

Victoria's new Environment Protection laws: waste

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Legal | Mediation | Advisory

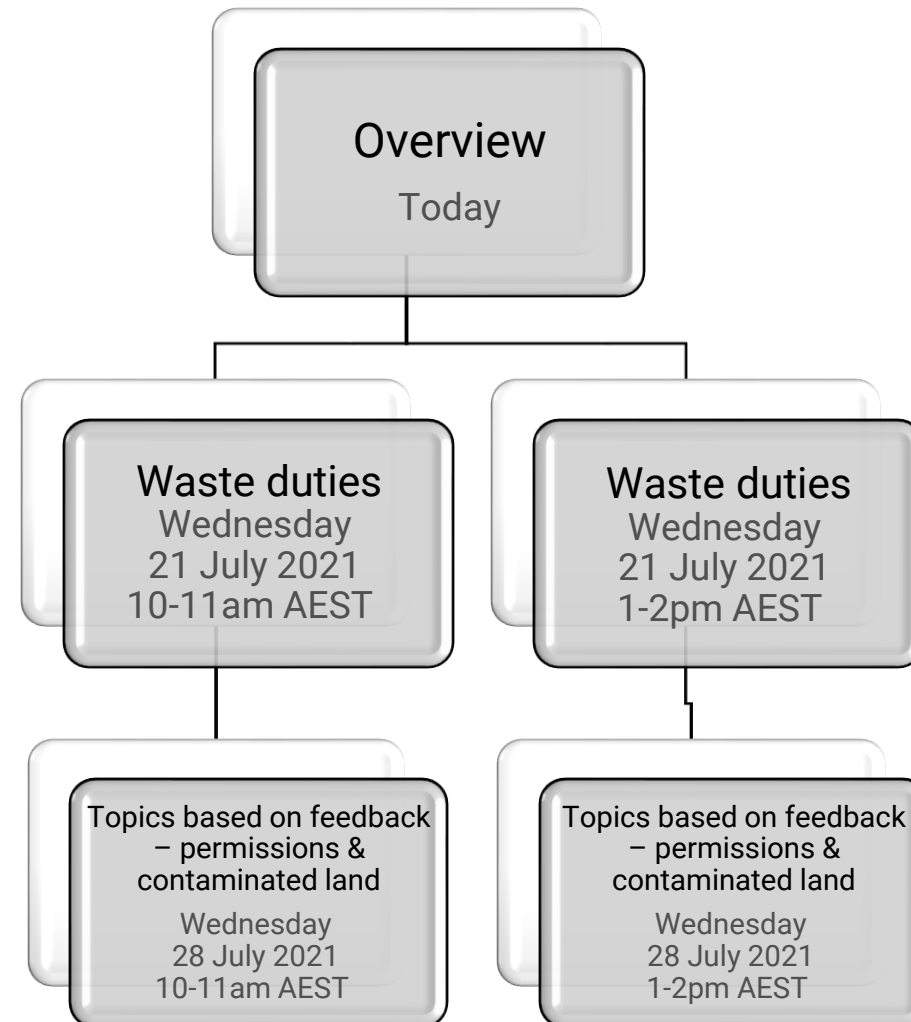
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It does not constitute legal or other professional advice and should not be relied on as a statement of the law.
It is intended only as a general guide and may contain generalisations.
You should obtain professional advice for your specific circumstances.

New EP laws workshop series



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Stream 1:
larger dairy
manufacturing
sites



Stream 2:
small- to medium-sized
(SME) dairy
manufacturing
businesses

Today's agenda

- Refresher: general environmental duty (GED)
- Waste management framework
 - General waste duties
 - Waste classification
 - Priority waste
 - Reportable priority waste
 - Sludges
 - Lawful place and Waste determinations



Legal | Mediation | Advisory

A change of approach



Has pollution occurred?



Are systems and processes in place to eliminate/minimise risks to human health and environment?

A duties-based framework



- General environmental duty (GED) – based on OHS duties
- Duties to:
 - manage contamination
 - notify of certain levels of contamination
 - respond to harm and remediate after an incident
 - notify of certain pollution incidents
 - manage waste (industrial waste/priority waste/reportable priority waste)

New duties: General Environmental Duty (GED)



25 General environmental duty

(1) A person who is engaging in an activity that may give rise to risks of harm to human health or the environment from pollution or waste must minimise those risks, so far as reasonably practicable.

- Activities that MAY give rise to risks of HARM
- Criminal offence and civil penalty provision
- Max penalty – individual \$363,480; company \$1,817,400 (double for aggravated offence plus 5 years imprisonment)

What do I need to do?

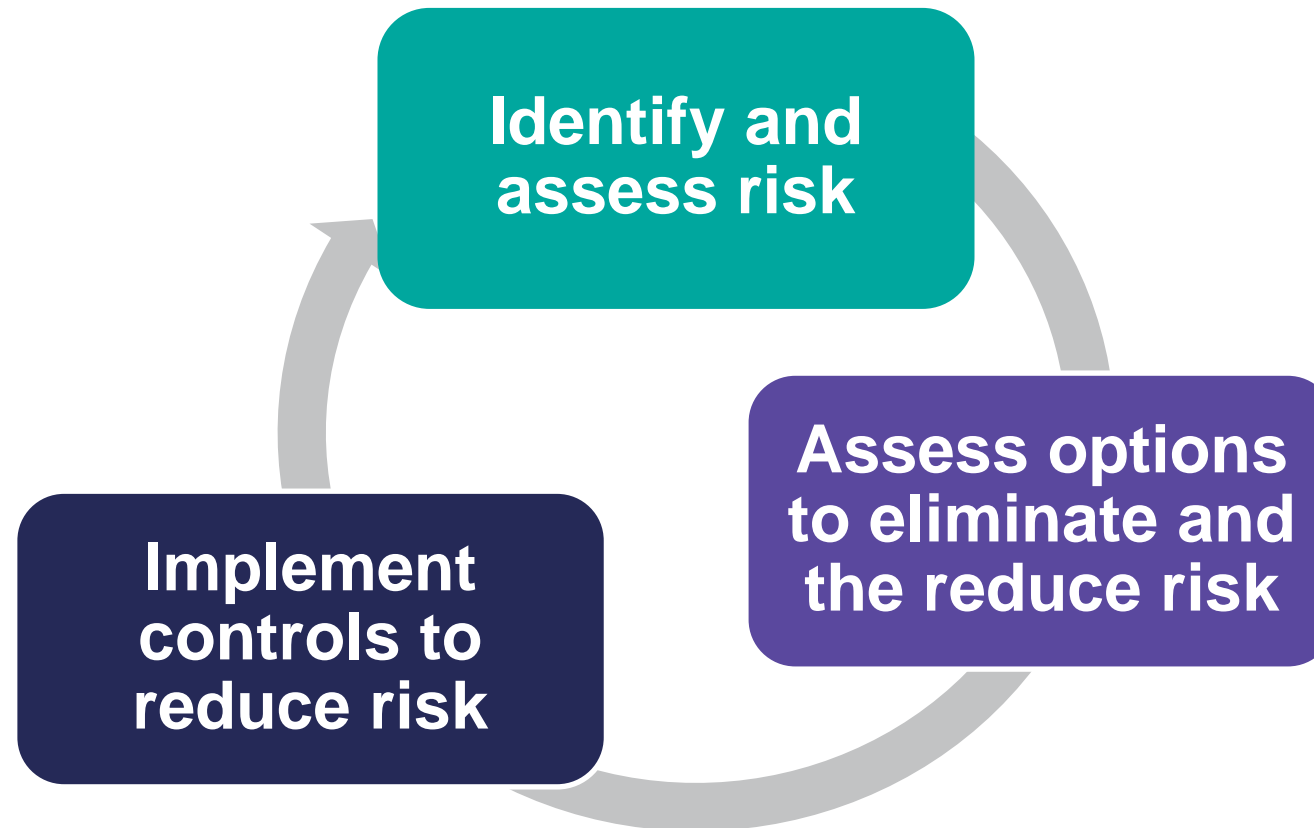
The GED requires all individuals and entities to:

- take **reasonably practicable** steps to **eliminate**; or
- if elimination is not reasonably practicable, to take **reasonably practicable** steps to **minimise**,

risks of harm to human health or the environment from pollution or waste.

The duty applies to all activities that pose of risk of harm to human health or the environment from pollution and waste

General Environmental Duty



Regular checks – Are controls effective?
What improvements can I make?
Are new avoidance/mitigation methods available?



Reasonable practicability

Factors to consider

- The **likelihood** of the risks eventuating
- The **degree of harm** that would result if those risks eventuated
- What the person **knows**, or **ought reasonably know**, about the harms or risks of harm and the ways of eliminating or reducing those risks
- The **availability, suitability and cost** of eliminating or reducing those risks.

