



General Environmental Duty (GED)

What is the GED?

- The GED requires anyone engaging in an **activity** to take **reasonably practicable steps** to eliminate (or minimise if elimination is not possible) risks of harm to human health and the environment from pollution or waste
- The GED can be breached even if injury or harm does not occur
- Human health includes psychological harm which might be impacted by noise or odour

What do you need to do?

- Use and maintain plant, equipment and processes to minimise risk
- Use and maintain systems to: identify, assess and control risks; evaluate risk controls; and minimise harmful effects
- Handle, store and transport wastes and substances to minimise risk
- Provide information, instruction and training to ensure compliance

What are **reasonably practicable steps**?

Steps depend on:

- likelihood of risk eventuating
- degree of harm that would result
- knowledge of harm/risks
- ways to eliminate/reduce risks
- availability/suitability/cost of eliminating/reducing risk



Noise

What's new?

In relation to commercial, industrial or trade premises, there are penalties for:

Emitting aggravated noise

noise will be *aggravated* if it exceeds the prescribed thresholds set for "day", "evening" or "night"

Emitting unreasonable noise

noise will be *unreasonable* having regard to its volume, intensity, duration, regularity, its character and the time and place it occurs

Are there exemptions?

Yes. "Noise" excludes noise from equipment used in relation to an emergency, construction activities, mobile farm machinery (except for maintenance activities), scare and anti-hail guns, livestock on farms or saleyards, firearms, lawnmowing, large fans used to circulate air over a wide area where crops such as citrus, stone fruit or vines are grown (frost fans).

However, even if the noise emitted is below the limits or exempt, the GED still requires you to take all steps practicable to minimise the risk of harm to human health and the environment.



Managing waste

If you have or generate:

You must:

Industrial waste

Waste arising from commercial, industrial or trade activities (eg end-of-life vehicles, untreated timber etc)

- Classify the waste
- Deposit waste at **an authorised place** with consent, and take all reasonable steps to ensure this occurs

Priority waste

Medium risk waste (eg industrial waste water, some biosolids, processed solid organic waste etc)

- Comply with duties for industrial waste
- Contain and isolate waste and provide information to consignors
- Investigate alternatives to waste disposal

Reportable priority waste

Highest risk waste (eg acids, pesticides, herbicides etc)

- Comply with duties for industrial and priority waste
- Track waste using EPA waste tracker



Contaminated land

Land is contaminated if wastes, chemicals or prescribed substances are present above background concentrations and create a risk to human health or the environment

What are your duties?

Anyone controlling or managing contaminated land must:

minimise risks of harm to human health and the environment so far as reasonably practicable
(duty to manage)

notify the EPA if land has been contaminated with "*notifiable contamination*"
(duty to notify)

Notifiable contamination includes:

- Certain contaminated soil
- Certain asbestos in or on soil
- Actual or likely contamination of groundwater or surface water
- Vapour intrusion
- On-site containment of contaminated soil



Pollution incidents

A **pollution incident** is one that causes a leak, spill or other unintended or unauthorised deposit or escape of a substance, which causes pollution. This may include incidents such as oil leaks to land or water or the escape of chemicals during spray application.

What are your duties?

If a pollution incident has occurred, a person must:

restore the affected area to the state it was in before the pollution incident occurred, so far as reasonably practicable
(duty to restore)

notify the EPA if you are engaging in, or have engaged in, an activity that causes a **notifiable incident**
(duty to notify)

- A **notifiable incident** is one which involves **material harm** to the environment
- In summary, **material harm** means an incident that causes an adverse effect on human health/the environment that is not negligible or affects an area of **high conservation value** or costs more than \$10,000 to clean up.



Enforcement

The EPA has the power to:

Investigate

Issue notices

Recover costs

Seek civil penalties

Seek criminal penalties

What do you need to know?

- EPA now has more powers to investigate and issue notices in relation to incidents.
- The maximum penalties for offences have increased.
- The EPA can now seek civil penalties or pursue criminal prosecution.
- It is a defence if you were undertaking the activity in an emergency.
- The community can now apply to Court for an order to enforce the new laws against another person. This is available to a person whose interests are affected, or with leave of the Court. The Court will grant leave where it is in the public interest to do so and the person has requested the EPA take action and the EPA has failed to do so.



Permissions

The regulation pyramid

The higher the risk of harm to the environment, the more regulation



Key changes

- More activities are regulated under the new legislation because there are two new permissions: **permits** and **registrations** which are for lower risk activities
- Your licence will still apply under the new regime. However, the EPA has 12 months to update general licence conditions. Therefore your licence conditions may (or may have already) been updated.
- Exemptions from the requirement for a licence under the old legislation may no longer apply

What do you need to do?

- Check whether any of your activities require a permission under the new regime (eg storage of low volume waste such as tyres)
- If you have a licence, confirm whether your conditions are likely to change



Key actions for horticulture farming

1. **GED:** Assess whether you are taking all reasonably practicable steps to **minimise the risk of harm** to human health or the environment from pollution and waste.
2. **Pollution incidents:** Make sure you understand when a chemical spill/drift, stormwater runoff or other *pollution incident* will need to be **notified to the EPA**.
3. **Waste management:**
 - Make sure you have classified waste as industrial waste, priority waste or reportable priority waste
 - Consider whether there are alternative ways to dispose of *priority waste*.
 - Make sure your *industrial waste* is going to a place authorised to receive it.
4. **Permissions:** Consider whether you need a permission for activities on your farm. This might include registrations for low volumes of certain waste or permissions for activities such as use of reclaimed water or biosolids.
5. **Noise:** Confirm which of your activities are not taken into account for a noise assessment.
6. **Odour:** Consider whether you are taking all reasonable steps to minimise harm of odour on neighbours in proximity to farming operations.