



## Exemptions from the landfill levy for asbestos containing material

### Overview

The *Waste Avoidance and Resource Recovery Levy Act 2007* provides for a landfill levy to be applied to waste received at metropolitan landfills and metropolitan waste received at landfills outside the metropolitan area.

The landfill levy is intended to discourage waste disposal to landfill and to encourage resource recovery.

The *Waste Avoidance and Resource Recovery Levy Regulations 2008*, subject to certain exemptions under regulation 5, apply to:

- all waste received at landfill premises in the metropolitan region on or after 1 July 2008; and
- all waste collected within the metropolitan region, irrespective of when it is collected, and received at landfill premises outside the metropolitan region on or after 1 July 2008; and
- return periods commencing on or after 1 July 2008.

### What is asbestos containing material?

Under regulation 5(1A):

***Asbestos containing material*** means any manufactured material or thing that, as part of its design, contains asbestos

...

### Regulation 5(1)(i) relating to asbestos containing material

Under regulation 5(1)(i):

- (1) A licensee may by application in an approved form claim an exemption from these regulations for the following waste received at a licensed landfill in any return period —
  - (i) asbestos containing material if the material is —
    - (i) taken to the licensed landfill otherwise than in contravention of the *Environmental Protection (Controlled Waste) Regulations 2004* regulation 44; and
    - (ii) buried at the licensed landfill in compliance with the conditions on the licence.

### Waste that is not considered asbestos containing material

Waste that is not included within the definition of asbestos containing material:

- asbestos contaminated soils;
- sand and other waste mixed with asbestos fibres; or
- mixed loads, where the asbestos containing material can reasonably be separated from other waste.

## Waste that is considered asbestos containing material

Waste that is included within the definition of asbestos containing material:

- bonded asbestos products including: roofing, shingles and siding, exterior and interior wall cladding, eaves, fencing, thermal boards, water and flue pipes; and
- friable asbestos products including: rope door gaskets in wood stoves, loose fill roofing insulation, spray-on insulation or soundproofing, low-density asbestos fibre board, some insulation on hot water pipes or domestic heaters or stoves (lagging), backing for floor tiles and vinyl flooring, carpet underlay, some textured paints or decorative ceiling coatings, heat-resistant fabrics, brick and plaster sealants or fillers and some adhesive products, as well as damaged or badly weathered bonded asbestos products.

## Landfills must be licensed to accept and bury asbestos containing material

Licensed landfills require approval (Special Waste Type 1) on their licence to accept and bury asbestos containing material.

Landfill operators without approval for Special Waste Type 1 applied to their licence should not accept asbestos containing material.

Unless the licence has Special Waste Type 1 approval, the licensed landfill will be refused this exemption provision.

## How does someone qualify for this exemption?

Waste that qualifies for this exemption must meet the following criteria:

- asbestos containing material must comply with regulation 44 of the *Environmental Protection (Controlled Waste) Regulations 2004*:

A person who takes material containing asbestos to a waste facility or to a place approved by the CEO under regulation 46(a) which is not —

- separated from other material for disposal where that is reasonably practicable;
- wrapped or otherwise contained in a manner that prevents asbestos fibres entering the atmosphere during transportation on a road; and
- labelled or marked with the words "CAUTION ASBESTOS" in letters not less than 50 mm high,

commits an offence.

- all asbestos containing material must be disposed of to landfill in accordance with the requirements of the disposal site's licence;
- as a condition of the exemption, the landfill licensee operator who accepts waste for which an exemption is claimed, must ensure the saving from the levy is passed onto the customer who delivers the waste; and
- The *Waste Avoidance and Resource Recovery Levy Regulations* requires records kept to evidence the volume or weight of the asbestos containing materials claimed as exempt, and show that no levy was charged to the customer delivering the waste.

## How do Category 63 inert landfills measure the asbestos containing material received and disposed at the landfill?

The measurement for inert landfills to calculate the landfill levy is by volume, in cubic metres. The volumetric survey measures the volume of waste disposed at the licensed landfill.

Because asbestos containing material is also disposed to landfill it will be captured in the volumetric survey's volume. Therefore accurate records must be kept that estimate the volume of the asbestos containing materials that are buried.

Table 1 (see page 5) shows the preferred method for estimating the volume in cubic metres when delivered by vehicles of various sizes and types.

If granted an exemption, the preferred measurement method will be outlined for the licensee in the conditions of the Notice of Exemption.

## How does someone apply for an exemption?

Landfill licensees must apply to the Department of Environment Regulation for an exemption using a form approved by the Chief Executive Officer (CEO).

Licensees need to complete and submit the form including any supporting information. An exemption will not be granted if the approved form is incomplete.

