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## WASTE ORDINANCE 2015

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*This is a consolidated version of this legislation i.e. it incorporates all amendments made since the legislation was enacted as set out in the table below. It has been produced by the SBAA as an aid to transparency and easier access to SBA law. However, it is not the official version of SBA legislation and, although every effort has been made to check the document, its accuracy cannot be guaranteed. The official version of legislation is published in the SBA Gazette.*

Legislation incorporated in this Consolidation	Ordinance	Date in Force
Waste Ordinance 2015	10/2015	03/08/2015
Waste (Amendment) Ordinance 2017	3/2017	24/03/2017
Waste (Amendment No.2) Ordinance 2017	9/2017	21/12/2017

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## WASTE ORDINANCE 2015

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An Ordinance to provide for the management of waste for the purposes of protecting the environment and public health by preventing or limiting the adverse impact of the generation of waste and waste management activities on the environment and public health

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

### PART 1

#### Introductory provisions

##### **Short title**

1. This Ordinance may be cited as the Waste Ordinance 2015.

##### **Commencement**

2. This Ordinance comes into force on 3 August 2015.

##### **Interpretation**

3.—(1) In this Ordinance, unless the context requires otherwise, the following definitions will apply and, where appropriate, cognate expressions must be construed accordingly—

“after-care” means all the operations and checks which must be carried out in relation to the permanent closure of a site for the disposal or recovery of waste for the purposes of protecting the environment or public health;

“best available techniques” has the same meaning as in section 2 of Republican Law No. 56(I)/2003 (the Integrated Prevention and Pollution Control Law)(a);

“bio-waste” means biodegradable garden and park waste, food and kitchen waste from households, restaurants, caterers and retail outlets and comparable waste from food processing plants;

“broker” means a person who, on behalf of others, makes arrangements for the recovery or disposal of waste, including brokers who do not take physical possession of the waste;

“collection” means the gathering of waste, including the preliminary storage and sorting of waste for the purposes of transport to a waste facility;

“competent authority” is as defined in section 5;

“court” means the Resident Judge’s Court;

“Crown” means Her Majesty in right of Her Government in the United Kingdom and in right of Her Administration of the Areas and includes:

- (a) a person in the employment of the Crown, whilst acting in the course of such employment; and

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(a) Republic of Cyprus Gazette Number 3724 of 13 June 2003. The definition of “best available techniques” in the Republican Law mirrors that in Directive 2008/1/EC on integrated pollution prevention and control (OJ No. L 24, 29.1.2008, p8).

(b) a member of Her Majesty's Forces, whilst acting in the course of service to the Crown;

“dealer” means any person who acts in the role of principal in the purchasing and subsequent selling of waste, including dealers who do not take physical possession of the waste;

“disposal” means any operation which is not recovery, including the disposal operations listed in Schedule 2 (including where the operation has, as a secondary consequence, the reclamation of substances or energy);

“economic instruments” includes financial and other economic incentives and disincentives such as subsidies and taxes which aim to encourage environmentally sound and efficient production, consumption and waste management;

“general delegated function” means a general delegated function within the meaning of the Delegation of Functions to the Republic Ordinance 2007(a);

“geological formation” and “geological storage” have the same meanings as in section 2 of Republican Law No. 71(I)/2012 (the Storage of Carbon Dioxide in Geological Formations Law 2012)(b);

“hazardous waste” means waste which displays one or more of the hazardous properties listed in Schedule 3;

“immovable property” has the meaning given in section 2 of the Immovable Property (Tenure, Registration and Valuation) Ordinance(c);

“inspector” means a person appointed under section 43(1) (including the Chief Inspector);

“local council” means a community council or a municipal council(d);

“operator” means—

- (a) a waste licence holder;
- (b) a person falling within an order made under section 28(1) (exemptions from requirement to hold a waste licence); or
- (c) a person under whose direction or control waste management activities are being, or will be, carried out (including a person to whom such activities have been delegated);

“preparing waste for re-use” means recovery operations that involve checking, cleaning or repairing products or components of products that have become waste so that they can be re-used without any other pre-processing;

“product producer” means a person who, in the course of a business or profession, develops, manufactures, processes or sells a product or imports a product into the Areas;

“qualified delegated function” means a qualified delegated function within the meaning of the Delegation of Functions to the Republic Ordinance 2007;

“recovery” means any operation listed in Schedule 1 and any other operation, the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared in a waste facility or in the wider economy, to fulfil that function;

“recycling” means any recovery operation by which waste is re-processed into products, materials or substances (whether for re-use or other purposes) and includes the re-processing

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(a) Ordinance 17/2007, section 4 of which was repealed by Ordinance 8/2012.