“State of knowledge”

A change of approach



Has pollution occurred?



Are systems and processes in place to eliminate/minimise risks to human health and environment?

A change of approach



Have I met the
minimum
standards?



Have I done all
reasonably
practicable to
eliminate/minimise
risks to human health
and environment?

Resources



- <https://www.epa.vic.gov.au/for-business/new-laws-and-your-business/general-environmental-duty>
- [Reasonably practicable](#) (publication 1856)
- [Industry guidance: supporting you to comply with the general environmental duty](#) (publication 1741.1)
- [Agriculture - guide to preventing harm to people and the environment](#) (publication 1819)
- [Manufacturing - guide to preventing harm to people and the environment](#) (publication 1822)

Resources – how to meet the GED examples



[Agriculture - guide to preventing harm to people and the environment](#) (publication 1819)

Agriculture – Guide to preventing harm to people and the environment

Risk management examples

These examples show how to use the four-step risk process to manage environmental hazards.

A. Chemical storage and handling

Matt uses chemicals on their farm, including fertilisers and insecticides. Matt knows these chemicals can be harmful to people's health and the environment, especially if they contaminate food or end up in drinking water.

Matt understands that rainfall run-off can collect residual chemicals, sediment, and nutrients as it travels across their land and can end up in waterways.

Matt takes great care to contain their chemicals and prevent any spills. They refer to safety data sheets and EPA's information on [liquid and storage handling](#) and [solid storage and handling](#) to guide them on appropriate storage and management. They keep a list of all the chemicals they use.

Matt stores chemicals in an undercover area, in clearly labelled durable plastic containers and drums. The chemicals are stored on an impervious surface within a secondary containment or bunded area. It's cool, dry and well-ventilated, away from potential ignition sources. They also keep machinery parts and tools containing chemicals in this area, with spill trays underneath to collect any leaking contaminants.

Matt keeps a spill kit visible and close to the chemical storage area to clean up any spills as soon as they happen. They appropriately dispose of contaminated materials.

Matt arranges for certain types of oils, solvents and other chemicals to be disposed through recycling programs like [drumMUSTER](#) and [ChemClear](#). Matt informs EPA every time these types of waste are disposed, using [EPA electronic waste transport certificates](#). A new modern digital waste tracker tool will start on 1 July 2021, replacing the existing electronic certificates.

Matt regularly checks their chemical storage areas to make sure chemicals are stored appropriately and containers aren't leaking or damaged. They do the same with their machinery, equipment and tools.



Agriculture – Guide to preventing harm to people and the environment

B. Effluent management

Paula manages a small dairy farm. They know manure or effluent from their farm could significantly impact surface and groundwater quality, especially as their farm is near a river.

Discussions with other dairy farmers and industry information helps Paula identify controls that can prevent run-off from leaving their property and potentially contaminating the river, groundwater and the health of people downstream.

Activities like washing out dairy sheds, stock yards and equipment generates run-off which contains effluent. Paula has a system that captures effluent from the dairy shed, feed-pads and calf sheds. It separates the solids and diverts the effluent to effluent ponds lined with clay. They regularly clean the separation system, which is made up of solids traps, weeping walls, and screens.

Paula checks their effluent ponds regularly to prevent seepage getting into groundwater and offensive odour emissions. They also make sure the ponds don't overflow, and during dryer periods, irrigate effluent to pasture to use the nutrient content and reduce the volume of liquid effluent.

Paula makes sure the effluent ponds are free of solids and debris, as these can cause blockages and overflow. Paula plants grasses that improve the structural integrity of pond walls and checks for signs of leaks downstream, like increased vegetation growth.

Paula is careful not to reuse effluent on the same area because this could cause an overload of nutrients and contaminate land. They keep a diary and farm map to record application of effluent.

Paula regularly reviews their controls, putting in additional or alternative controls if they are not working as intended.



Resources



- [Assessing and controlling risk: a guide for business](#) (EPA publication 1695) – this includes an example of a register where you can list your hazards and risks
- [Self-assessment tool for small business](#) (EPA publication 1812) – check what actions you can take to manage the risks of your business causing harm to people and the environment
- [Action plan](#) (see the Appendix in the [Agriculture guide](#))
- Note: Keeping one of the above registers or plans isn't a mandatory EPA requirement for most sites. However, it can help you demonstrate what steps you have taken to manage your risks, if required.

Waste Management Framework



- Flexible, proportionate
- GED applies
- Duties to manage: Industrial Waste, Priority Waste and Reportable Priority Waste
- Clarifies obligations – duty applies across the supply chain
 - generators of waste
 - transporters of waste
 - receivers of waste
- **Waste duties are cumulative**



Waste Management Framework



Source: EPA publication 1753

Waste Management Framework



Figure 2. The three types of industrial waste

Source: EPA publication 1990.1

Waste definition – reminder of its breadth



waste includes any of the following—

- (a) matter, including solid, liquid, gaseous or radioactive matter, that is deposited, discharged, emitted or disposed of into the environment in a manner that alters the environment;
- (b) a greenhouse gas substance emitted or discharged into the environment;
- (c) matter that is discarded, rejected, abandoned, unwanted or surplus, irrespective of any potential use or value;
- (d) matter prescribed to be waste;
- (e) matter or a greenhouse gas substance referred to in paragraph (a), (b), (c) or (d) that is intended for, or is undergoing, resource recovery;

deposit, in relation to litter and waste, means the act of parting with the possession of litter or waste and includes the disposal of litter or waste by burning;

What is industrial waste?



- Waste from:
 - commercial, industrial or trade activities
 - laboratories
 - waste prescribed to be industrial waste
- Wide definition captures waste not previously treated as industrial waste
- EPA now working with industry to address this – ‘Determinations’



Waste duties: industrial waste



Part 6.4—Duties relating to industrial waste

- s133 Duties of persons depositing industrial waste
- s134 Duties of persons receiving industrial waste
- s135 Duty of persons involved in transporting industrial waste
- s136 Repeat industrial waste offenders
- s137 Offence to supply false or misleading information or conceal information in connection with industrial waste



Waste duties: industrial waste



- s133 Duties of persons *depositing* industrial waste
- (1) A person must not deposit or abandon industrial waste at a place or premises, unless the place or premises is authorised to receive industrial waste.



Lawful place

- (2) A person must not deposit industrial waste at a place or premises that is authorised to receive industrial waste without obtaining the consent of—
 - (a) the holder of the permission authorising the place or premises to receive industrial waste; or
 - (b) the occupier or person in management or control of the place or premises.

Waste duties: industrial waste



- s134 Duties of persons *receiving* industrial waste
- (1) A person in management or control of a place or premises must not receive industrial waste at the place or premises, unless the place or premises is authorised to receive industrial waste.



Lawful place

Waste duties: industrial waste



- s135 Duty of persons involved in *transporting* industrial waste
- (2) Before relinquishing management or control of the industrial waste, the person must take all reasonable steps to ensure that the industrial waste is or will be—
 - (a) transported to a place or premises that is authorised to receive industrial waste; and
 - (b) received at a place or premises that is authorised to receive industrial waste



Lawful place

- A transporter is a person, company or entity that is collecting, consigning, transferring or transporting industrial waste

Waste duties: industrial waste



- s135 Duty of persons involved in *transporting* industrial waste – before relinquishing industrial waste
- “all reasonable steps” includes:
 - (a) **identifying** and **classifying** the industrial waste;
 - (b) **providing** to a person who is collecting, consigning, transferring or transporting the industrial waste **sufficient information** regarding the industrial waste to enable transportation to a place or premises that is authorised to receive industrial waste;
 - (c) **verifying** that a place or premises that is proposed to receive industrial waste is a ‘**lawful place**’



Lawful place

Waste duties: priority waste



Part 6.5—Duties and controls relating to priority waste

- s138 What is priority waste? [Refer to Schedule 5 of the Regulations](#)
- s139 Duties of persons managing priority waste
- s140 Duty to investigate alternatives to waste disposal
- s141 Guidelines for alternatives to waste disposal
- s142 Duty to notify of transaction in reportable priority waste
- s143 Duty of persons transporting reportable priority waste
- Remember that these duties apply in addition to the GED and the industrial waste duties

Waste duties: priority waste (s139)



Classify waste

- A person who has the management or control of priority waste must classify the priority waste in accordance with this Act and the regulations

Contain and isolate

- A person who has the management or control of priority waste must take all reasonable steps to:
 - Contain in a manner that prevents its escape
 - Isolate in a manner that ensures resource recovery remains practicable

Provide information

- A person who collects, consigns, transfers or transports the priority waste is provided the following, where reasonably available:
 - (i) information regarding the nature and type of the priority waste;
 - (ii) information regarding any risks of harm to human health or the environment that exist in relation to the priority waste;
 - (iii) any other information that can reasonably be expected to be necessary for the person to comply with a duty in relation to the priority waste under this Act.

