

## Frequently asked questions about the new waste exemptions system

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## Answers to questions

### Q: What is an exempt waste operation?

A: Usually, you need a permit to carry out the disposal or recovery of waste. However there are situations when this rule doesn't apply. These are known as exempt waste operations or waste exemptions. As long as you meet the terms and conditions of these waste exemptions you do not need a permit. You can find out more by visiting <http://www.environment-agency.gov.uk/exemptions>

### Q: What is the register of exempt facilities?

A: When you register a waste exemption with us we have to put it on the register of exempt facilities. We have a duty to maintain this register and allow members of the public to access it free of charge at all reasonable hours.

We put the following information on the register:

- The name and address of the person/organisation that has registered the exemption;
- The 'place' that has been registered;
- The exempt waste operation that has been registered.

We must put this information on the register except where it relates to national security.

We must keep the register up to date. Therefore, you need to renew your registration every three years if you still want to carry out the waste exemption.

### Q: Where can I find guidance to help me register a waste exemption?

A: Go to <http://www.environment-agency.gov.uk/exemptions>

### Q: How do I register?

A: You can notify us for most exemptions by going online at <http://www.environment-agency.gov.uk/exemptions>. Alternatively you can also do it by filling in an online form and emailing it to us (available at the above address). There are two available: one for T11 (Repair and Refurbishment of Waste Electrical and Electronic Equipment) and one for the rest of the waste exemptions. You can only register a T11 using an electronic form at this stage. Also the online system does not currently have a facility for making registrations for multiple sites except by individual manual inputting. However we have provided a [bulk registration](#) option on our website. For linear networks for example road, rail or river networks you should use the electronic or paper form and submit it with a copy of a map detailing the network or spreadsheet it is referring to.

**Q: When registering an exemption I have to tell you the “place” where the activity is going to be carried out. What does this mean, and what do I have to register if I have a network that I want to register?**

**A:** The majority of places at which waste activities are conducted are ‘point’ locations, a single identifiable place or area which is simple to define. In these cases simple identifiers such as postcode or grid reference can be provided at the time of registration.

However there are situations where this may not be clear, specifically where the activities take place on a farm or on a linear network. We have produced guidance on these situations which can be seen at:

[http://www.environment-agency.gov.uk/static/documents/Business/Guidance\\_on\\_meaning\\_of\\_place.pdf](http://www.environment-agency.gov.uk/static/documents/Business/Guidance_on_meaning_of_place.pdf)

**Q: I have registered more than one exemption at a ‘place’. Does this mean these exemptions are not valid?**

**A:** Yes. The definition of place has not changed and only one exemption per place can be registered. It would be unreasonable for us to stop you operating under your exemption straightaway, so we will allow you to continue to operate under the current exemptions you have registered until **1 October 2010**, to give you time to make other arrangements. After that date, all of your exemption registrations where you have registered more than one exemption at a ‘place’ will be removed from the register and you will have to apply to register just one exemption per place.

**Q: Do I have to pay?**

**A:** All the waste exemptions are free, except for T11 (Repair and Refurbishment of Waste Electrical and Electronic Equipment) which costs £840 every three years.

This fee is to pay for pre-registration and yearly inspections that are required by the WEEE Directive.

**Q: Do I have to re-register?**

**A:** Yes, every three years. We will remind you when your registration is due for renewal.

**Q: When do I have to register?**

**A:** If you currently hold a waste exemption under the old system you have between 18 months and three and a half years to register under the new system. For more advice on these transitional arrangements, see our summary on [www.environment-agency.gov.uk/exemptions](http://www.environment-agency.gov.uk/exemptions).

If you were not registered under the old system then you must register under the new system before you begin to operate.

**Q: Will you write to me to remind me when I have to re-register?**

**A:** Yes. We will email you or send you a letter to remind you to re-register. We will do this approximately one month before your registration is due to lapse.

If you don't renew your registration it will be removed from the register and you will not be able to operate legally under the waste exemption.

**Q: What happens if I want to add another waste exemption to my portfolio?**

**A:** You can do this at any stage, by notifying us that you wish to add a new waste exemption to your existing registrations. However, if you add an exemption it will only run until the other waste exemptions expire.