(b) Republic of Cyprus Gazette Number 4338 of 8 of June 2012. The definition of “geological formation” and “geological storage” in the Republican Law mirrors that in Directive 2008/31/EC on the storage of carbon dioxide.

(c) Cap. 224, Laws of Cyprus 1959 ed. Legislation of the former colony of Cyprus has effect in the Areas by virtue of article 5 of the Sovereign Base Areas of Akrotiri and Dhekelia Order in Council 1960 (UK S.I. 1369/1960). Schedule 2 to the Interpretation Ordinance 2012 (Ord. 8/2012) provides for the interpretation of such legislation. Cap. 224 has been amended but no amendments are relevant to this Ordinance.

(d) “Community council” and “municipal council” are defined in Schedule to the Interpretation Ordinance 2012 (Ordinance 8/2012).

of organic material, but does not include energy recovery and the re-processing of such waste into materials that are to be used as fuels or for backfilling operations;

“regeneration of waste oils” means any recycling operation whereby base oils can be produced by refining waste oils, in particular by removing contaminants, oxidation products and additives contained in such oils;

“Regulation (EC) No 1013/2006” means regulation (EC) 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste(a);

“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(b); (c)

“Regulation (EC) No 1774/2002” means Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption(d);

“re-use” means any operation by which products or components that are not waste are used again for their original purpose;

“separate collection” means the collection of waste kept separately by type and nature so as to facilitate a specific type of treatment;

“shipment” has the same meaning as in Article 2, paragraph 34 of Regulation (EC) No. 1013/2006;

“transport” means the carriage of waste by road, air or sea;

“treatment” means recovery or disposal operations, including any preparation of waste prior to disposal or recovery;

“vehicle” means a motor vehicle within the meaning of section 2 of the Motor Vehicles and Road Traffic (Consolidation) Ordinance 2006(e);

“waste” means any substance or object which a waste holder discards, intends to discard or is required to discard and, unless expressly excluded, includes hazardous waste;

“waste facility” includes a site, technical unit, vehicle or other mobile construction or plant at or from which waste management activities are carried out in the course of a business;

“Waste Framework Directive” means Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives(f);

“waste holder” means the waste producer of the waste or any other person in possession of the waste;

~~“waste licence” means a licence issued by the competent authority under section 24 or, subject to any direction made under section 31(4), a waste permit issued under Republican Law No. 185(I)/2011 (the Waste Law 2011)(g); (h)~~

“waste licence” means—

(a) a licence issued by the competent authority under section 24; or

(b) subject to any direction made under section 31(4)—

(i) a waste permit issued under the Waste Law 2011 (Republican Law No. 185(I)/2011, Republic of Cyprus Gazette Number 4313 of 23 December 2011); or

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(a) OJ No. L 190, 12.7.2006, p1.

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

(c) Definition inserted by Ordinance 9/2017 – came into force on 21 December 2017

(d) OJ No. L 273, 10.10.2002, p1.

(e) Ordinance 5/2006, as amended (none of the amendments are relevant to this Ordinance).

(f) OJ No. L 312, 22.11.2008, p3.

(g) Republic of Cyprus Gazette Number 4313 of 23 December 2011.

(h) Definition repealed and replaced by Ordinance 3/2017 – came into force on 24 March 2017

(ii) *an entry in the waste management records referred to in section 33 of the Waste Law 2011(a) as amended or substituted from time to time,*  
by virtue of which a person is able to carry out waste management activities in the Republic;

~~“waste licence holder” is a person who holds a waste licence;~~ (b)

“waste licence holder” means a person who—

- (a) holds a licence issued under section 24; or
- (b) subject to any direction made under section 31(4) is able to carry out waste management activities in the Republic by virtue of—

(i) holding a waste permit issued under Republican Law No. 185(I)/2011; or

(ii) being named in the waste management records referred to in section 33 of Republican Law No. 185(I)/2011 as amended or substituted from time to time,

and a reference to holding a waste licence is to be construed accordingly;

“waste management” and “waste management activities” mean—

- (a) the collection, transport, storage, recovery or disposal of waste (including preparation of waste prior to recovery or disposal);
- (b) after-care;
- (c) the activities and actions of a dealer or broker; and
- (d) the supervision of any of the matters referred to in paragraphs (a) to (c);

“waste management establishment or undertaking” means an establishment or undertaking that is in the business of carrying out waste management activities;

