

Ordinance 09 of 2017

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**WASTE (AMENDMENT NO. 2) ORDINANCE 2017**

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An Ordinance to amend the Waste Ordinance 2015

J. Illingworth  
**ADMINISTRATOR**

*12 December 2017*

**BE** it enacted by the Administrator of the Sovereign Base Areas of Akrotiri and Dhekelia as follows:—

**Short title**

**1.** This Ordinance may be cited as the Waste (Amendment No. 2) Ordinance 2017 and comes into force on 21 December 2017.

**Amendments to the Waste Ordinance 2015**

**2.** The Waste Ordinance 2015<sup>(a)</sup> is amended in accordance with sections 3 to 5.

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(a) Ordinance 10/2015, as amended by Ordinance 3/2017.

### Amendment to section 3

3. In section 3 (interpretation) after the definition of “Regulation (EC) No 1013/2006” insert—
- ““Regulation (EC) No 1272/2008” means Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006(a);”.

### Amendment to Schedule 1

4. After the final paragraph of footnote (\*) to Schedule 1 (recovery operations) insert—
- “The energy efficiency formula value will be multiplied by a climate correction factor (“CCF”) as shown below—
1. CCF for installations in operation and permitted in accordance with applicable EU legislation before 1 September 2015—
    - (a) CCF = 1 if HDD  $\geq$  3350;
    - (b) CCF = 1.25 if HDD  $\leq$  2150;
    - (c) CCF =  $-(0.25/1200) \times \text{HDD} + 1.698$  if HDD is between 2150 and 3350.
  2. CCF for installations permitted after 31 August 2015, and for the installations referred to in paragraph 1 after 31 December 2029—
    - (a) CCF = 1 if HDD  $\geq$  3350;
    - (b) CCF = 1.12 if HDD  $\leq$  2150;
    - (c) CCF =  $-(0.12/1200) \times \text{HDD} + 1.335$  if HDD is between 2150 and 3350.
  3. The resulting value of the CCF is rounded to three decimal places.
  4. The value of Heating Degree Days (“HDD”) is the average of annual HDD values for the incineration facility, calculated for a period of 20 consecutive years prior to the year for which the CCF is calculated. The following method established by Eurostat must be used to calculate the value of the HDD—
    - (a)  $\text{HDD} = (18^{\circ}\text{C} - T_m) \times d$  if  $T_m \leq 15^{\circ}\text{C}$  (heating threshold);
    - (b)  $\text{HDD} = 0$  if  $T_m > 15^{\circ}\text{C}$ ,
- where  $T_m$  is the mean outdoor temperature ( $\frac{T_{\text{min}} + T_{\text{max}}}{2}$ ) over a period of  $d$  days.  
Calculations are to be executed on a daily basis ( $d = 1$ ), added up to a year.”.

### Substitution of Schedule 3

5. For Schedule 3 (properties of hazardous waste) substitute—

## “SCHEDULE 3 Properties of hazardous waste

Section 3

### Interpretation

1. In this Schedule—

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(a) OJ No. L 353, 31.12.2008, p1.

“article” has the same meaning as in paragraph 9 of article 2 of Regulation (EC) No 1272/2008;

“concentration limit” has the same meaning as in paragraph 32 of article 2 of Regulation (EC) No 1272/2008;

“cut-off value” has the same meaning as in paragraph 31 of article 2 of Regulation (EC) No 1272/2008;

“hazard category”, “hazard class” and “hazard statement” have the same meanings as in paragraphs 1, 2 and 5 of article 2 of Regulation (EC) No 1272/2008;

“hazard category codes”, “hazard class codes”, “hazard statement codes” and “supplemental hazards” have the same meanings as in Regulation (EC) No 1272/2008;

“mixture” has the same meaning as in paragraph 8 of article 2 of Regulation (EC) No 1272/2008; and

“substance” has the same meaning as in paragraph 7 of article 2 of Regulation (EC) No 1272/2008.

### **HP 1: explosive**

2.—(1) Waste is explosive if it is capable, through a chemical reaction, of producing gas at such a temperature, pressure and speed as to cause damage to its surroundings. This includes (but is not limited to) pyrotechnic waste, explosive organic peroxide waste and explosive self-reactive waste.

(2) Waste containing one or more of the substances referred to in Table 1 must be tested to determine if it displays HP 1 (hazardous property 1) using the test methods referred to in paragraph 17, where it is appropriate and proportionate to do so. If the presence of a substance, mixture or article indicates that the waste is explosive it must be classified as hazardous by HP 1.

