



Resource Recovery Exemption under Part 9, Clauses 91 and 92 of the Protection of the Environment Operations (Waste) Regulation 2014

The Benedict mixed materials exemption August 2024

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Introduction

This exemption:

- is issued by the Environment Protection Authority (EPA) under clauses 91 and 92 of the *Protection of the Environment Operations (Waste) Regulation 2014* (Waste Regulation); and
- exempts a consumer of Benedict mixed materials from certain requirements under the *Protection of the Environment Operations Act 1997* (POEO Act) and the Waste Regulation in relation to the application of that waste to land, provided the consumer complies with the conditions of this exemption.

This exemption should be read in conjunction with the 'The Benedict mixed materials order August 2024'.

1. Waste to which this order applies

- 1.1. This exemption applies to Benedict mixed materials that is or is intended to be applied to land as soil conditioner or as an engineering material.
- 1.2. Benedict mixed materials means both Benedict engineering mix and Benedict horticultural mix
 - 1.2.1. Benedict horticultural mix means a blend of any of the following:
 - virgin excavated natural material ('VENM') as defined in POEO Act;
 - pasteurised garden organics as defined in *The pasteurised garden organics order 2016* and *The pasteurised garden organics exemption 2016*;
 - mulch as defined in *The mulch order 2016* and *The mulch exemption 2016*;
 - compost as defined in *The compost order 2016* and *The compost exemption 2016*;
 - manure as defined in *The manure order 2014* and *The manure exemption 2014*; and/or
 - coal ash as defined in *The coal ash order 2014* and *The coal ash exemption 2014*;

1.2.2. Benedict engineering mix means a blend of any of the following:

- virgin excavated natural material ('VENM') as defined in POEO Act;
- coal ash as defined in *The coal ash order 2014* and *The coal ash exemption 2014*; and/or
- aggregate as defined in *The recovered aggregate order 2014* and *The recovered aggregate exemption 2014*.

2. Persons to whom this exemption applies

2.1. This exemption applies to any person who applies or intends to apply Benedict mixed materials to land as set out in 1.1.

3. Duration

3.1. This exemption commences on 9 August 2024 and is valid until 9 August 2026 unless revoked by the EPA in writing at an earlier date.

4. Premises to which this exemption applies

4.1 This exemption applies to the premises at which the consumer's actual or intended application of Benedict mixed materials is carried out.

5. Exemption

5.1. Subject to the conditions of this exemption, the EPA exempts each consumer from the following provisions of the POEO Act and the Waste Regulation in relation to the consumer's actual or intended application of Benedict mixed materials to land for soil conditioner purposes or for use as an engineering material at the premises:

- (a) section 48 of the POEO Act in respect of the scheduled activities described in clauses 39 and 42 of Schedule 1 of the POEO Act;
- (b) Part 4 of the Waste Regulation;
- (c) section 88 of the POEO Act; and
- (d) clause 109 and 110 of the Waste Regulation.

5.2. The exemption does not apply in circumstances where Benedict mixed materials is received at the premises for which the consumer holds a licence under the POEO Act that authorises the carrying out of the scheduled activities on the premises under clause 39 'waste disposal (application to land)' or clause 40 'waste disposal (thermal treatment)' of Schedule 1 of the POEO Act.

6. Conditions of exemption

The exemption is subject to the following conditions:

- 6.1. At the time the Benedict mixed materials is received at the premises, it must be compliant with the 'Benedict mixed materials order 2024'.
- 6.2. The Benedict engineering mix can only be applied to land as an **engineering material**.
- 6.3. The Benedict horticultural mix can only be applied to land as a **soil conditioner**.
- 6.4. The consumer must keep a written record of the quantity of the Benedict mixed materials received for a period of six years.
- 6.5. The consumer must make any records required to be kept under this exemption available to authorised officers of the EPA on request.
- 6.6. The consumer must ensure that any application of Benedict mixed materials to land must occur within a reasonable period of time after receipt.

7. Definitions

In this exemption:

application or apply to land means applying to land by:

- spraying, spreading or depositing on the land; or
- ploughing, injecting or mixing into the land; or
- filling, raising, reclaiming or contouring the land.

consumer means a person who applies, or intends to apply, Benedict mixed materials to land.

engineering material means a non-cementitious mixture for use in applications such as an engineered fill or in earthworks as follows:

- (a) pipe bedding material,
- (b) selected backfill adjacent to structures,
- (c) road pavement, base and sub base structures,
- (d) rigid and composite pavement structures,
- (e) select layers which act as working platforms at the top of earthworks,
- (f) fill for reinforced soil structures (including geo-grid applications).

soil conditioner means a material which measurably improves specific soil physical characteristics or physical processes for a given use or as a plant growth medium.



HELEN PRIFTI
Director Technical (Chemicals, Land and Radiation)
Environment Protection Authority
(by delegation)
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Notes

The EPA may amend or revoke this exemption at any time. It is the responsibility of the consumer to ensure they comply with all relevant requirements of the most current exemption.

In gazetting this exemption, the EPA is not in any way endorsing the use of this substance or guaranteeing that the substance will confer benefit.

The conditions set out in this exemption are designed to minimise the risk of potential harm to the environment, human health or agriculture, although neither this exemption nor the accompanying order guarantee that the environment, human health or agriculture will not be harmed.

The consumer should assess whether or not Benedict mixed materials is fit for the purpose the material is proposed to be used for, and whether this use will cause harm. The consumer may need to seek expert engineering or technical advice.

Regardless of any exemption provided by the EPA, the person who causes or permits the application of the substance to land must ensure that the action is lawful and consistent with any other legislative requirements including, if applicable, any development consent(s) for managing operations on the site.

The receipt of Benedict mixed materials remains subject to other relevant environmental regulations in the POEO Act and the Waste Regulation. For example, a person who pollutes land (s. 142A) or water (s. 120), or causes air pollution through the emission of odours (s. 126), or does not meet the requirements for asbestos waste (s.144AAB), regardless of having an exemption, is guilty of an offence and subject to prosecution.

This exemption does not alter the requirements of any other relevant legislation that must be met in utilising this material, including for example, the need to prepare a Safety Data Sheet (SDS).

Failure to comply with the conditions of this exemption constitutes an offence under clause 91 of the Waste Regulation.