



## Fact sheet

### Waste levy exemption 5(1)(h) - Waste used for cover on landfills subject to a closure notice

#### Overview

The *Waste Avoidance and Resource Recovery Levy Act 2007* (WARR Levy Act) and the *Waste Avoidance and Resource Recovery Levy Regulations 2008* (WARR Levy Regulations) provide for a levy to be paid for waste (waste levy) received at licensed landfills in the metropolitan region and waste collected within the Perth metropolitan region that is received at licensed landfills outside of the metropolitan region.

Regulation 5 of the WARR Levy Regulations outlines categories of exemptions where the waste levy will not apply to waste received at licensed landfills if an application for an exemption is granted.

Regulation 5(1)(h) allows licensees of landfills or a person to whom a closure notice has been given to claim, by application, an exemption for waste used as cover on a licensed landfill as required by the closure notice.

#### Exemption for waste used for cover on landfills subject to a closure notice

The licensee must demonstrate the following when applying for this exemption:

- a closure notice has been given in respect of the licensed landfill
- the waste has been or is to be used for cover on the licensed landfill as required by a closure notice.

To apply for this exemption, the licensee must complete and submit to the Department of Water and Environmental Regulation (the department) the [approved form](#) and provide the information referred to in that form.

#### What is a closure notice?

A closure notice is a document issued by the Chief Executive Officer (CEO) of the department under section 68A of the *Environmental Protection Act 1986*.

A closure notice may be issued to the licensee of the licensed landfill when the CEO has reasonable grounds to believe that ongoing investigation, monitoring or management is required at a premises following the revocation or expiry of the relevant licence.

A closure notice will contain specific requirements and may include the removal or management of existing waste on the premises.

## **When should I apply for this exemption?**

If you have been issued with a closure notice by the department and you believe this exemption may be applicable, please contact the department to discuss your exemption application.

Closure notices may contain specific timeframes which you will need to adhere to and therefore it is important that an exemption application is submitted as soon as possible.

## **How do I apply for this exemption?**

The person to whom a closure notice has been given in relation to a landfill premises can apply to the department for an exemption under regulation 5(1)(h) by completing the approved application form and submitting to [wastelevy@dwer.wa.gov.au](mailto:wastelevy@dwer.wa.gov.au).

## **How is an exemption application assessed?**

The CEO of the department, or their delegate, will assess the information provided in the approved form to determine if it meets the requirements of the exemption under the WARR Levy Regulations. Following the assessment, the CEO will grant or refuse an exemption.

## **Conditions of exemptions**

If an exemption application is granted, the licensee will be issued with an exemption notice. The exemption may be subject to conditions or limited to circumstances set out in the notice. Regulation 5(5A) of the WARR Levy Regulations specifies examples of conditions that may be imposed.

## **What happens if a condition of an exemption is breached?**

Under regulation 5(6) of the WARR Levy Regulations, the exemption ceases to have effect if any condition of an exemption notice is breached.

## **Will I be notified of the outcome of my application?**

If the CEO decides to approve an exemption application, the licensee will receive a written notice of this decision.

If the CEO intends to refuse an exemption application, the licensee will be provided with a draft decision document outlining the reasons why the CEO intends to refuse the application. The licensee will generally have 21 business days to respond to the draft decision document before the CEO makes a final decision.

While the time required to assess an exemption application varies, generally a decision will be made within 30 business days following the receipt of a complete application.

## **Can I appeal an exemption decision?**

If the CEO refuses an exemption application or imposes conditions or limitations that the licensee does not agree with, the licensee may apply to the State Administrative Tribunal (Tribunal) for a review of the decision.

An application for review of the CEO's decision is made to the Tribunal directly.

Information about applying to the Tribunal is available [online](#).

### **Do I have to pay the waste levy while my exemption application is being assessed?**

A licensee must pay the waste levy by the due date, including any levy payable for waste that is the subject of a pending exemption application.

The due date is 28 days after the end of the relevant return period. If payment is not received in full by the due date, a penalty is payable on the overdue amount calculated at a rate of 20 per cent per annum.

If the exemption is granted retrospectively, the department will refund the licensee the amount of waste levy overpaid and any penalty paid on that amount.

It is recommended that exemption applications be submitted in accordance with the submission dates outlined in the [Guideline – Waste levy exemptions](#).

### **How long does an exemption last?**

All exemption notices will specify the period for which the exemption is valid. 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 or immediately if an exemption condition is breached.

### **More information**

Please contact the department on 6364 6963 for further advice on waste levy exemptions or related matters.

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

Effective February 2021.

### **Related documents (if applicable)**

Additional publications about waste levy exemptions are available [online](#).

### **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 Western Australian Legislation for copies of the relevant legislation, available electronically from the Parliamentary Counsel's Office [website](#).

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**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.