For example, if you registered a set of waste exemptions in July 2010 these will be valid for three years, until July 2013. However, if you add a waste exemption to this portfolio in March 2011, that new waste exemption will expire at the same time as the others in July 2013.

We will treat T11 exemptions differently, as these are chargeable. You cannot add a T11 to a portfolio of other waste exemptions. T11 is treated as a separate registration, and cannot form part of a portfolio of waste exemptions.

**Q: What do you mean by a portfolio of waste exemptions?**

**A:** This is a set of waste exemptions held by a particular customer, with the exception of T11.

**Q: Can I register all of my sites/waste exemptions at once?**

**A:** The online system does not currently have a facility for making registrations for multiple sites except by individual manual inputting. However we have provided a [bulk registration](#) option on our website.

**Q: Do I register all the waste exemptions with the Environment Agency?**

**A:** No. The majority of waste exemptions do have to be registered with us, but there are six that don't. These are:

T3 - register with your local authority.

T7 - register with your local authority.

T22 - register with Animal Health.

You can visit the Animal Health website at: [www.defra.gov.uk/animalhealth/inspecting-and-licensing/index.htm](http://www.defra.gov.uk/animalhealth/inspecting-and-licensing/index.htm)

Temporary storage at the place of production - no registration needed.

Temporary storage of waste at a place controlled by the producer - no registration needed.

Temporary storage at a collection point - no registration needed.

These last three exemptions are called non-Waste Framework Directive exemptions. They apply in certain situations where waste is stored before it is sent for disposal or recovery.

Further guidance is available on our website at: [www.environment-agency.gov.uk/business/topics/permitting/115574.aspx](http://www.environment-agency.gov.uk/business/topics/permitting/115574.aspx)

**Q: How does this registration system protect the environment?**

**A:** By registering a waste exemption, an operator is signing up to the conditions of the exemption, which are designed to protect the environment. Registering also means that we know where the operator is carrying out the activity. This allows us to do spot checks to ensure that the operator is complying with the waste exemptions. It also helps us to respond to complaints and pollution incidents because we know what waste activities are taking place at a particular location.

**Q: I can't see a waste exemption that applies to my low risk activity. What do I do?**

**A:** Check our website ([www.environment-agency.gov.uk/business/topics/waste/32080.aspx](http://www.environment-agency.gov.uk/business/topics/waste/32080.aspx)) to see if there is a low risk position that applies to your activity. If not, speak to someone in your local Environment Agency area office who can advise you on whether you could get a low risk waste position. You can find contact details for your local office on our website: [www.environment-agency.gov.uk/contactus/36324.aspx](http://www.environment-agency.gov.uk/contactus/36324.aspx)

**Q: I'm a farmer. Is there any specific guidance?**

**A:** Yes, there is specific guidance on our website ([www.environment-agency.gov.uk/exemptions](http://www.environment-agency.gov.uk/exemptions)) and a list of Frequently Asked Questions for farmers at [www.environment-agency.gov.uk/business/sectors/32779.aspx](http://www.environment-agency.gov.uk/business/sectors/32779.aspx)

**Q: Can I compost under a waste exemption within 250 metres of residential property?**

**A:** Yes. There is no distance restriction in the composting exemption (T23) but you must take care not to pollute the environment, harm human health or cause a nuisance.

**Q: When will an operator, operating under a waste exemption, need to pass a technical competence assessment and in what circumstances? Will they need to do this to carry on operating under the waste exemption in the transition period and then when registering their new waste exemption?**

**A:** Operators will not need to gain technical competence under the new waste exemption system. Technical competence is only relevant to permitting. Operators transferring from an exemption to an environmental permit because of the Exemption Review have been given an additional 12 months to demonstrate their competence.

Guidance on who has to have technical competence and how they can get it, will be available on our website soon.

**Q: Are charities and schools exempt from registering waste exemptions or applying for permits?**

**A:** No, they must register and apply for permits in the same way as any other establishment or organisation.

**Q: How do you enforce against non-Waste Framework Directive exemptions?**

**A:** If there is a breach of the conditions of a non-Waste Framework Directive exemption this will be dealt with in exactly the same way we would treat a breach of a simple exemption.