Waste duties: priority waste (s140)



Identify and assess alternatives to disposal

- take all reasonable steps to **identify and assess alternatives to waste disposal** for the priority waste, including:
- (i) **reuse** and **recycling** of the priority waste; and
- (ii) if the person produced or generated the priority waste, **avoiding producing or generating similar priority waste in the future**

Decide how to manage the waste having regard to

- **alternatives** to waste disposal identified and assessed above;
- any **guidelines** issued by the Authority relating to alternatives to waste disposal for that type of priority waste;
- the following **objects**:
 - (a) to minimise litter and waste disposal by encouraging the management of waste in accordance with the waste management hierarchy; and
 - (b) to promote waste reduction, resource recovery and resource efficiency; and
 - (c) to minimise the impact on human health and the environment from waste generation and waste disposal.

Reasonable steps

- Includes:
 - (a) considering any EPA or other relevant guidelines or publications;
 - (c) considering the **availability** of any **relevant technology** used in resource recovery;
 - (d) **consulting** a person or body with relevant expertise relating to **alternatives to waste disposal for that type of priority waste**.

Waste duties: industrial waste



Some examples of information that will help you verify where your waste is being taken includes:

- A **contract or invoice** made with the waste transporter showing where your waste will be taken and who transported your waste (company name and ABN, vehicle registration, date and time of transport). This contract could cover the regular scheduled pick up of your waste by the contracted transporter.
- Copies of waste dockets or receipts from the waste facility that receives your delivered waste. The dockets or receipts should include the date and time of delivery, waste description, and waste amount, a name and address of the facility, facility ABN, and the transporter vehicle registration.
- Waste dockets or receipts may be more appropriate if you produce waste less frequently, or if you produce medium-risk priority waste (e.g. liquid food and beverage processing waste, shredder floc, treated timber)

If your transporter has given you information that shows where your waste will go, you should verify the facility is a lawful place. In most cases, this can be done on [EPA's website](#). It's important to check that the facility accepts the type of waste that you have produced and given to the transporter.

Source: EPA publication 1990.1

**Managing industrial waste –
Your duties as a waste producer**

Publication 1990.1 July 2021

Are you in management or control of waste?



Management or control of industrial waste

Management or control of industrial waste can mean many things. You are in management or control of industrial waste if you:

- produce or generate waste
- collect, consign, transfer or transport waste
- receive, handle or store waste
- undertake resource recovery or process waste
- undertake waste disposal.

Source: EPA publication 1990.1

**Managing industrial waste –
Your duties as a waste producer**

Publication 1990.1 July 2021

A change of approach



Have I met the
minimum
standards?



Have I done all reasonably
practicable to
eliminate/minimise risks to
human health and
environment?

Have I met the priority waste
duties to assess and implement
alternatives?

Waste duties: reportable priority waste



- **s142 Duty to notify of transaction in reportable priority waste**
 - Must use the new [Waste Tracker](#) portal every time the RPW changes hands
 - Producers and receivers
- **s143 Duty of persons transporting reportable priority waste**
 - Transporters – need an A10b registration to transport all reportable priority waste (transport) except waste codes B100, E100, G100 and R100 which need an A10a permit
 - Drivers and site receivers also need to sign-up for an EPA portal account so they can use Waste Tracker. Transporter and receiver administrators can then link drivers and site receivers to their business
- **Mobile app available; [Videos](#) on how to use Waste Tracker**
- **Remember that these duties apply in addition to the GED and the industrial waste and priority waste duties**

Waste duties: what information should you provide about priority waste and reportable priority waste?



- Waste classification information
- Safety and hazardous properties of the waste, including safety data sheets (SDS) or information describing the material composition of the waste
- Information that explains how your waste might cause harm to human health and the environment and precautions for safe handling and safe storage of the waste. E.g. United Nations (UN) numbers, dangerous goods codes and class labels, SDS's, proper shipping names and container labels and placards

Waste – identify and classify waste



Classification System – contained in Regulations

- Classification of “industrial waste”, “priority waste” and “reportable priority waste”
 - Schedule 5 of the Regulations – “pre-classified” (also Appendix 1 of EPA 1990.1)
 - Mirror codes: (1) hazardous (code ending in -H) and non-hazardous (code ending in -NH)
 - Waste classification assessment protocol classification criteria or hazardous properties
 - If there’s no code in Schedule 5, you can apply for a **designation** for EPA to allocate a waste code, i.e. a specific classification
- New categories of contaminated soil and waste - in addition to retaining the current **Categories A, B, C and fill material**, new **Category D** and **soil containing asbestos only**

Waste classification



50	Putrescible/ organic wastes	Animal effluent and residues, including abattoir wastes and other wastes from animal processing	K100	RPW
51	Putrescible/ organic wastes	Grease trap waste	K110	RPW
52	Putrescible/ organic wastes	Tannery wastes (not containing chromium)	K140	RPW
53	Putrescible/ organic wastes	Wool scouring wastes	K190	RPW
54	Putrescible/ organic wastes	Liquid organic wastes including food and beverage processing wastes, not containing other priority wastes listed in items 50 to 53 or 55 to 63 of this Table	K200	PW
55	Putrescible/ organic wastes	Solid commercial food wastes, not otherwise specified in this schedule	K210	IW
56	Putrescible/ organic wastes	Manures including any mixture of manure and biodegradable animal bedding such as straw	K220	IW
57	Putrescible/ organic wastes	Processed solid organic waste, including unpasteurised or otherwise contaminated material	K230	PW
108	Miscellaneous	E-waste	T300	PW

Source: EPA publication 1990.1

**Managing industrial waste –
Your duties as a waste producer**

Publication 1990.1 July 2021

Waste classification



Environment Protection Regulations 2021
S.R. No. 47/2021

Schedule 5—Waste classification

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>	<i>Column 5</i>	<i>Column 6</i>	<i>Column 7</i>	<i>Column 8</i>
<i>Item</i>	<i>Section</i>	<i>Description of waste</i>	<i>Waste code</i>	<i>Pre-classified (Pre) or Mirror code (M)</i>	<i>Priority waste</i>	<i>Reportable priority waste (transactions)</i>	<i>Reportable priority waste (transport)</i>
56	Putrescible/ organic wastes	Manures including any mixture of manure and biodegradable animal bedding such as straw	K220	Pre	No	No	No
102	Miscellaneous	Sludges or slurries, including drilling muds, containing hazardous substances	T130 - H	M	Yes	Yes	Yes
103	Miscellaneous	Sludges or slurries, including drilling muds, other than those specified in item 102 of this Table	T130 - NH	M	Yes	No	No
104	Miscellaneous	Tyres, including tyre pieces greater than 250 millimetres in size measured in any dimension	T140	Pre	Yes	Yes	No

Waste classification - sludges



- Mirror codes: (1) hazardous (code ending in -H) and non-hazardous (code ending in -NH)
- [Waste classification assessment protocol](#) classification criteria or hazardous properties (Apply for a designation from the EPA (i.e. a specific classification))



Table 1: Waste classification criteria – mirror codes

Table 1 provides the criteria for wastes identified as mirror codes in Schedule 5 of the Regulations. These criteria must be used to assess whether a waste is hazardous or non-hazardous. This will enable selection of the correct code.

Waste code	Section	Descriptive title	Waste classification criteria	Classification
T130-H	Miscellaneous	Sludges or slurries, including drilling muds containing hazardous substances.	Does not meet the criteria listed for T130-NH.	Reportable Priority waste (transaction) & Reportable Priority waste (transport)
T130-NH	Miscellaneous	Sludges or slurries, including drilling muds other than T130-H.	Meets all of the following criteria: <ul style="list-style-type: none"> • Drilling muds comprised of only the following materials: <ul style="list-style-type: none"> ○ Naturally occurring rock 	Priority waste (non-reportable)
			For sludges or slurries other than drilling muds, see the next section and undertake a hazardous properties assessment.	



Table 2: Hazardous properties assessment criteria

The following table provides the criteria for (a) wastes identified as mirror codes with no classification criteria in Table 1; or (b) wastes not found in Schedule 5 of the Regulations. These criteria must be assessed to determine the level of hazard to enable classification of the waste.

The criteria detailed in Table 2 are consistent with the methodology EPA used in order to classify the pre-classified wastes in Schedule 5 of the Regulations.