For more information on approved forms refer to [www.der.wa.gov.au/landfilllevy](http://www.der.wa.gov.au/landfilllevy).

To avoid landfill levy liability, exemptions should be in place prior to 28 days after the end of the return period.

Completed and signed forms should be addressed to the Senior Manager, Environmental Compliance and submitted:

### by post to:

Department of Environment Regulation  
Senior Manager, Environmental Compliance  
Locked Bag 33 Cloisters Square  
PERTH WA 6850

OR

### in person or by courier to:

Reception  
Department of Environment Regulation  
Level 4, 168 St Georges Terrace  
Perth

Licensees are advised to retain a copy of the completed forms for their records.

## Approval or refusal of an application

According to regulation 5 (4):

The CEO may, by written notice —

- (a) grant, or refuse to grant, an exemption; or
- (b) grant an exemption subject to conditions, or limited to circumstances, specified in the notice; or
- (c) revoke an exemption.

The CEO, or delegate appointed under s 92(2) of the *Waste Avoidance and Resource Recovery Levy Act 2007*, will provide written notice of the decision.

If an exemption is granted, an exemption notice outlining the decision and conditions of the exemption will be issued to the licensee.

The licensee is required to meet all the conditions in the exemption notice. If a condition is breached, the exemption ceases to have effect.

The exemption, if granted, applies to the period as stated in the notice.

## Review of exemption application decision

According to regulation 6:

- (1) A person aggrieved by a reviewable decision may apply to the State Administrative Tribunal for a review of the decision.
- (2) In subregulation (1) —  
**reviewable decision** means a decision —
  - (a) to refuse to grant an exemption under regulation 5; or
  - (b) to impose conditions or limitations upon the grant of an exemption under regulation 5.

Contact information for State Administrative Tribunal is:

**Street address:**

12 St Georges Terrace  
PERTH WA 6000

**Postal address:**

GPO Box U1991  
PERTH WA 6845

**Other contact details:**

Telephone: 08 9219 3111

Toll-free: 1300 306 017

Facsimile: 08 9325 5099

Website: [www.sat.justice.wa.gov.au](http://www.sat.justice.wa.gov.au)

**Estimate the volume of waste using vehicle type or weight in tonnes**

Transport mode Vehicle type	Weight (Tonnes)		Assessed volume of waste (m3)
	Putrescible	Inert (1.3t / m3)	Applicable only to metropolitan waste disposed in country landfills
Single axle trailer, ute, car and van	0.3	1.3	1
Tandem axle trailer	0.6	2.6	2
Open trucks, Gr wt <5t	0.9	3.9	3
Open trucks, Gr wt >5t, <12t	1.8	7.8	6
Open truck – 3 axles (“6 wheeler”)	3	13	10
Open truck – 4 axles (“8 wheeler”)	3.6	15.6	12
Open truck – 5 axles (“Bogy Semi” or “6 wheel pig trailer”)	5.4	23.4	18
Open truck – 6 axles (“Tri-axle Semi”)	6	26	20
Open truck – 8 axles	7.8	26	20
Open truck – 9 axles (“8 wheeler plus trailer”)	9.6	41.6	32
Open truck – 11 axles (“Road Train”)	12	52	40
Bins 2-4m3	1.2	3.9	3
Bins 4-8m3	2.4	7.8	6
Bins 8-12m3	5	13	10
Bins 12-19m3	6.5	20.15	15.5
Bins > 20m3	8	22	20
Compactor trucks <8m3	1.7	5.2	4
Compactor trucks 8-12m3	4.25	13	10
Compactor trucks 12-18m3	4.34	20.15	15.5
Compactor trucks 18-32m3	10.6	32.5	25
Compactor trucks >32m3	14.9	45.5	35

## More information

For assistance with completing exemption application forms, information on exemptions more generally, or waste management matters, please contact the Department on: (08) 6467 5000.

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

## Related documents

Approved exemption application form for asbestos containing materials and other exemption application forms are available online from [www.der.wa.gov.au/landfilllevy](http://www.der.wa.gov.au/landfilllevy).

Additional publications relating to waste management are available online:

- Controlled Waste Fact Sheet No. 16
- [www.der.wa.gov.au](http://www.der.wa.gov.au);
- [www.wasteauthority.wa.gov.au](http://www.wasteauthority.wa.gov.au);

or by contacting the Department on 6467 5000.

## Legislation

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

Please refer to the *Waste Avoidance and Resource Recovery Levy Regulations 2008*, the *Waste Avoidance and Resource Recovery Act 2007*, and the *Waste Avoidance and Resource Recovery Levy Act 2007*, available from the State Law Publisher. Free electronic copies are available from [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

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## Legal advice

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