**Q: What is the meaning of 'pursuant to' in U10 and U11?**

**A:** We have updated our position on the meaning of "pursuant to in U10 and U11. It can be found at:

[http://www.environment-agency.gov.uk/static/documents/Research/PS\\_028\\_The\\_meaning\\_of\\_pursuant\\_to\\_V1\\_0.pdf](http://www.environment-agency.gov.uk/static/documents/Research/PS_028_The_meaning_of_pursuant_to_V1_0.pdf)

**Q: I have registered an exemption but now it does not meet the interpretation of 'pursuant to' provided in Position Statement 028. Does that mean it is no longer valid?**

**A:** Yes, your exemption registration is not valid and will need to be removed from the register. If you want to continue your operation then you will need to apply for an environmental permit. It would be unreasonable of us to stop you from operating under your exemption straight away, so we will allow you to continue operating under your registered exemption until **1 October 2010**. After this date, the exemption will be removed from the register, we will expect any waste to have been spread or removed from sites and you must either stop the operation or do it under an environmental permit. If your activity causes pollution of the environment or harm to human health, then we will immediately remove it from the register and you will have to stop operating until you get an environmental permit.

**Q: During the transitional period, is it correct that compost produced under a paragraph 12 exemption can only be spread under a waste exemption if the site has the relevant old-style exemption paragraph 7?**

**A:** No, this compost can also be spread under a mobile plant permit. It can be spread under a paragraph 7 exemption as long as the exemption was in place before 6 April 2010, covered the spreading of compost and remains registered during the transitional period.

Please also remember that if the compost reaches the standards contained within the WRAP protocol (PAS 100) we would not consider it to be waste and it can be spread to land without a permit or an exemption.

**Q: Can company employees take waste home to use for composting/burning for fuel/conversion to biodiesel etc?**

**A:** There is nothing to stop this happening as long as the waste streams fall into those permitted by the relevant exemptions. As long as the householder is acting in her/his own private capacity the exemption would not need to be registered. However, if the householder begins to do this commercially or starts providing a waste management service then s/he would need to register.

Strictly speaking, the company or organisation producing the waste has a duty of care and should complete a waste transfer note when passing the waste on their staff. We are looking into the possibility of producing a regulatory position for this situation.

**Q: The treatment exemptions are very specific in what waste types I can accept and treat but sometimes I find accidental admixture of other waste types in the waste I have accepted. What should I do?**

**A:** You should always be working to reduce the admixture of other waste types in the wastes you accept at your site to zero.

However, we recognise that there will be occasions where accidental admixture occurs. You should quarantine this material and arrange for its timely removal, particularly when the material puts the environment or human health at risk.

However, it is important to draw a distinction between that accidental admixture and flagrant breaches of exemption which is unacceptable. As this depends on the particular circumstance at the site, we give our area officers discretion to decide whether the exemption is being deliberately breached.

**Good practice for accepting wastes**

1. Check waste loads before you collect them or as soon as they arrive on your site, if you are not collecting them.
2. Carefully check the written description of the waste provided by the customer and make sure that the waste types are allowed under your exemption.
3. Sometimes non-permitted wastes are hidden at the bottom of loads so check them as they are tipped out and before they are submitted to any treatment process.
4. If you find any accidental admixtures you should usually remove these from the waste stream by inspection and grading before treatment and separate them into a designated or 'quarantine' area, distinct from your normal operations. However, there will be situations where the inappropriate material is impossible to remove before treatment, for example nails and other metal attached to wood that is then removed as part of the treatment process. The outcome you should seek is that the accidental admixture is removed from the waste stream in the most effective manner, so that it does not continue to contaminate the waste. The removed admixture should be sent to an appropriately authorised site.
5. Work with your customers to improve the quality of the waste they send to you and send any loads back that blatantly do not meet the terms of your exemption.
6. If you have concerns about flagrant breaches of the Duty of Care then you should discuss this with your local area officers.
7. You may want to keep written record of these checks to provide evidence for your own Duty of Care.