Item	Criteria	Hazard	Waste Classification
1	If any constituent of the waste or the waste itself: <ul style="list-style-type: none"> can be classified as a class of dangerous goods as per Appendix A. 	Very high	Reportable Priority waste (transaction) & Reportable Priority waste (transport)
2	Where the above condition(s) do not apply, if any constituent of the waste or the waste itself: <ul style="list-style-type: none"> meets the criteria for a hazard class as per Appendix B; and/or has persistent, bioaccumulative and/or toxic properties, as per Appendix C. 	High	Reportable Priority waste (transaction) & Reportable Priority waste (transport)
3	Where the above condition(s) do not apply, if: <ul style="list-style-type: none"> the waste is liquid in form as described in Appendix E OR <ul style="list-style-type: none"> any constituent of the waste or the waste itself has any of the following properties of concern as per Appendix D: <ul style="list-style-type: none"> Metals or metal ions of concern to the environment Perfluorinated functionality Endocrine disruption Hazardous break down products. 	Moderate	Priority waste (non-reportable)
4	If none of the above criteria apply.	Low	Industrial waste (non-priority)

Appendix E – Liquid waste

Liquid waste means any waste that:

- has an angle of repose of less than 5 degrees above horizontal; or
- becomes free-flowing at or below 60 degrees Celsius or when it is transported; or
- is generally not capable of being picked up by a spade or shovel; or
- is otherwise defined by regulations.

Waste records



- **Keep records** of your waste classification process
- [Waste classification assessment protocol](#) classification criteria or hazardous properties (Apply for a designation from the EPA (i.e. a specific classification))
- **Keep records** of the waste you transport/have transported and send the information in writing (e.g. email, letter). E.g. when you make a new contract, or if you are updating the transporter with information in an existing contract
- **Keep records** of the waste you receive

Waste Management Framework



Source: EPA publication 1753

What is a lawful place?

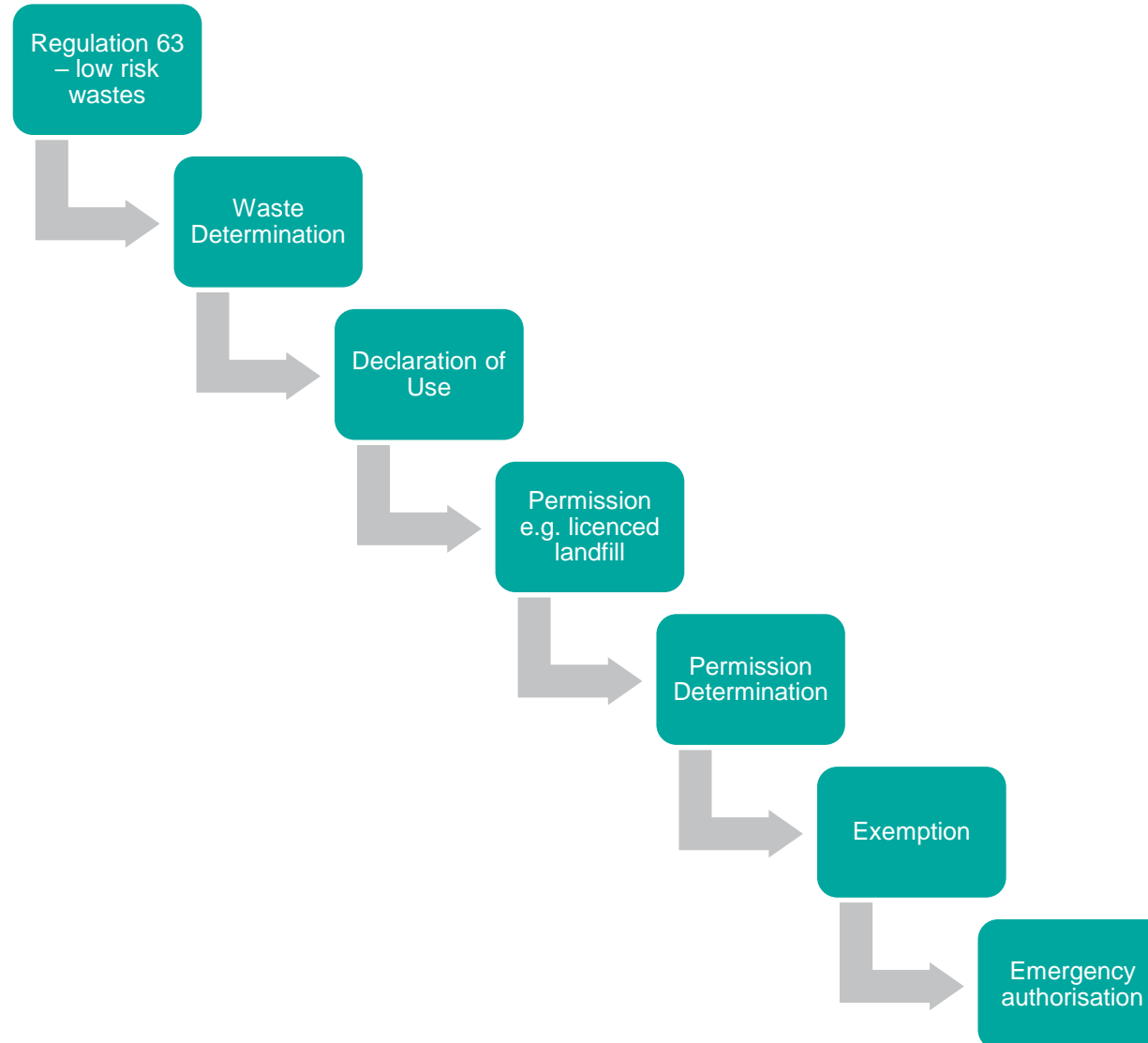




Photo by [Burst](#) on [Unsplash](#)



Pathway 1: Regulation 63 – low risk wastes

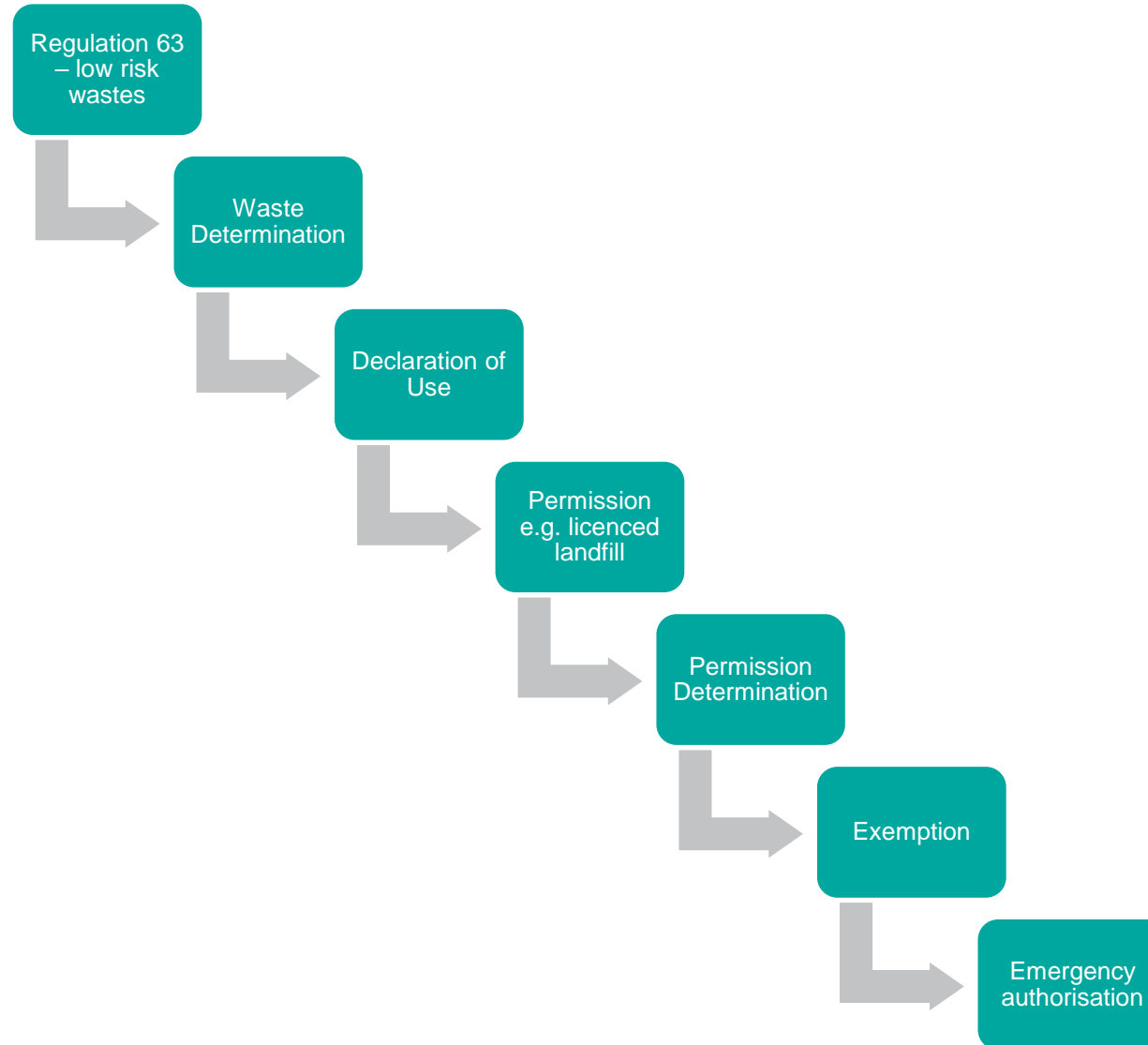
- If within the category then deemed ‘lawful place’
- No need to do anything further
- Remember the GED still applies