**Table 1**

#### **Hazard class and category code(s) and hazard statement code(s) for waste constituents for the classification of waste as hazardous by HP 1**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>
Unst. Expl.	H 200
Expl. 1.1	H 201
Expl. 1.2	H 202
Expl. 1.3	H 203
Expl. 1.4	H 204
Self-react. A	H 240
Org. Perox. A	
Self-react. B	H 241
Org. Perox. B	

### **HP 2: oxidising**

3.—(1) Waste is oxidising if it can, generally by providing oxygen, cause or contribute to the combustion of other materials.

(2) Waste containing one or more substances referred to in Table 2 must be tested to determine if it displays HP 2 using the test methods referred to in paragraph 17, where it is appropriate and proportionate to do so. If the presence of a substance indicates that the waste is oxidising it must be classified as hazardous by HP 2.

**Table 2**

#### **Hazard class and category code(s) and hazard statement code(s) for the classification of waste as hazardous by HP 2**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>
Ox. Gas 1	H 270
Ox. Liq. 1	H 271
Ox. Sol.1	
Ox. Liq. 2, Ox. Liq. 3	H 272
Ox. Sol. 2, Ox Sol. 3	

**HP 3: flammable**

- 4.—(1) Waste is flammable if it falls within any of the following descriptions—
- (a) flammable liquid waste: liquid waste with a flash point below 60°C or waste gas oil, diesel or light heating oils with a flash point > 55°C and ≤ 75°C;
  - (b) flammable pyrophoric liquid and solid waste: solid or liquid waste which, even in small quantities, is liable to ignite within 5 minutes of coming into contact with air;
  - (c) flammable solid waste: solid waste which is readily combustible or may cause or contribute to fire through friction;
  - (d) flammable gaseous waste: gaseous waste which is flammable in air at 20°C and a standard pressure of 101.3 kPa;
  - (e) water reactive waste: waste which, in contact with water, emits flammable gases in dangerous quantities;
  - (f) other flammable waste: flammable aerosols, flammable self-heating waste, flammable organic peroxides and flammable self-reactive waste.

(2) Waste containing one or more of the substances referred to in Table 3 must be tested to determine if it displays HP 3 using the test methods referred to in paragraph 17, where it is appropriate and proportionate to do so. If the presence of a substance indicates that the waste is flammable it must be classified as hazardous by HP 3.

**Table 3**

**Hazard class and category code(s) and hazard statement code(s) for waste constituents for the classification of waste as hazardous by HP 3**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>
Flam. Gas 1	H220
Flam. Gas 2	H221
Aerosol 1	H222
Aerosol 2	H223
Flam. Liq. 1	H224
Flam. Liq. 2	H225
Flam. Liq. 3	H226
Flam. Sol. 1	H228
Flam. Sol. 2	
Self-react. CD	H242
Self-react. EF	
Org. Perox. CD	
Org. Preox. EF	
Pyr. Liq. 1	H250
Pyr. Sol. 1	
Self-heat. 1	H251
Self-heat. 2	H252
Water-react. 1	H260
Water-react. 2	H261
Water-react. 3	

#### HP 4: irritant – skin irritation and eye damage

5.—(1) Waste is irritant if it can cause skin irritation or eye damage if it comes into contact with the skin or eyes.

(2) Waste is classified as hazardous by HP 4 if—

- (a) it contains one or more substances within the hazard class and category codes, and hazard statement codes, set out in sub-paragraph (3) above the cut-off value; and
- (b) one or more of the concentration limits set out in sub-paragraphs (4) to (6) is exceeded.

(3) The cut-off value for Skin corr. 1A (H314), Skin irrit. 2 (H315), Eye dam. 1 (H318) and Eye Irrit. 2 (H319) is 1%.

(4) If the sum of the concentrations of all substances classified as Skin corr. 1A (H314)  $\geq$  1% the waste is classified as hazardous by HP 4.

(5) If the sum of the concentrations of all substances classified as H318  $\geq$  10% the waste is classified as hazardous by HP 4.

(6) If the sum of the concentrations of all substances classified as H315 and H319  $\geq$  20% the waste is classified as hazardous by HP 4.

(7) Waste containing substances classified as H314 (Skin corr. 1A, 1B or 1C) in amounts equal to or exceeding 5% will be classified as hazardous by HP 8, in which case they are not also classified as hazardous by HP 4.

