



## EXEMPTION NOTICE

<b>Exemption number</b>	SUP0002/2022/3
<b>Issued under</b>	Regulation 20(1)
<b>Exemption type</b>	Person
<b>Exemption holder</b>	Huhtamaki Australia Pty Limited
<b>ACN / ABN</b>	003 122 843 / 43 003 122 843
<b>Registered business address</b>	120 Mileham Street SOUTH WINDSOR NSW 2756
<b>DWER file number</b>	DWERVT9714~3
<b>Date of issue</b>	6 February 2023
<b>Duration</b>	6 February 2023 to 30 October 2023
<b>Date of variation</b>	31 May 2023

**Table 1: Prescribed plastic items and exempt specified circumstance**

Prescribed plastic item	Specified exempt circumstance	Exemption reason
Single or double coated 11oz, 12oz, 16oz and 22oz cold drink cups and dessert cups/bowls: (a) made from Stora Enso Cupforma Natura Aqua+ 2S liquid paper packaging board; and (b) comprising the same components and the same or lesser volume/weight of inks, additives and/or adhesives as the Stora Enso based product(s) submitted to the ABA for AS4736:2006 certification.	The supply of the prescribed plastic item listed in Column 1 of this Table is only exempt under this notice where that prescribed plastic item: <ul style="list-style-type: none"><li>is intended to be used to hold or contain a cold drink or food item; and</li><li>is awaiting determination of an application to the Australian Bioplastics Association (ABA) for certification to Australian Standard AS4736:2006.</li></ul>	Transitional supply, pending AS4736 certification



## Declaration

In accordance with regulation 20(1) of the *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018* I considered that it was reasonably necessary to grant Exemption Notice SUP0002/2022/1 on 6 February 2023. This Exemption Notice exempts the Exemption Holder from regulation 7(1) of the *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018*, subject to the conditions set out in this notice.

On 31 March 2023 I made the following variations to the notice to ensure that the notice accurately represents the products for which the application was made:

Condition	Variation made
Table 1: Prescribed plastic item	Inclusion of assessed cup/bowl volumes of 11oz, 12oz, 16oz and 22oz.  Inclusion of the word bowls to cover the ice cream 'cups' provided for in the application.

On 17 May 2023 I made the following variation to the notice to ensure that the notice is valid whilst you are awaiting AS4736 certification;

SUP0002/2022/2 text	Variation made
<b>Duration</b> 6 February 2023 to 30 June 2023	<b>Duration</b> 6 February 2023 to 30 October 2023

I HEREBY EXEMPT the Exemption Holder from regulation 7(1) of the *Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018*, subject to the varied conditions set out in this notice.

**Daniel Nevin**

**Executive Director, Strategic Policy**

**Department of Water and Environmental Regulation**

an officer delegated under section 20 of the *Environmental Protection Act 1986* (WA)

Delegation No. 161

31 May 2023

Exemption No: SUP0002/2022/3

## Interpretation

In this Exemption Notice:

- (a) the words 'including', 'includes' and 'include' in conditions mean "including but not limited to", and similar, as appropriate;
- (b) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (c) unless specified otherwise, any reference to a section of an Act refers to that section of the EP Act; and
- (d) unless specified otherwise, all definitions are in accordance with the EP Act.

## Conditions

### Conditions of supply

1. The Exemption Holder may supply the prescribed plastic items listed in Table 1 (above) of this Exemption Notice in the specified exempt circumstance and for the corresponding exemption reason only.

### Australian Standards certification decision

2. On receipt of a determination from the Australasian Bioplastics Association for an application of certification under Australian Standards AS4736:2006 for a prescribed plastic item supplied under this Exemption Notice, the Exemption Holder must undertake the required action listed in Table 2, for the corresponding ABA determination and within the corresponding required completion timeframe.