Pathway 1: Regulation 63 – low risk wastes

Discharge or deposit to land of less than 20 m ³ per month of manure (including mixture of manure and biodegradable animal bedding from agricultural sources)	Trade waste under a Trade Waste Agreement
Receipt of 5m ³ or less of industrial waste that is not priority waste where receipt of that waste at the place or premises is not a permission activity and not for application of the waste to land	Receipt of 5m ³ or less of tyres where receipt of that waste at the place or premises is not a permission activity (also applies to certain timber treated with hazardous substances and e-waste)
Wastewater if under a A14 permit (Reclaimed wastewater supply or use permit) and: -intended for immediate use; and -complies with the permit (purpose and conditions)	Biosolids if under a A15 permit (Biosolids supply or use permit) and: -intended for immediate use; and -complies with the permit (purpose and conditions)
Reportable priority waste (transport) (other than soil) if under a A16 permit (Supply or use of reportable priority waste) and: -intended for immediate use; and -complies with the permit (purpose and conditions)	Waste tyres for use in accordance with specifications acceptable to the EPA set out in a determination made under regulation 5 for the purposes of item 14 (A09b—Waste tyre storage—small) in the Table in Schedule 1

What is a lawful place?

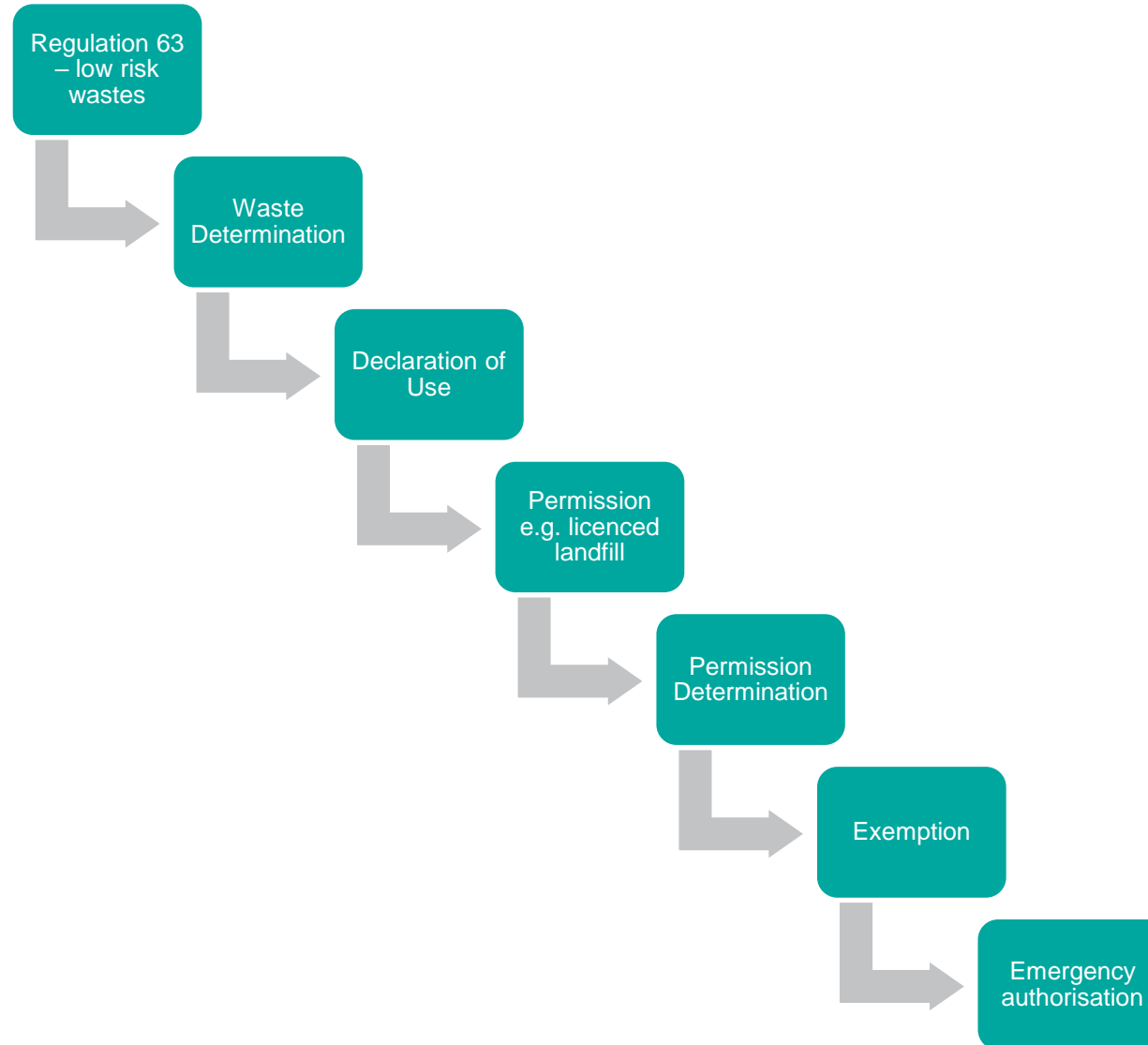


Pathway 2: Waste Determinations



- *EPA Determination – Specifications acceptable to the Authority for receiving processed organics (Organics Determination)*
- *EPA Determination – Specifications Acceptable to the Authority for Receiving Recycled Aggregates (Aggregates Determination)*
- *EPA Determination – Specifications acceptable to the Authority for receiving fill material (Fill Determination)*
- *EPA Determination – Specifications for receiving livestock manure and effluent (Manures Determination)*

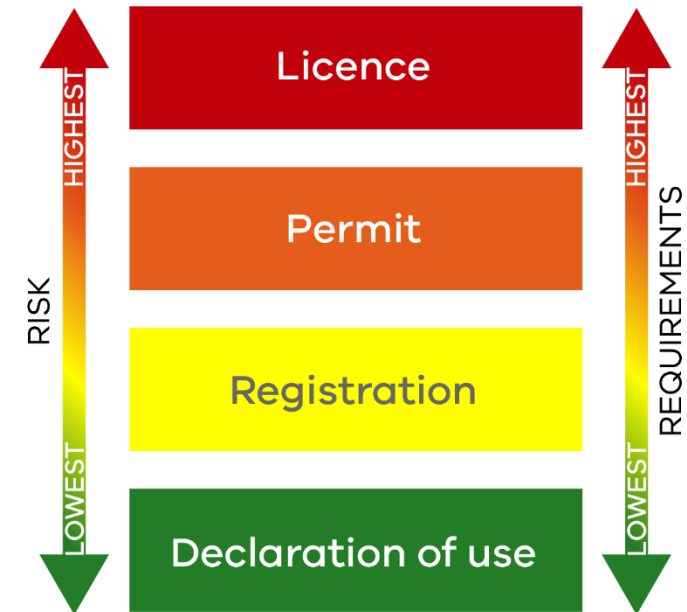
What is a lawful place?



