulations can result in on-the-spot fines of \$250 or \$500 or a fine of up to \$5,000, as determined by a court. Pursuant to s.40(5) of the *Sentencing Act 1995*, offences committed by corporations may attract a fine of up to \$25,000 as determined by a court.

Significantly larger penalties may result if an offence takes place under the *Environmental Protection Act 1986*, such as pollution caused by illegal disposal of controlled waste. Prosecution can result in fines of up to \$1 million, jail sentences or both.

More information

For advice on compliance with the Regulations or any other controlled waste matter, please contact the department on 08 6364 7000, or email controlled.waste@dwer.wa.gov.au.

This document is available in alternative formats and other languages on request.

Related documents

Additional [publications about controlled waste](#) and related [controlled waste fact sheets](#) are available on the department website, or by contacting the department on 08 6364 7000.

Legislation

This document is provided for guidance only. It should not be relied upon to address every aspect of the relevant legislation.

Please refer to the Regulations and the *Environmental Protection Act 1986* available from the Parliamentary Counsel's Office. Free electronic copies are available from the [Parliamentary Counsel's Office website](#).



Disclaimer

The information contained in this document is provided by the Department of Water and Environmental Regulation (the department) in good faith, as a public service. However, the department does not guarantee the accuracy of the information contained in this document and it is the responsibility of recipients to make their own enquiries as to its accuracy, currency and relevance. The State of Western Australia, the department and their servants and agents expressly disclaim liability, in negligence or otherwise, for any act or omission occurring in reliance on the information contained in this document or for any consequence of such act or omission.

Limitation

The Western Australian Government is committed to providing quality information to the community and makes every attempt to ensure accuracy, currency and reliability of the data contained in this document. However, changes in circumstances after the time of publication may impact the quality of information. Confirmation of the information may be sought from the relevant originating bodies or the department providing the information. The department and the State of Western Australia reserve the right to amend the content of this document at any time without notice.

Legal advice

The information provided to you by the department in relation to this matter does not constitute legal advice. Due to the range of legal issues potentially involved in this matter, the department recommends that you obtain independent legal advice.