#### HP 5: specific target organ toxicity (STOT) / aspiration toxicity

6.—(1) This paragraph applies to waste which can cause specific target organ toxicity either from a single or repeated exposure, or which causes acute toxic effects following aspiration.

(2) Waste containing one or more substances referred to in Table 4 is classified as hazardous by HP 5 if one or more of the concentration limits is exceeded or equalled.

(3) If waste contains more than one substance referred to in sub-paragraph (2), an individual substance has to be present at or above the corresponding concentration limit for the waste to be classified as hazardous by HP 5.

(4) If waste contains one or more substances classified as Asp. Tox. 1 and the sum of those substances equals or exceeds the concentration limit, the waste shall be classified as hazardous by HP 5 only where the overall kinematic viscosity (at 40°C) does not exceed 20.5 mm<sup>2</sup>/s(a).

**Table 4**

**Hazard class and category code(s) and hazard statement code(s) for waste constituents, and the corresponding concentration limits, for the classification of waste as hazardous by HP 5**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>	<i>Concentration Limit</i>
STOT SE 1	H370	1%
STOT SE 2	H371	10%
STOT SE 3	H335	20%
STOT RE 1	H372	1%
STOT RE 2	H373	10%
Asp. Tox. 1	H304	10%

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(a) The kinematic viscosity is only to be determined for fluids.

### HP 6: acute toxicity

7.—(1) Waste is acutely toxic if it can cause acute toxic effects following oral or dermal administration, or inhalation exposure.

(2) Waste is classified as hazardous by HP 6 if the sum of the concentrations of all the substances referred to in table 5 it contains equals or exceeds the corresponding concentration limit. Where more than one substance is present, the concentration limit applies to the sum of all the substances within the same hazard category.

(3) The cut-off value for Acute Tox. 1, 2 or 3 (H300, H310, H330, H301, H311, H331) is 0.1%.

(4) The cut-off value for Acute Tox. 4 (H302, H312, H332) is 1%.

**Table 5**

**Hazard class and category code(s) and hazard statement code(s) for waste constituents, and the corresponding concentration limits, for the classification of waste as hazardous by HP 6**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>	<i>Concentration Limit</i>
Acute Tox. 1 (Oral)	H300	0.1%
Acute Tox. 2 (Oral)	H300	0.25%
Acute Tox. 3 (Oral)	H301	5%
Acute Tox. 4 (Oral)	H302	25%
Acute Tox. 1 (Dermal)	H310	0.25%
Acute Tox. 2 (Dermal)	H310	2.5%
Acute Tox. 3 (Dermal)	H311	15%
Acute Tox. 4 (Dermal)	H312	55%
Acute Tox. 1 (Inhal.)	H330	0.1%
Acute Tox. 2 (Inhal.)	H330	0.5%
Acute Tox. 3 (Inhal.)	H331	3.5%
Acute Tox. 4 (Inhal.)	H332	22.5%

### HP 7: carcinogenic

8.—(1) Waste is carcinogenic if it induces cancer or increases its incidence.

(2) Waste is classified as hazardous by HP 7 if the concentration of a substance referred to in table 6 equals or exceeds the corresponding concentration limit. Where more than one substance is present, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 7.

**Table 6**

**Hazard class and category code(s) and hazard statement code(s) for waste constituents, and the corresponding concentration limits, for the classification of waste as hazardous by HP 7**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>	<i>Concentration Limit</i>
Carc. 1A	H350	0.1%
Carc. 1B		
Carc. 2	H351	1.0%

### HP 8: corrosive

9.—(1) Waste is corrosive if it can cause skin corrosion on application to the skin.

(2) Waste is classified as hazardous by HP 8 if it contains one or more substances classified as Skin corr. 1A, 1B or 1C (H314) and the sum of their concentrations is equal to or exceeds 5%.

(3) The cut-off value for the substances referred to in sub-paragraph (2) is 1.0%.

**HP 9: infectious**

**10.**—(1) Waste is infectious if it contains viable micro-organisms or their toxins which are known, or reliably believed, to cause disease in people or other living organisms.

(2) Waste is classified as hazardous by HP 9 if it would be so classified in the Republic.

**HP 10: toxic for reproduction**

**11.**—(1) Waste is toxic for reproduction if it has an adverse effect on sexual function or fertility in adults, or causes developmental toxicity in the offspring.

(2) Waste is classified as hazardous by HP 10 if the concentration of a substance referred to in table 7 equals or exceeds the corresponding concentration limit. Where more than one substance is present, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 10.

