

Protection of the Environment Operations Act 1997

Publication of Exemption Granted under section 284

THE Environment Protection Authority (EPA) publishes the following exemption in accordance with section 284 of the Protection of the Environment Operations Act 1997. Section 284 of the Act provides that the EPA may exempt a person or class of persons from a specified provision of the Act or the regulations under the Act. The Board of the EPA has approved the making of the exemption.

Dated 22 March 2000.

GRAEME HEAD, Acting Director-General, Environment
Protection Authority

Protection of the Environment Operations Act 1997

Order Granting Exemption under section 284

BY this order the Environment Protection Authority (EPA), with the approval of the Board of the EPA, grants the following exemptions to the classes of persons specified below. This order has effect from the date of publication in the Gazette for the periods specified and subject to the conditions set out below.

Terms used in this order have the same meaning as they have in the Protection of the Environment Operations Act 1997 (the Act), the Protection of the Environment Operations (Waste) Regulation 1996 (the Regulation) or, where they are used in this order in relation to an environment protection licence under the Act, the same meaning as they have in that licence.

Note: This order refers to particular conditions of licences issued by the EPA. It does so by reference to the numbering of the conditions in the licences. The numbering varies depending on whether the licence was issued prior to 1 July 1999 under the waste minimisation and management act 1995 and, if it was, whether the licence has been converted into the format of an environment protection licence under the protection of the environment operations act 1997. The relevant condition numbers for a licence which was issued prior to 1 July 1999 and which has not been converted are set out in square brackets in the text of the order and referred to as "WMMA licence conditions". Licensees affected by this order should check the format of their licence to determine which condition numbers are relevant. A licence in the new format will have the following heading on the first page:

"Environment Protection Licence, Section 55, Protection of the Environment Operations Act 1997".

Part 1 – Waste facilities

Part 1 of this Order does not apply in relation to clinical or related wastes. These wastes are dealt with in Part 2.

1. Part 1 of this exemption applies from the date of its publication to 31 December 2000.

2. A person holding an environment protection licence (the licensee) in respect of a waste facility which permits the acceptance of hazardous, industrial or Group A waste (other than clinical or other wastes as defined in paragraph 4 below) at the facility, is exempted from section 64 of the Act in so far as it would otherwise apply to any non-compliance with operating conditions O6.12 and O6.19 (e) to (i) of the licence. [WMMA licence conditions (11) and (18) (e) to (i) - "Monitoring and Reporting of Waste Movements from within N.S.W."].
3. This exemption is subject to the conditions in paragraphs 4 and 5.
4. The licensee must:
 - (a) advise the consignor and the transporter of any hazardous, industrial or Group A waste, at the time the waste is accepted by the facility, of the EPA's waste tracking requirements as set out in the pamphlet published by the EPA and entitled "NSW Environmental Law - New waste tracking requirements - Protection of the Environment Operations Act 1997"; and
 - (b) take reasonable steps to ensure that future loads of hazardous, industrial or Group A waste from that consignor or that transporter are received at the facility in accordance with the waste monitoring and reporting conditions of the licence.
5. If the licensee accepts hazardous, industrial or Group A waste at the facility and operating condition O6.12 (b) or (c) of the licence [WMMA licence condition (11) (b) or (c)] is not complied with in connection with that acceptance, the licensee must:
 - (a) record the name and address of the waste consignor;
 - (b) record the name and address of the waste transporter;
 - (c) record the registration number of the vehicle in which the waste was transported to the facility, and the time and date the waste was received;
 - (d) record the type and quantity of waste received;
 - (e) retain the records referred to in subparagraphs (a) to (d) for at least 4 years from the date of acceptance of the waste to which they relate, and make them available to an authorised officer on request; and
 - (f) if the person transporting the waste refuses to provide the names and addresses referred to in subparagraph (a) or (b), report this to the EPA within 48 hours of the refusal.

Part 2 - Clinical waste

6. Part 2 of this Order applies from the date of its publication to 30 September 2001.
7. This Part applies to clinical waste, cytotoxic waste, sharps waste, pharmaceuticals and poisons, and radioactive waste generated at any of the following premises:
 - (a) dental or doctors surgeries;

- (b) hospitals, pathology laboratories or pre-term clinics;
- (c) nursing homes, pharmacies, veterinary clinics, funeral parlours, educational institutions, or businesses carrying out any skin penetration procedure to which Part 3 of the Public Health Regulation 1991 applies;
- (d) premises where needle collection receptacles are installed.

8. A reference to "waste" in this part means waste as described in paragraph 7.

9. A person holding an environment protection licence in respect of a waste activity is exempted from section 64 of the Act in so far as it would otherwise apply to any non-compliance, in relation to the waste, with the operating conditions in part O5 – "Monitoring of waste movements within N.S.W." of the licence. [WMMA licence conditions - "Monitoring and Reporting of Waste Movements within N.S.W."].