**Table 2: Australian Standards certification decision actions**

ABA Determination	Required Action	Required completion timeframe
Certification granted	Notify the CEO of the certification determination	Within 10 business days
	Clearly identify the outcome of the determination on the Exemption Holder's website, supply records and purchase/ ordering systems etc.	Within 20 business days
Certification refused	Cease selling or supplying the prescribed plastic item which has received a refused determination by the Australasian Bioplastics Association.	Within 2 business days
	Notify the CEO of the refused certification determination.	Within 10 business days
	Notify any purchasers of the prescribed plastic item(s) purchased during the duration of this Exemption Notice that the certification application has been refused and the product(s) is now banned.	Within 20 business days

## Reporting

3. Before 30 April 2023, the Exemption Holder must prepare and submit to the CEO an Exemption Evaluation Report that provides the following information:
  - (a) an update on the status of the certification applications made to the Australasian Bioplastics Association to certify the prescribed plastic item(s) exempt under this notice; and
  - (b) an estimated completion date for the certification process to be undertaken, including any completion dates for the relevant laboratory testing, anticipated dates to receive the relevant laboratory reporting or determination of the application by the Australasian Bioplastics Association.

## Non-compliance reporting

4. Within 14 business days of becoming aware of any non-compliance with the conditions of this Exemption Notice, Exemption Holder must notify the CEO in writing of that non-compliance and include in that notification the following information:
  - (a) which condition was not complied with;
  - (b) the time and date when the non-compliance occurred;
  - (c) the details and result of any investigation undertaken into the cause of the non-compliance;
  - (d) what action has been taken and the date on which it was taken to prevent the non-compliance occurring again; and
  - (e) what action will be taken and the date by which it will be taken to prevent the non-compliance occurring again.

## Revocation or Variation

5. In accordance with regulation 20(5) of the regulations this exemption notice may be revoked or varied by the CEO or a Delegated Officer at any time by written notice.

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**END OF CONDITIONS**

## Definitions

In this Exemption Notice, the terms in Table 3 have the meanings defined.

**Table 3: Definitions**

Term	Definition
ABN	means Australian Business Number, registered with Business Registration Service
ACN	means Australian Company Number, registered with the Australian Securities and Investments Commission (ASIC)
AS	means Australian Standard
ASIC	means the Australian Securities and Investments Commission
AS4736:2006	means Australian Standard AS/NZS 4736:2006 <i>Biodegradable Plastic-Biodegradable Plastics Suitable for Composting and other Microbial Treatment</i> , published by Standards Australia and amended from time to time
Australasian Bioplastics Association	means the Australasian Bioplastics Association, ABN 29431733271, that manages the verification scheme for certification of AS composting standards AS4736:2006 and AS5810:2010
books	has the same meaning given to that term under the EP Act
bowl	has the same meaning given to that term in the regulations
CEO	<p>means Chief Executive Officer of the Department of Water and Environmental Regulation.</p> <p>“submit to / notify the CEO” (or similar), means either:</p> <p style="padding-left: 40px;">Director General Department administering the Environmental Protection Act 1986 Locked Bag 10 Joondalup DC WA 6919</p> <p>or:</p> <p style="padding-left: 40px;">plastic-action@dwer.wa.gov.au</p>
cup	has the same meaning given to that term in the regulations
date of determination	means the date that the Australasian Bioplastics Association determines the certification application for a prescribed plastic item
Delegated officer	an officer under section 20 of the EP Act
EP Act	means the <i>Environmental Protection Act 1986</i> (WA)

Term	Definition
Exemption Holder	means Huhtamaki Australia Pty Limited, ACN 003 122 843
oz	means fluid ounces
purchasers or receivers	means any person, business, store or retail outlet that has purchased (at a cost) or received (free of charge, or at a cost) the prescribed plastic items identified in Appendix 1 of this Exemption Notice
regulations	<i>means the Environmental Protection (Prohibited Plastics and Balloons) Regulations 2018.</i>
supply	has the same meaning given to that term in the regulations