“waste management plan” means a plan established in accordance with section 35;

“waste oils” means any mineral or synthetic lubrication or industrial oils which have become unfit for the use for which they were originally intended, such as used combustion engine oils and gearbox oils, lubricating oils, oils for turbines and hydraulic oils;

“waste prevention” means measures taken before a substance, material or product becomes waste that reduces any of the following—

- (a) the quantity of waste, including through the re-use of products or the extension of life span of products;
- (b) the adverse impact of the waste on the environment and public health; or
- (c) the content of harmful substances in materials and products;

“waste prevention programme” means a programme established in accordance with section 36;

“waste producer” means—

- (a) a person whose activities produce waste; or
- (b) a person who carries out pre-processing, mixing or other operations resulting in a change in the nature of the composition of the waste;

“waste stream” means the overall process of waste from its generation to its final disposal or recovery.

(2) References in this Ordinance or in any enactments made under it, to legislation of the Republic of Cyprus or to instruments issued by an institution of the European Union are to be construed as including—

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(a) Section 33 was substituted by Republican Law No 3(I)/2016, Republic of Cyprus Gazette No. 4550 of 5 February 2016.

(b) Definition repealed and replaced by Ordinance 3/2017 – came into force on 24 March 2017

- (a) any amendments made to such legislation or instruments, whether made before or after the coming into force of this Ordinance; and
  - (b) any legislation or instrument that replaces them.
- (3) Where a power to make orders or regulations is conferred on any person under this Ordinance, the regulations or orders must be made by way of a public instrument.
- (4) Where a function in this Ordinance is designated as a general delegated function or a qualified delegated function, the Delegation of Functions to the Republic Ordinance 2007 Ordinance applies and the function so delegated must be exercised in accordance with that Ordinance.
- (5) For the avoidance of doubt, the delegation, under this Ordinance, of any function of the competent authority as a general delegated function or as a qualified delegated function does not extend to any function of the competent authority referred to in section 5(2).

### **Scope of the Ordinance**

- 4.—**(1) This Ordinance does not apply to—
- (a) gaseous effluents emitted into the atmosphere;
  - (b) carbon dioxide captured and transported for the purpose of geological storage in geological formations in accordance with Republican Law No. 71(I)/2012 (the Storage of Carbon Dioxide in Geological Formations Law 2012) and any such capture, transport or storage of carbon dioxide that is exempt from the provisions of that Law;
  - (c) land, including unexcavated contaminated soil and buildings permanently connected with land;
  - (d) uncontaminated soil and other naturally occurring material excavated in the course of construction activities where the soil or material is to be used, in its natural state, on the site from which it was excavated for the purposes of construction;
  - (e) radioactive waste;
  - (f) decommissioned explosives;
  - (g) faecal matter (other than that covered by subsection (2)(b)), straw and other natural non-hazardous agricultural, forestry material used in farming, forestry or for the production of energy from such biomass using processes or methods which do not harm the environment or endanger public health;
  - (h) the cremation of human bodies.
- (2) Except for section 24 (requirement to hold a waste licence), this Ordinance does not apply to the extent that the following matters are covered by other legislation—
- (a) waste waters;
  - (b) animal by-products including processed products covered by Regulation (EC) No. 1774/2002 except those which are destined for drying and then burning, incineration, land filling or use in biogas or a composting plant;
  - (c) carcasses of animals that have died other than by being slaughtered, including animals killed to eradicate epizootic diseases, where such carcasses are disposed of in accordance with Regulation (EC) No. 1774/2002;
  - (d) waste resulting from prospecting, extraction, treatment and storage of mineral resources and the working of quarries covered by Republican Law 82(I)/2009 (the Management of Waste from the Extraction Industry Law of the Republic 2009)(a).
- (3) Without prejudice to the requirements of any other legislation, this Ordinance does not apply to non-hazardous sediments relocated inside surface waters for the purposes of managing waters

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(a) Republic of Cyprus Gazette Number 4213 of 17 July 2009.



and waterways or to prevent floods or mitigate the effects of floods or droughts or land reclamation.

### **Competent authority and functions of local councils**

**5.**—(1) Except for waste falling within subsection (3), the competent authority for the purposes of this Ordinance is the Chief Officer.

(2) The competent authority for waste falling within subsection (3) is the person who, for the time being and by whatever name known, occupies the position of Defence Infrastructure Organisation Technical Manager for the Areas.

(3) Waste falls within this subsection if—

- (a) it is waste produced or held by the Crown; or
- (b) it is, with the permission or under the authority of the Crown, waste produced by any other person on immovable property owned or occupied by the Crown.