**Table 7**

**Hazard class and category code(s) and hazard statement code(s) for waste constituents, and the corresponding concentration limits, for the classification of waste as hazardous by HP 10**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>	<i>Concentration Limit</i>
Repr. 1A	H360	0.3%
Repr. 1B		
Repr. 2	H361	3.0%

**HP 11: mutagenic**

**12.**—(1) Waste is mutagenic if it can cause a permanent change in the amount or structure of the genetic material in a cell.

(2) Waste is classified as hazardous by HP 11 if the concentration of a substance referred to in table 8 equals or exceeds the corresponding concentration limit. Where more than one substance is present, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by HP 11.

**Table 8**

**Hazard class and category code(s) and hazard statement code(s) for waste constituents, and the corresponding concentration limits, for the classification of waste as hazardous by HP 11**

<i>Hazard Class and Category Code(s)</i>	<i>Hazard Statement Code(s)</i>	<i>Concentration Limit</i>
Muta. 1A	H340	0.1%
Muta. 1B		
Muta. 2	H341	1.0%

**HP 12: release of an acute toxic gas**

**13.**—(1) This paragraph applies to waste which releases acute toxic gases (Acute Tox. 1, 2 or 3) when it comes into contact with water or an acid.

(2) Whether waste containing a substance classified as supplemental hazard EUH029, EUH031 or EUH032 is classified as hazardous by HP 12 must be determined in accordance with the test methods referred to in paragraph 17.

**HP 13: sensitising**

14.—(1) Waste is sensitising if it contains one or more substances known to cause sensitising effects to the skin or the respiratory organs.

(2) Waste containing a substance classified as sensitising and within hazard statement code H317 or H334 is classified as hazardous by HP 13 if the concentration of any such individual substance equals or exceeds the concentration limit of 10%.

**HP 14: ecotoxic**

15.—(1) Waste is ecotoxic if it presents or may present immediate or delayed risks for one or more sectors of the environment.

(2) Whether waste is classified as hazardous by HP 14 must be determined in accordance with the criteria set out in Regulation (EC) No 1272/2008.

**HP 15: waste capable of exhibiting a hazardous property listed above not directly displayed by the original waste**

16.—(1) Waste is classified as hazardous by HP 15 if—

- (a) it contains one or more of the substances referred to in table 9, unless the waste is in such a form that it will not under any circumstances exhibit explosive or potentially explosive properties; or
- (b) it would otherwise be so classified in the Republic.

**Table 9**

**Hazard statements and supplemental hazards for waste constituents for the classification of waste as hazardous by HP 15**

<i>Hazard Statement(s) / Supplemental Hazard(s)</i>	
May mass explode in fire	H205
Explosive when dry	EUH001
May form explosive peroxides	EUH019
Risk of explosion if heated under confinement	EUH044

**Test methods**

17. The test methods to be used are—

- (a) those referred to in Regulation (EC) No 440/2008(a);
- (b) those referred to in relevant notes of the European Committee for Standardisation (CEN); or
- (c) other internationally recognised test methods and guidelines.”.

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(a) Council Regulation (EC) No 440/2008 of 30 May 2008 laying down test methods pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH); OJ No. L 142, 31.5.2008, p1.

## **EXPLANATORY NOTE**

*(This note is not part of the Ordinance)*

1. This explanatory note relates to the Waste (Amendment No. 2) Ordinance 2017 (the “Ordinance”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Ordinance, and does not form part of the Ordinance.
2. The Ordinance amends the Waste Ordinance 2015 to reflect amendments made to the Republic’s Waste Law 2011 (Law 185(I)/2011). Republican Law 120(I)/2016 amended Schedule 1 to the Waste Law 2011, which relates to recovery operations. It also substituted Schedule 3 to the Waste Law 2011, which sets out when waste is to be classified as hazardous waste.
3. The amendments to the Republican Law reflect amendments to the EU legislation it is based on. Commission Directive (EU) 2015/1127 and Commission Regulation (EU) No 1357/2014 both amended EU Directive 2008/98/EC (known as the “Waste Framework Directive”). Commission Regulation (EU) 1357/2014 amended Annex III to the Waste Framework Directive to ensure consistency with Regulation (EC) No 1272/2008.
4. The Ordinance makes the same amendments to the Waste Ordinance 2015, Schedule 3 to which replicates Annex III to the Waste Framework Directive. The substituted Schedule 3 contains a number of terms that have the same meaning as in Regulation (EC) No 1272/2008.

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