## Standard rules questions

**Q: Can the operator, who presumably is the permit holder, be either a company or an individual? Do they need to be a registered waste carrier?**

**A:** Anyone can apply for a permit. For guidance on what an operator is, see Regulatory Guidance Note 'Understanding the meaning of operator (RGN EPR1)' available at [www.environment-agency.gov.uk/business/topics/permitting/32338.aspx](http://www.environment-agency.gov.uk/business/topics/permitting/32338.aspx)

A person has to be registered as a waste carrier if they are carrying waste as part of a trade or business. There are exceptions to this rule, for example if they are carrying their own waste (except if it is construction or demolition waste). More information on carriers and brokers is available at [www.environment-agency.gov.uk/business/sectors/wastecarriers.aspx](http://www.environment-agency.gov.uk/business/sectors/wastecarriers.aspx)

**Q: If the operator is a waste contractor, for example, would only people directly employed by them be allowed to landspread under the issued permit? Or could the company sub-contract work to a third party that does not hold a permit themselves?**

**A:** An operator can use one of their employees, a farmer or a contractor to spread waste as long as a deployment has been submitted and approved. The operator must ensure that they retain overall control over all deployments (that is, all operations including storage and spreading) and ensure that the person(s) spreading comply with the Standard Rules and the deployment.

The operator will be held responsible for any breaches of the deployment and Standard Rules. For guidance on what an operator is, see Regulatory Guidance Note 'Understanding the meaning of operator (RGN EPR1)' available at [www.environment-agency.gov.uk/business/topics/permitting/32338.aspx](http://www.environment-agency.gov.uk/business/topics/permitting/32338.aspx)

However, please note that Paragraph 4.2 of that Regulatory Guidance Note advises:

4.2 *We can assess whether an operator (or proposed operator) has that authority and ability by considering each of the following factors (this list is not exclusive and other factors may be taken into account).*

*Does the operator/proposed operator have the authority and ability to:*

- manage site operations through having day-to-day control of plant operations, including the manner and rate of operation;*
- ensure that permit conditions are effectively complied with;*
- hire and fire key staff;*
- make investment decisions; and*
- ensure that operations are shut down in an emergency?*

**Q: Can the applicant appeal the decision if their Waste Recovery Plan is rejected during the Recovery versus Disposal test? If so, is there a process in place for this?**

**A:** The Waste Recovery Plan is linked to site permits. Therefore, an operator has the right to appeal if we decide that the activity amounts to disposal and refuse to issue a permit.

**Q: Can the applicant appeal if their deployment request is not agreed?**

**A:** There are no formal appeal mechanisms set out in either the mobile plant permit or in the legislation, whereby an operator can appeal against a refusal to agree a deployment form. However, the operator does have right to make a complaint through our internal complaints procedure.

If this is not upheld then they can approach the Parliamentary Ombudsman (in England) or the Public Services Ombudsman (in Wales). If these mechanisms fail to satisfy the operator s/he has the right to judicially review the decision not to agree the deployment.

**Q: Is there any way to vary the waste quantities within an agreed deployment form – specifically for the 'Waste Recovery Plan' following the Recovery versus Disposal test?**

**A:** Yes, there is a condition in the standard rules that requires us to agree any changes in writing. Therefore if we receive an application from an operator to amend their Waste Recovery Plan we will be able to consider the request and confirm it, if appropriate, in writing.

**Q: Why does the new equivalent of paragraph 13 still contain the requirement for soil to be spread at the place of production?**

**A:** There are two possible permits that are aimed at replacing paragraph 13: one site-based and one mobile plant. The mobile plant permit was designed to be used at the site of production or the site of use, because we considered that this would be temporary activity suited to a mobile plant approach.

We chose a site-based approach for soil/aggregate treatments at other sites, as we thought that these could become permanent treatment sites. As such we wanted some additional controls surrounding the handing back of these permits to ensure that the sites concerned were returned to a fit state.

**Q: My old paragraph 7 exemption used to be turned around in 25 days, but you have up to three months to issue a new Standard Permit, with an additional one month for my deployment. This will affect my business as I won't be able to work until I get my permit and deployment.**

**A:** We acknowledge the need to process new standard permits and deployments as quickly as possible, to avoid any disruption to our customers' businesses. When we receive a standard permit application and deployment application together, we will ensure that they are

processed together by the same permitting officer.

We will aim to issue them in approximately 35 days. This timescale depends on us receiving good quality, complete applications.

If we receive applications with information missing then the turnaround time might be longer than 35 days. Please note that volume of work will also affect timescales and during busy periods we may also exceed the 35-day turnaround time.