10. A person holding an environment protection licence in respect of the transportation of waste and who is an authorised contractor by virtue of that licence is exempted from section 64 of the Act in so far as it would otherwise apply to any non-compliance, in relation to the waste, with the operating conditions in the following parts of the licence: part O3 – "Monitoring of Transportation of Certain Wastes Within N.S.W." and part O4 – "Monitoring and Reporting of Waste Transported by an Authorised Contractor". [WMMA licence conditions - "Monitoring and Reporting of Transportation of Certain Wastes within N.S.W." and "Monitoring and Reporting of Waste Transported by an Authorised Contractor"].

11. A person carrying on a non-licensed waste activity is exempted, in relation to the waste, from Clause 16 (2)(d) of the regulation.

12. The exemptions in paragraphs 9 to 11 are subject to the following conditions relating to the transportation of the waste from the premises where a waste activity, whether licensed or non-licensed, is carried on:

- (a) the waste must be transported from the premises by an authorised contractor licensed to transport the waste;
- (b) prior to the waste being consigned for transport from the premises, the person holding the licence in respect of the waste activity, or the person carrying on the non-licensed waste activity (both of whom are referred to below as the waste activity), and the authorised contractor must have entered into a legally binding contract with each other which requires that:
 - (i) each load of the waste collected from the premises by the authorised contractor is transported to a waste facility which is licensed to accept the waste or to a facility which may otherwise lawfully accept the waste;

- (ii) at least once every 60 days after the first collection of waste by the authorised contractor under the contract, the authorised contractor provide the waste activity with documentation, which identifies the types of waste collected from the premises by the authorised contractor in that period (with the wastes identified in accordance with the relevant description set out in Technical Appendix 4 of the Waste Guidelines), the respective quantities of each load of the waste collected, the place to which the waste was taken for treatment or disposal, and which certifies that all such wastes have been taken either to waste facilities which are licensed to accept the waste or to a facility which may otherwise lawfully accept the waste;
- (iii) the waste activity inform the EPA within 14 days if the documentation referred to in Clause (ii) above is not received from the authorised contractor by the time required by Clause (ii); and
- (iv) the parties must each retain a copy of the contract and all documentation referred to Clause (ii) above for at least 4 years from the date the contract was entered into or from the date the document came into existence in the case of other documentation, and make them available for inspection by an authorised officer upon request.

13. A person holding an environment protection licence in respect of a waste facility is exempted from section 64 of the act in so far as it would otherwise apply to any non-compliance, in relation to the waste, with the following operating conditions of the licence: O6.6 (b), O6.7 (c), O6.8, O6.12, O6.14, and O6.19 (d) to (i). [WMMA licence conditions (5) (b), (6) (c), (7), (11), (13) and (17) (d) to (i) - "Monitoring and Reporting of Waste Movements from within N.S.W."].

14. The exemption in paragraph 13 is subject to the following conditions relating to the acceptance of the waste at the waste facility:

- (a) Prior to the waste being consigned for transport to the facility, the licensee and the waste consignor must have entered into a legally binding contract with each other which requires that:
 - (i) waste consigned for transport to the facility must be transported to the facility and that the facility is licensed to receive or may otherwise lawfully accept the waste;

- (ii) at least once every 60 days after the first acceptance of waste by the licensee under the contract, the licensee must provide the person who consigned the waste with documentation which identifies the types of waste accepted from that person in that period by the licensee (with the wastes identified in accordance with the relevant description set out in Technical Appendix 4 of the Waste Guidelines), the respective quantities of each load of waste collected, the place to which the waste was taken, and which certifies that the licensee is licensed to treat or dispose of the waste;
- (iii) the person who consigned the waste must inform the EPA within 14 days if the documentation referred to in Clause (ii) above is not received from the licensee by the time required by Clause (ii); and
- (iv) the parties must each retain a copy of the contract and all documentation referred to Clause (ii) above for at least 4 years from the date the contract was entered into or from the date the document came into existence in the case of other documentation, and make them available for inspection by an authorised officer upon request.

Interstate movement of controlled waste

15. No exemption under this Order exempts any person or any class of person from:
- (a) any of the provisions in Part 6A of the Regulation (which relates to the transport of controlled waste between States and Territories), or from
 - (b) section 64 of the Act in so far as it applies to non-compliance with any condition in an environment protection licence relating to the reporting or monitoring of interstate movements of waste which is a controlled waste under the National Environment Protection (Movement of Controlled Wastes between States and Territories) Measure 1998.

Date 22 March 2000.

GRAEME HEAD,
Acting Director-General,
Environment Protection Authority