(4) The competent authority must provide a report (“yearly report”) to the Administrator by 30 September in each year (or as soon as possible after this date) that—

- (a) provides the Chief Officer with an overview of the exercise of the competent authority’s functions under this Ordinance for the 12 month-period preceding the report;
- (b) highlights any major issues of concern regarding waste management in, or affecting, the Areas, in particular any matters that raise a risk of harm to public health or damage (including pollution or contamination) to the environment; and
- (c) includes any other information prescribed by the Administrator in regulations.

(5) The Administrator may dispense with the requirement for an end-of-year report to be submitted by the competent authority.

(6) The functions of a local council in relation to waste must be exercised in a manner that is consistent with the provisions of this Ordinance and any enactments made under it and, for the avoidance of doubt, in the event of any conflict between the provisions in this Ordinance and any legislation conferring functions on a local council, the provisions of this Ordinance take precedence.

(7) The function of the competent authority under subsection (4) is a general delegated function.

### **By-products**

**6.** A substance or object resulting from a production process is a by-product and not waste where—

- (a) the primary aim of that process is not the production of the substance or object and the following conditions are satisfied—
  - (i) the further use of the substance or object is certain;
  - (ii) the substance or object can be used directly without any further processing other than normal industrial practice;
  - (iii) the substance or object is produced as an integral part of a production process;
  - (iv) the further use of the substance or object is lawful, including the substance, object or use satisfying any environmental, health and product requirements in any legislation; and
  - (v) the further use of the substance or object will not, overall, lead to an adverse impact on the environment or on public health; or
- (b) it satisfies any criteria relating to that substance or object that is determined in accordance with paragraph 2 of Article 5 of the Waste Framework Directive.

## End-of-waste status

- 7.—(1) Waste ceases to be waste for the purposes of this Ordinance if it—
- (a) has undergone a recovery operation (including recycling); and
  - (b) is waste of a certain type which satisfies any criteria specified in accordance with Article 6 of the Waste Framework Directive in relation to that type of waste.
- (2) Where no category of waste and no criteria are specified in accordance with Article 6 of the Waste Framework Directive, the Administrator may, on a case by case base, determine the circumstances in which waste ceases to be waste.

## List of waste

- 8.—(1) The Administrator may, by order, establish a list of waste (“list of waste”).
- (2) The list of waste must include hazardous waste.
- (3) Inclusion in the list of waste is not conclusive that a substance or object is waste unless the substance or object also falls within the definition of waste in section 3.
- (4) Subject to an order made under subsection (5)(b), the list of waste is binding for the purposes of determining whether a material or substance is hazardous waste or non-hazardous waste.
- (5) The Administrator may, by order, determine—
- (a) that waste displaying one or more of the hazardous properties listed in Schedule 3 is hazardous waste, even if not categorised as such in the list of waste; or
  - (b) that waste appearing on the list of waste as hazardous waste is not hazardous waste if satisfied that it does not display any of the hazardous properties listed in Schedule 3.
- (6) The power in subsection (5)(b) is subject to the hazardous waste not having been diluted or mixed with another substance for the purposes of lowering the initial concentrations of hazardous properties in the waste to a level below the thresholds for defining waste as hazardous.
- (7) Until such time as the Administrator makes an order under this section, the EU List of Wastes set out in the Annex to the EU List of Wastes Decision is to be treated as if it was the list of waste established under subsection (1).
- (8) For the purposes of this section—
- (a) “EU List of Wastes” means the list of wastes set out in the Annex to the List of Wastes Decision; and
  - (b) “EU List of Wastes Decision” means Commission Decision 2000/532/EC of 3 May 2000 establishing a list of wastes<sup>(a)</sup> pursuant to Article 1(a) of Council Directive 75/442/EEC on waste<sup>(b)</sup> and Council Decision 94/904/EC establishing a list of hazardous waste<sup>(c)</sup> pursuant to Article 1(4) of Council Directive 91/689/EEC on hazardous waste<sup>(d)</sup>.

## Waste hierarchy

- 9.—(1) Subject to subsection (5), any person (“P”) exercising functions relating to waste prevention or waste management under this Ordinance or any other legislation must do so in accordance with this section.
- (2) P must take the following matters (“waste hierarchy”) into account in descending order of priority—
- (a) prevention of waste;
  - (b) preparation of waste for re-use;

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(a) OJ No. L 226, 6.9.2000, p3.  
(b) OJ No. L 194, 25.7.1975, p39.  
(c) OJ No. L 356, 31.12.94, p14.  
(d) OJ No. L 377, 31.12.1991, p20.