Pathway 3: Declarations of Use (DoU)

Regulation 64

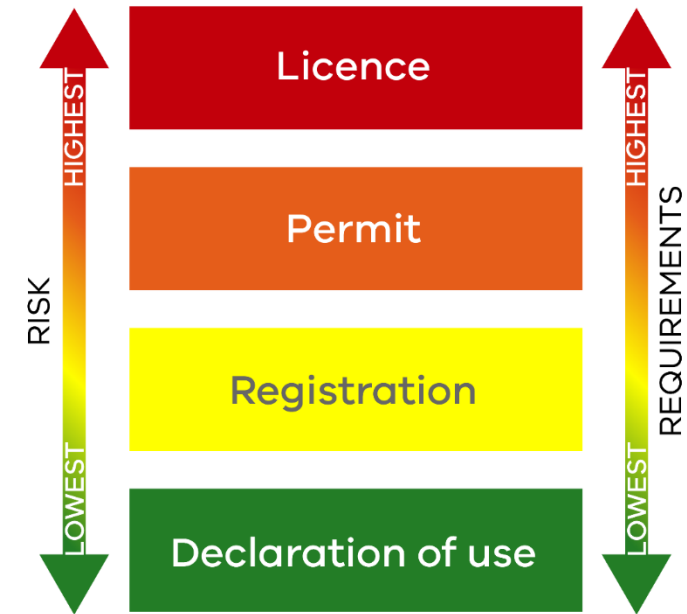
- A new tool proposed to govern storage, reuse and recovery of **lower-risk waste** at a different site to where generated – only where immediate re-use and not to land except in limited circumstances
- Enables duty holders to meet the new duty to deposit waste at a place lawfully authorised to receive industrial waste
- **Self-assessment** that:
 - describes your waste
 - assesses its risks
 - identifies legitimate uses for it
 - provides the end user with details about the quality and safety of your waste
- Does **not** need to be submitted to EPA – but an authorised officer may ask to see the completed declaration
- Both waste producer and receiver sign the DoU



Source: EPA publication 1756

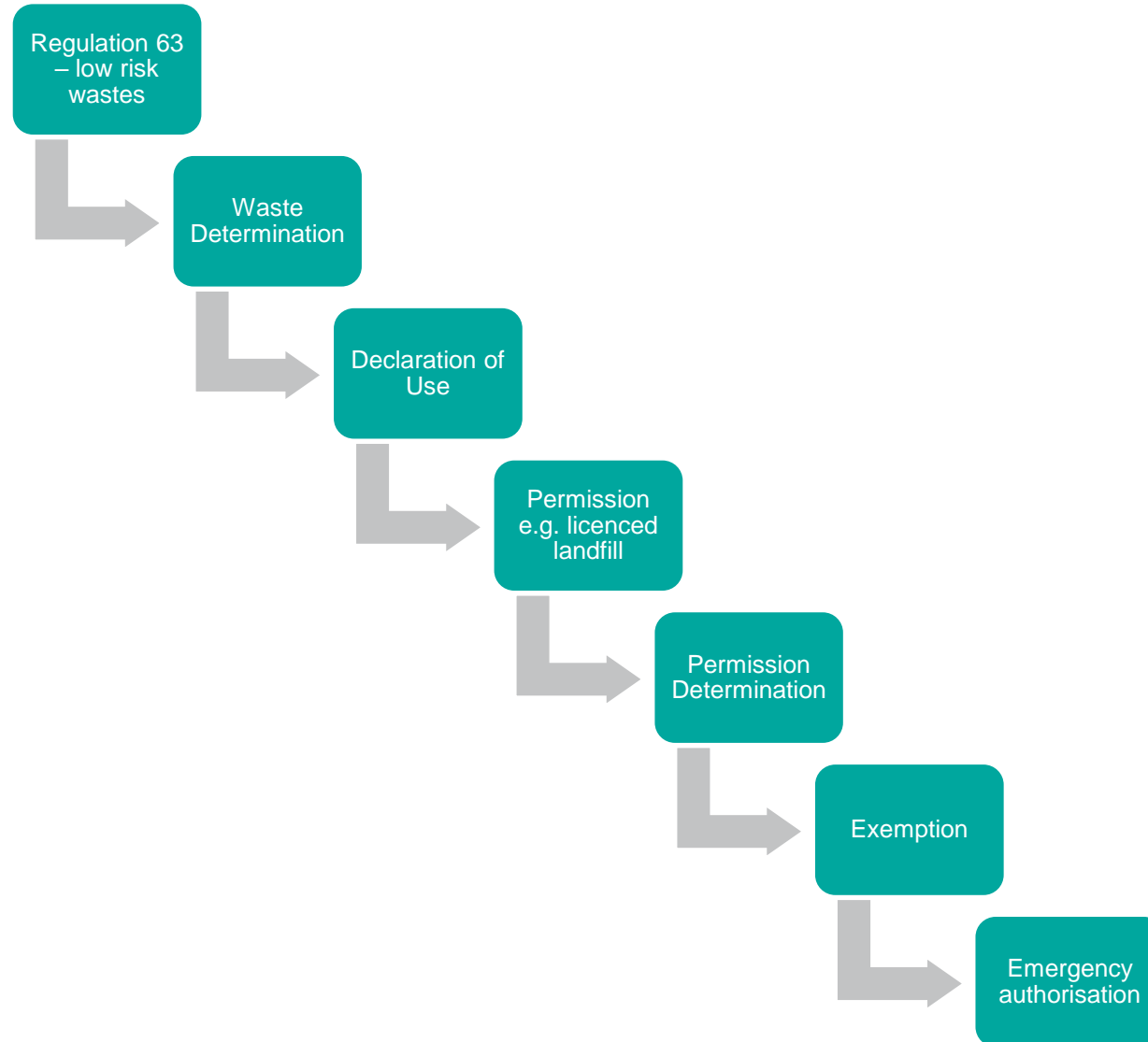
Pathway 3: Declarations of Use (DoU)

- Industrial waste must be for immediate reuse
- Cannot be reportable priority waste (RPW) (transport).
- Where the waste is to be applied to land, can only use a DoU if:
 - commercial garden and landscaping organics that does not contain any physical or chemical contamination
 - untreated timber, including sawdust
 - natural organic fibrous waste
- **Activity must not require a permission**
- Valid for up to 12 months, or until the form of the waste changes



Source: EPA publication 1756

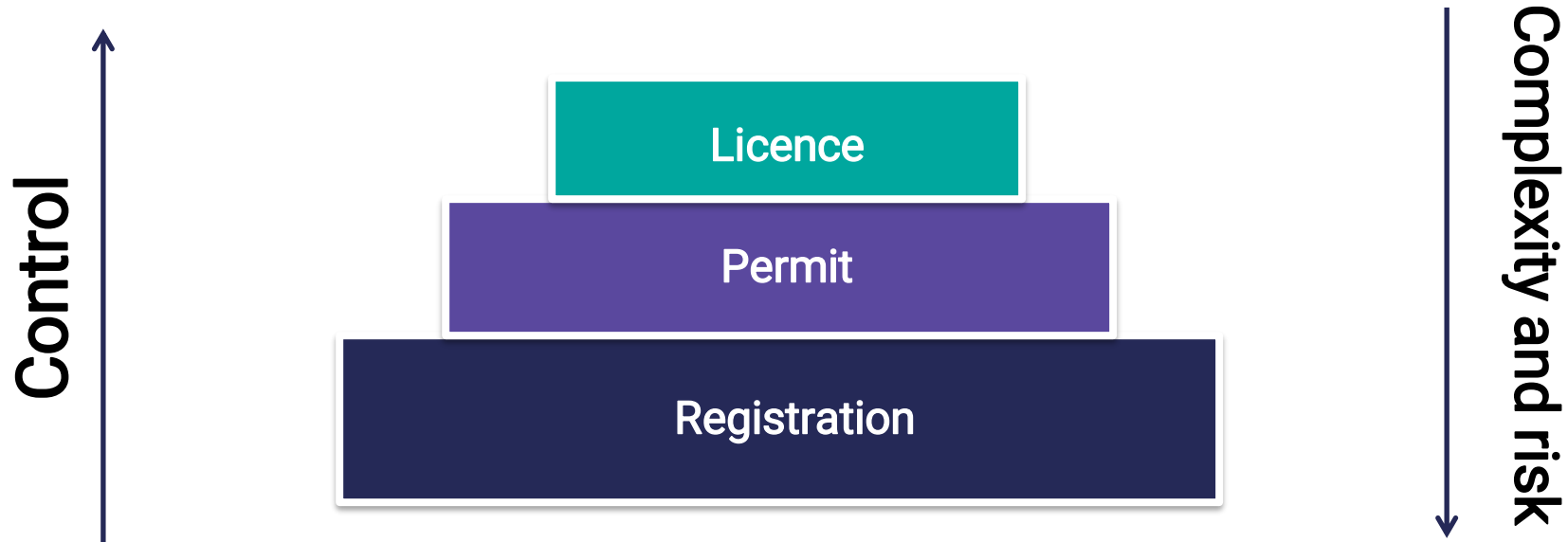
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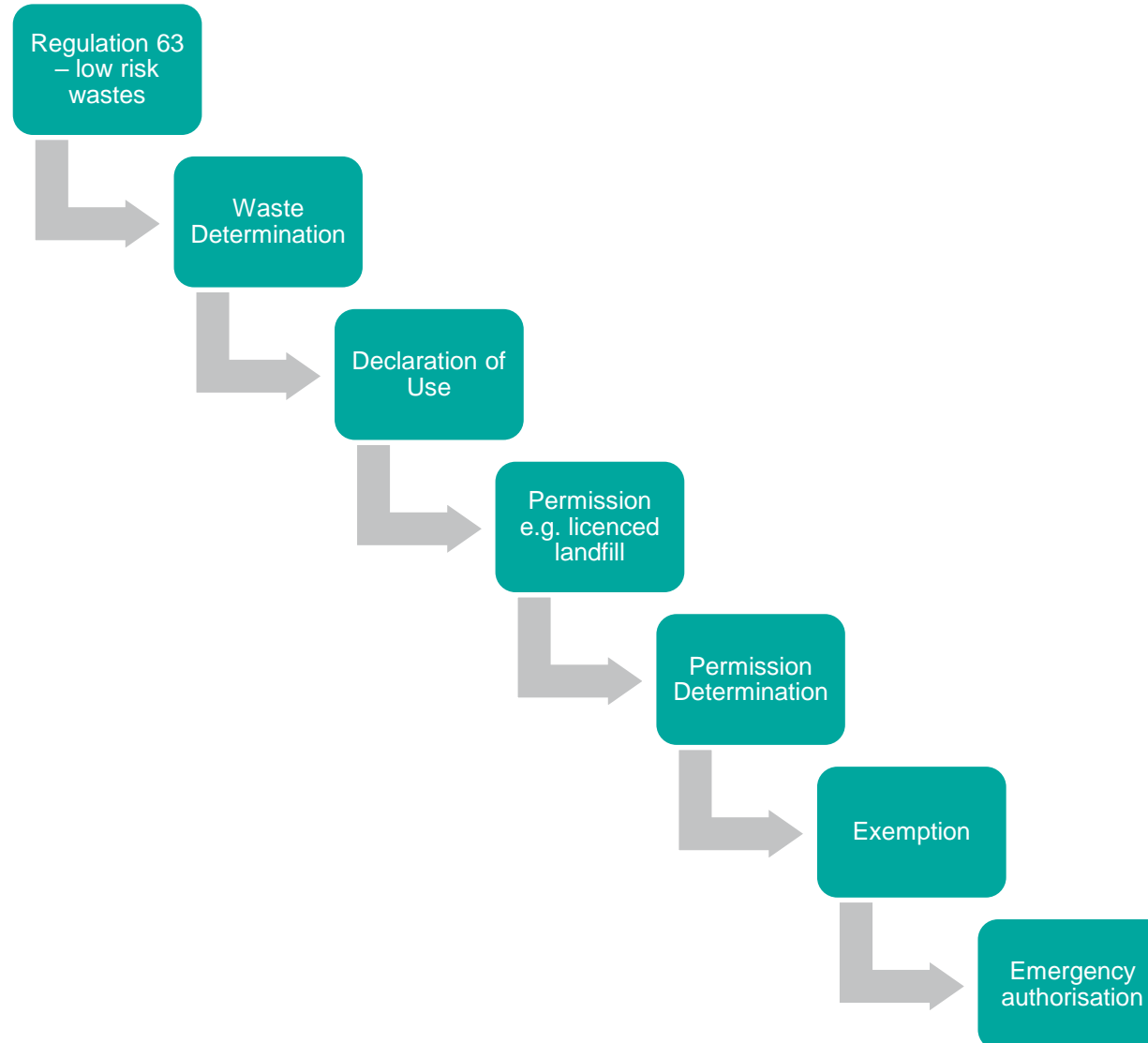
Pathway 4: Permissions