**Q: If I apply for a land spreading mobile plant permit can I make a deployment notification at the same time?**

**A:** Yes. You will need to pay a fee for both the application and the deployment notification and we will process both of these at the same time. We will need to issue your permit before we can finally agree the deployment. Please make the permit and deployment application together so that we can track all the documents.

**Q: Under the landspreading permit, how do I work out whether my deployment is low, medium or high risk?**

**A:** This will depend on the waste types you are spreading, where you are spreading them and the permit the deployment relates to. See the table below for a summary.

**Risk Banding – for landspreading permits**

	<b>Spreading is outside 500m of a European site, Ramsar and/or SSSI; and/or SPZ 2</b>	<b>Spreading is within 500m of a European site, Ramsar and/or SSSI; and/or SPZ 2</b>
<b>SR2010No4 List A wastes (lower risk)</b>	<b>Low risk</b>	<b>Medium risk</b>
<b>SR2010No4 List B wastes (higher risk)</b>	<b>Medium risk</b>	<b>High risk</b>
<b>SR2010No5 and SR2010No6 (any waste listed)</b>	<b>Medium risk</b>	<b>High risk</b>

You can find more information on these permits at [www.environment-agency.gov.uk/business/topics/permitting/32334.aspx](http://www.environment-agency.gov.uk/business/topics/permitting/32334.aspx)

**Q: When will you stop accepting new applications for simple and complex exemptions?**

**A:** Any applications for simple or complex exemptions we receive on or before 5 April 2010 can take advantage of the transitional arrangements. However, because this date was a bank holiday we will process any application for an exemption that we received on 6 April 2010. After this date you must apply for a new exemption or permit.

**Q: Will all the exempt activities that are moving to permits be standard rules or will some become bespoke?**

**A:** If the applicant cannot meet the conditions of the standard rules permit, then they must apply for a bespoke permit.

## Questions about both permits and exemptions

**Q: What is a List of Waste code?**

**A:** We operate a system called 'List of Waste Codes' in the UK to help us describe wastes. These codes are used extensively, both in the new waste exemption system and in our permits, to identify what wastes the exemptions and permits allow.

You can find more information on List of Waste (LOW) codes at [www.environment-agency.gov.uk/business/topics/waste/32140.aspx](http://www.environment-agency.gov.uk/business/topics/waste/32140.aspx)

**Q: What is the disposal/recovery test all about? Where can I get more information?**

**A:** Most of the use, treatment and storage exemptions only relate to the recovery of waste and unless otherwise stated cannot be used to dispose of waste.

We have produced guidance (available at [www.environment-agency.gov.uk/static/documents/Business/RGN13\\_Defining\\_Waste\\_Recovery\\_v1.0.pdf](http://www.environment-agency.gov.uk/static/documents/Business/RGN13_Defining_Waste_Recovery_v1.0.pdf)) to help you decide whether an activity is a disposal or recovery of waste. This is particularly relevant for 'U1 Use of waste in construction'. We advise you to read the guidance before carrying out any activity under this waste exemption.

## Regulatory positions and Low Risk Waste positions

**Q: What is a low risk position?**

**A:** A low risk waste position is basically an enforcement position that we take. From time to time we were informed of, or came across, waste management activities that were low risk but did not benefit from a waste exemption.

In these situations, the operator should have an environmental permit. However, we thought that this approach would be disproportionate and heavy-handed. We did not think it was in the public interest to pursue a permit application for the activities covered by the low risk positions.

However, most of these low risk positions can now benefit from an exemption and so have been retracted. There are no transitional provisions for these low risk positions and we expect those that have benefited from them to register an appropriate waste exemption.

For more information on how the low risk positions correspond to the new waste exemption system, see our page on modernising waste regulation at <http://www.environment-agency.gov.uk/business/regulation/99685.aspx>. Please look at ER001.

We will continue to take new low risk positions when we came across new low risk waste activities for which there is no waste exemption. We will put these forward for consideration in the next exemption review.

**Q: Who should I contact to discuss new projects that may need a new or unique exemption?**

**A:** The low risk waste panel will still exist, so any new activities that are not covered by a new waste exemption can go through it initially. If a Low Risk Waste position is then granted, we will consider whether a waste exemption could be included for this activity in the next review of regulations.