

Paragraph 12 Exemption

1 INTRODUCTION

This document provides guidance, definitions, operational policy and strategy with regard to registering a Paragraph 12 exemption under Schedule 1 of the Waste Management Licensing (Scotland) Regulations 2011 (“the Regulations”) for Composting.

2 SEPA’S OPERATIONAL POLICY CONCERNING PARAGRAPH 12 EXEMPTIONS.

2.1 What wastes can I treat under a paragraph 12 exemption?

Table 6 of schedule 1 to the Regulations lists the acceptable waste types that may be composted under a paragraph 12 exemption. The list now includes biodegradable kitchen and canteen waste which can include products that contain meat. Food wastes that are no longer intended for human consumption are classed as animal by-products (ABPs). This could be when produce is removed from sale because it has passed its use by date, or because it is damaged, soiled or contaminated to an extent that it is no longer appropriate to display it for sale.

However, there are significant implications under the Animal By-Products regulatory regime to consider when considering composting this type of waste.

2.2 What are the Animal By-Products Regulations implications?

If you want to compost kitchen and canteen waste that contains meat, the Regulations state that you will have to comply with the requirements of the Animal By-Products (Scotland) Regulations 2003, in particular with the conditions laid out in regulation 15. However the 2003 regulations have been revoked and replaced with the [Animal By-Products \(Enforcement\) \(Scotland\) Regulations 2011](#) . This means that the composting of kitchen and canteen waste must be carried out in accordance with the 2011 Regulations and hence Regulation [\(EC\) No 1069/2009](#) and [\(EC\) No. 142/2011](#) of the European Parliament and Council This essentially means that the composting of kitchen and canteen waste that contains meat must take place in a closed vessel (which may include housed windrows) with the ability to monitor and record the temperature of the process against the time taken to compost the material. There are also requirements relating to the layout and facilities at the site to prevent cross-contamination between treated and untreated material. You cannot compost meat included food waste unless the composting unit meets these requirements.

There are strict time and temperature standards that must be met. These depend on the particle size of the waste and whether meat is present in the feedstock:

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If the waste includes meat the material must be treated in a single stage closed vessel at 70°C for 1 hour. The maximum particle size is 12mm. There must be a second treatment stage which meets these standards, although this does not have to be in-vessel.

If you only treat meat excluded kitchen and canteen waste and no other animal by-products this must be done in a closed vessel which treats 40cm particles at 60°C for 2 days or 6cm particles at 70°C for 1 hour. This must be followed by 18 days storage.

2.3 Who enforces the Animal By-Product Regulations?

The Animal By-Product Regulations are enforced by Animal Health, part of the Animal Health and Veterinary Laboratories Agency (AHVLA). This is an executive agency working on behalf of the Department for the Environment, Food & Rural Affairs (Defra), Scottish Government and Welsh Assembly Government. They are responsible for inspecting and approving animal by-products plants on behalf of the devolved administrations. You will need to contact Animal Health to gain approval for your composting process before you start operating.

2.4 What must be provided by the applicant?

- At least 21 days written notice of the date on which the exempt activity is first to be carried on shall be given to SEPA.
- The payment of the appropriate fee. (This can be found on the SEPA website www.sepa.org.uk under the current charging scheme or from the local SEPA office)
- The establishment or undertaking's name, address and telephone number and, if applicable, its fax number and email address.
- a plan showing the location of any buildings, public rights of way, abstraction points or surface waters above Ordinance Datum which are situated within 250m of the boundaries of the site.
- the quantities and waste types to be composted and the expected duration of the composting.
- where containment is required, details of the method of containment proposed. For example, details of the composting vessel or unit which will be used.

2.5 What type of records does the establishment or undertaking need to keep?

If the activity treats more than 10 tonnes of waste per year, you must keep records of the quantity, nature, origin, destination and method of recovery or disposal of all waste used. You must keep these records for at least 2 years and they must be made available to SEPA on request.

2.6 Is it an offence to carry out a paragraph 12 activity by doing most of what is required but, for example, not having the correct planning permission?

If you are carrying out the composting activity on land that you don't own or control, you must make sure you have all necessary consents applicable to your activity. This will include making sure that there is planning permission in place.

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2.7 What are the main reasons a notification will be taken off the public register?

Although not exhaustive there are several principal reasons why a notification would be taken off the register. These are:

- The operator is no longer carrying out the activity;
- The operator fails to submit a renewal notice at least 21 days before the expiry date;
- The activity is being carried out in breach of any of the conditions or limitations of the relevant exemption;
- The operator fails to meet the Registration Obligations; and
- The type and quantity of waste submitted to the activity, and method of recovery are not consistent with the Relevant Objectives.

In the Regulations, Paragraph 6 of Schedule 4 specifies the 'Relevant Objectives' that must be met when carrying out the activity, in this case, recovery of waste. It must be ensured that waste is recovered without endangering human health and without using processes or methods which could harm the environment and in particular without:

- i. Risk to water, air, soil, plants or animals; or
- ii. Causing nuisance through noise or odours; or
- iii. Adversely affecting the countryside or places of special interest.

2.8 Is composted material still a waste and if it is to be used for agricultural benefit or horticultural or ecological improvement, does it still require to be registered as an exempt activity?

SEPA's current position is that compost is likely to be classed as fully recovered when it meets the following criteria:

- it is produced for a market,
- it is able to meet the PAS 100 quality standards before any blending of the compost with other materials, composts, products or additives (where the standards are designed to ensure that the compost can be used with no adverse impact on the environment or human health), and
- it has certainty of market and can be put to use without further recovery.

It is important to note that compost can become waste again or may remain waste if it is not used and is consigned to a disposal operation. Excessive use of compost would be regarded as conducting a landfill activity and would require a PPC permit.

If the compost does not meet PAS 100, it will be regarded as waste and subsequent use will require to comply with waste regulatory controls. This includes the registration of an exemption for use on agricultural land or gardens and landscaped areas, use to restore or improve land which has been subject to man made development or for use in specified works such as recreational facilities.

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Registration of an exemption is not required for the subsequent use of the compost by a private householder on their garden or allotment.

2.9 How often will a paragraph 12 exemption be inspected?

The Waste Management Licensing (Scotland) Regulations 2011 states that: *“An initial inspection shall be carried out at the time when the exempt activity commences. Thereafter, periodic inspections shall be carried out at intervals not exceeding 12 months.”*

In practice this means the activity will be inspected when it is first registered and will only be inspected again when the renewal is submitted or if there is a complaint or incident.

3 OTHER SOURCES OF INFORMATION AND GUIDANCE

The Waste Management Licensing (Scotland) Regulations 2011, Scottish Statutory Instrument [2011:228](#)

The Association for Organics Recycling: <http://www.organics-recycling.org.uk/>

Animal Health: Information is available on the Scottish Government website on the regulation of processes that treat animal by-products. This includes information on registration and approval of premises treating ABPs:

<http://www.scotland.gov.uk/Topics/farmingrural/Agriculture/animal-welfare/ABPs>