- The place is authorised by a permission to receive that type of waste



What is a lawful place?



Pathway 5: Permission Determination

Determination that no permission is required: section 48



Victoria Government Gazette

No. S 303 Friday 18 June 2021
By Authority of Victorian Government Printer

Environment Protection Act 2017

DETERMINATION OF THE AUTHORITY UNDER SECTION 48

Exemption from requirement to hold permission – discharges to land or surface water from prescribed activities

1. Citation

This Section 48 determination is 03 of 2021 and may be cited as EPA Determination – discharges to land or surface water from prescribed activities.

2. Summary

This determination is made by the Environment Protection Authority (Authority) under Section 48(a) and (b) of the **Environment Protection Act 2017** (the Act). It specifies the requirements that a person must meet to comply with Section 44 or 45 of the Act if the person does not hold a development licence or operating licence in relation to certain prescribed activities involving discharges to land or surface water.

A person who meets the requirements set out in this determination may engage in a prescribed activity set out in clause 4 without a development licence or operating licence issued under the Act in relation to that activity.

3. Definitions

In this determination, words or phrases have the same meaning as in the Act or the Environment Protection Regulations 2021 (the Regulations), unless otherwise specified, and – **water corporation** has the same meaning as in the **Water Act 1989**.

4. Application

(1) For the purposes of Section 48(a) and (b) of the Act, a person engaging, or proposing to engage, in one or more of the activities set out in the following items of the Table in Schedule 1 to the Regulations does not have to comply with the requirement to hold a development licence under Section 44(1) or an operating licence under Section 45(1) of the Act in relation to those activities, provided the person meets the requirements set out in clause 5 –

- (a) item 38 (D01 – Abattoirs);
- (b) item 41 (D04 – Seafood processing);
- (c) item 42 (D05 – Pet food processing);
- (d) item 43 (D06 – Food processing);
- (e) item 44 (D07 – Milk processing);
- (f) item 46 (D09 – Beverage manufacturing).

(2) For the purposes of Section 48(a) of the Act, a person who holds a permission or licence exemption issued by the Authority to engage in one or more of the activities set out in the following items of the Table in Schedule 1 to the Regulations, does not have to comply with the requirement to hold a development licence under Section 44(1) of the Act if, in relation to those activities, the person is only engaging, or

5. Requirements

For the purposes of clause 4, the specified requirements are that the person referred to in that clause ensures the activity discharges waste solely to land or surface water from –

- (a) an enclosed drain connected to a sewer;
- (b) a council stormwater drainage system and the discharge is stormwater only;
- (c) an emergency relief structure or other installation in the sewers of a water corporation.

6. Duration

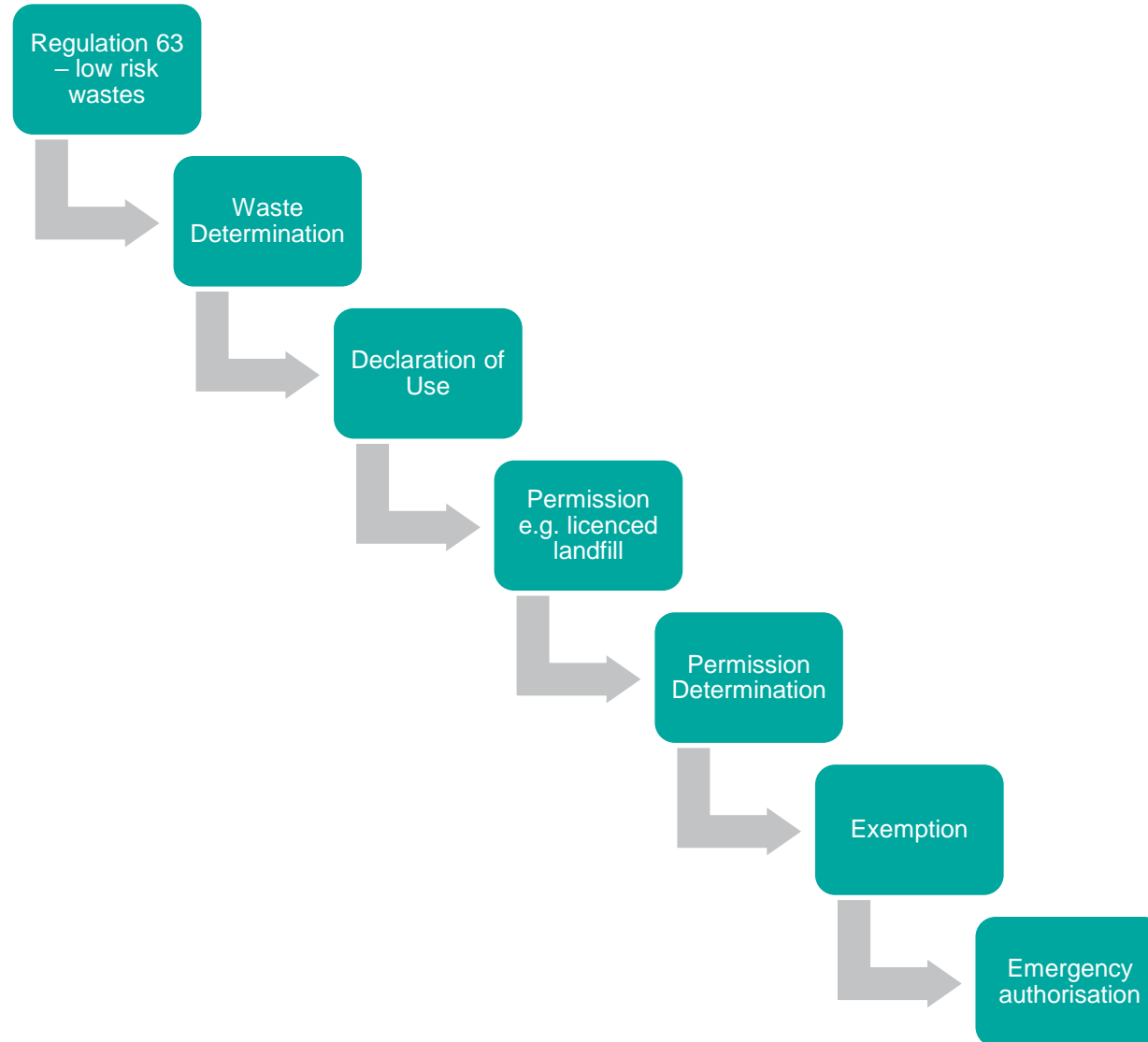
This determination commences on 1 July 2021 and remains in effect until the revocation of the Regulations, unless earlier revoked by the Authority.

7. Notes

- (1) For the purpose of clause 5, the *Liquid Storage and Handling Guidelines*, published by the Authority in June 2018 (as amended from time to time) and available on its website (publication 1698) is relevant guidance.
- (2) The Authority may amend or repeal this determination by way of written notice published in the Government Gazette.
- (3) This determination does not satisfy, alter or remove any requirement under the Act, except to the extent the determination expressly states otherwise.
- (4) This determination and others can be found on the Authority's website: www.epa.vic.gov.au

- Don't need a development or operating licence in these circs, but would still be a lawful place.

What is a lawful place?



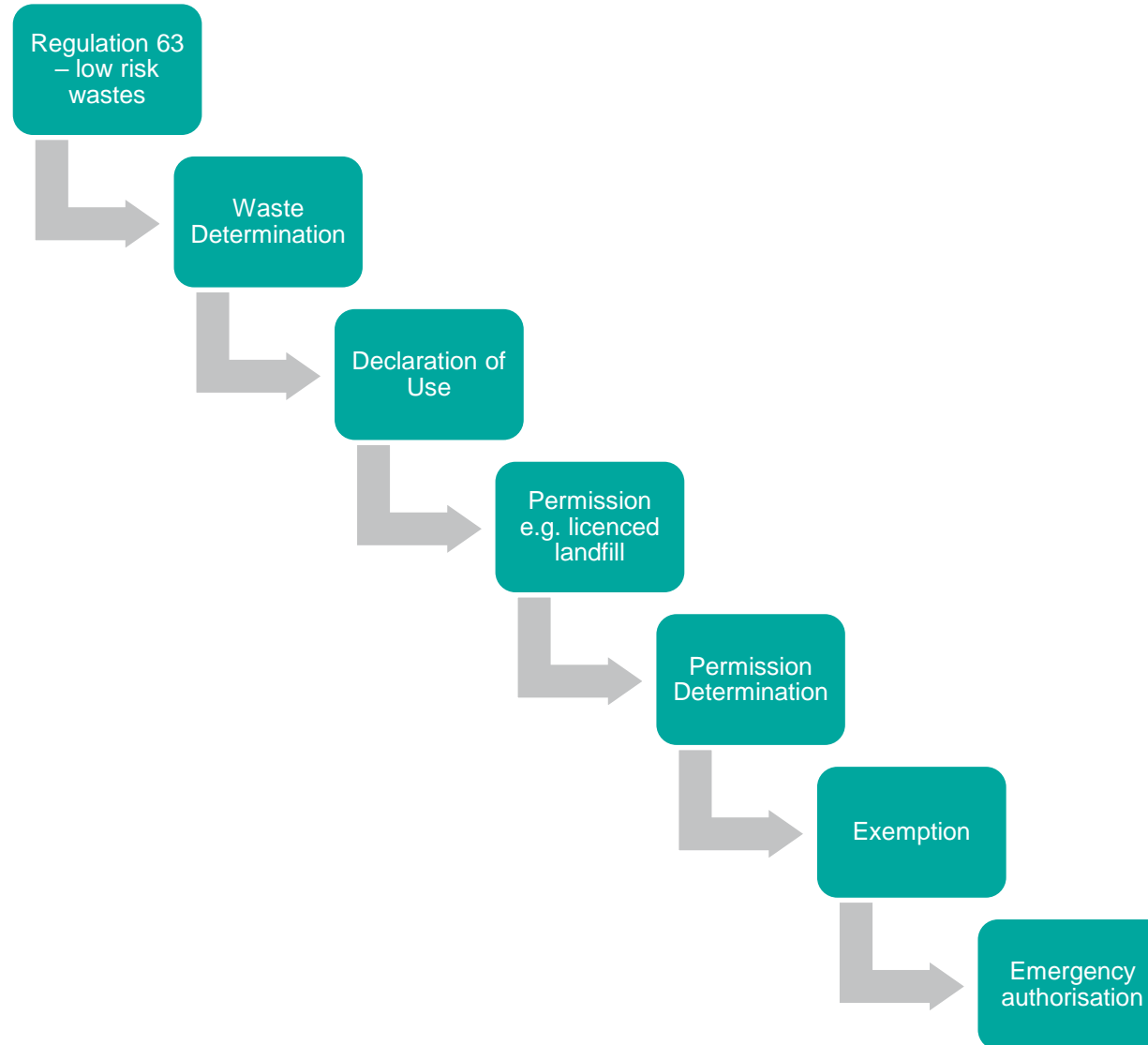
Pathway 6: Exemptions



- **Exempt** from the need to hold a permission for receipt of the waste
- Refer to Part 3.5 of the Regulations
- Note that some previous exemptions have transitioned

<i>Column 1 Item</i>	<i>Column 2 Prescribed old permission</i>	<i>Column 3 Prescribed new permission</i>
2	An exemption under regulation 11(d) or 12(1)(c) of the Environment Protection (Scheduled Premises) Regulations 2017	A permit that specifies an activity set out in item 22 (A14—Reclaimed wastewater supply or use) or item 23 (A15—Biosolids supply or use) in the Table in Schedule 1 (as appropriate)
3	A category specific exemption to the requirements of section 19A or 20(1) of the old Act provided for by regulation 8 of the Environment Protection (Scheduled Premises) Regulations 2017 in relation to an activity described as B01 (Animal Industries) or B02 (Livestock saleyards or holding pens) in column 1 of the Table in Schedule 1 to those Regulations	A permit that specifies an activity set out in item 32 (B01a—Animal industries—waste solely to land) or item 34 (B02a—Livestock saleyards or holding pens—waste solely to land) in the Table in Schedule 1 (as appropriate)

What is a lawful place?



Pathway 7: Emergency authorisation



- **Section 157** – need to make an application
- Situations:
 - meeting a temporary emergency; or
 - providing for the temporary relief of a public nuisance or community hardship; or
 - enabling the commissioning, repair, decommissioning or dismantling of any item of plant or equipment.

Waste offences (in addition to GED and waste duty offences)



- It is an offence to:
 - make false representations that a person is authorised to receive industrial waste
 - provide false or misleading information to EPA or any person in relation to industrial waste
 - conceal information about the type, properties and classification of the waste or the risks of harm to human health or the environment.
- Non-compliance can result in a penalty of more than \$80,000 for an individual or \$410,000 for a company.
- In addition, if an individual is convicted of an industrial waste duty offence for a second time within five years, a court may impose an **imprisonment term of up to two years.**

Resources

- [Waste duties](#)
- [Declaration of Use](#)
- [Industrial waste](#)
- [Guide to classifying waste](#) (publication 1968)
- [How to establish lawful place](#) (publication 1946)
- [Waste classification assessment protocol](#) (publication 1827)
- [Waste disposal categories - characteristics and thresholds](#) (publication 1828)
- ********* [Managing industrial waste – your duties as a waste producer](#) (publication 1990.1)



Implementation



Are systems and processes in place to eliminate risks to human health and environment?

- Understand and assess the risks of your activities and how you can:
 - **Eliminate** where reasonably practicable
 - **Minimise** as far as reasonably practicable
- Review/update environmental management systems/plans to ensure compliance with the new Act
- Understand transition of any site licences
- Get ready for any contaminated land notifications that need to be made
- Understand new waste management duties and how they will impact on your business
- Take your team on the journey

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Legal | Mediation | Advisory

The information in this presentation is for general guidance only.
It does not constitute legal or other professional advice and should not be relied on as a statement of the law.
It is intended only as a general guide and may contain generalisations.
You should obtain professional advice for your specific circumstances.