- (c) recycling of waste;
  - (d) other recovery, including energy recovery, of waste; and
  - (e) disposal of waste.
- (3) Measures taken and policies established by P must encourage waste management activities that, overall, deliver the best outcomes for protecting the environment.
- (4) P must also take the following matters into account—
- (a) the general environmental protection principles of precaution and sustainability;
  - (b) the overall environmental impact;
  - (c) the impact on public health;
  - (d) technical feasibility;
  - (e) economic viability;
  - (f) the need to protect resources including improving the efficient use of resources;
  - (g) economic and social impact.
- (5) P may disregard the waste hierarchy to the extent—
- (a) justifiable by life-cycle thinking, taking account of the overall impact of the generation and management of specific waste streams on the environment; or
  - (b) reasonably necessary for reasons of technical feasibility or economic viability.

## PART 2

### General Provisions

#### **Protection of public health and the environment**

**10.**—(1) Any person carrying out waste management activities must do so in a manner that does not do any of the following—

- (a) endanger public health;
- (b) have an adverse impact on the environment, including an adverse impact on any rivers, seas or other types of water;
- (c) have an adverse impact on the air, soil, plants or animals;
- (d) cause nuisance through noise or odours;
- (e) adversely affect protected species and natural habitats; or
- (f) adversely affect the countryside or places of special interest.

(2) For the purposes of subsection (1)(e), “protected species and natural habitats” has the same meaning as in section 2 of Republican Law No. 189(I)/2007 (the Environmental Liability with regard to the Prevention and Remedying of Environmental Damage Law 2007)(a) and includes any landscapes, seashores and other areas that are protected by other legislation.

#### **Additional requirements on product producers**

**11.**—(1) The Administrator may make regulations for the purposes of promoting and encouraging the re-use, prevention, recycling and other recovery of waste.

(2) Without limiting the power in subsection (1), regulations made under subsection (1) may impose requirements on a product producer, including a requirement to—

- (a) accept the return of a product;

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(a) Republic of Cyprus Gazette Number 4154 of 31 December 2007.

- (b) carry out waste management activities in relation to waste arising from the use of the product;
  - (c) pay the costs of any waste management activities relating to the product;
  - (d) provide information to the public as to the extent to which the product is re-usable or recyclable.
- (3) The Administrator may, by order, regulate the design, development, production and marketing of a product with a view to—
- (a) reducing any adverse environmental impact;
  - (b) reducing or preventing the generation of waste in the production or use of a product;
  - (c) promoting products that are technically durable, suitable for multiple use and which are suitable for recycling or other recovery process;
  - (d) ensuring that any waste arising from the product, including from its production or use, may be recycled, recovered or disposed of in a manner that protects the environment and which takes into account the waste hierarchy.
- (4) Orders or regulations made under this section—
- (a) must take into account—
    - (i) the technical feasibility and economic viability of any requirements to be imposed;
    - (ii) the impact on the environment and public health; and
    - (iii) any social impact;
  - (b) may not override the requirements placed on any person under Part 3 of this Ordinance (waste management); and
  - (c) are subject to any other legislation that contain provisions specific to certain categories of waste and products.

### **Recovery**

**12.—**(1) A waste licence holder or any person who, in accordance with an order made under section 28(1) or otherwise, is exempt from holding a waste licence, must ensure that waste is subject to a recovery operation undertaken in accordance with the waste hierarchy and section 10 (protection of public health and the environment).

(2) If necessary for the purposes of compliance with subsection (1), different types of waste must be collected separately subject to this being technically, environmentally and economically viable.

(3) Waste that is collected separately must not be mixed with any other type of waste or material that has different properties.

(4) The Administrator may make regulations for the purposes of ensuring compliance with this section and on any other matter relating to the recovery of waste.

### **Re-use and recycling**

**13.—**(1) The competent authority must take steps to promote, where reasonably practicable,—

- (a) the re-use of products and the preparation of waste for re-use, in particular, by encouraging the establishment and support of re-use and repair networks, the use of economic instruments, procurement criteria, quantitative objectives or other measures; and
- (b) the establishment of high-quality recycling units and operations and, if necessary for such purposes, to establish separate collections of waste but only if such collections are—
  - (i) technically, environmentally and economically viable; and

- (ii) are appropriate to meet the standards of quality that are internationally recognised or widely used and accepted in the relevant recycling sector.
- (2) As soon as reasonably practicable, the competent authority must, if technically, environmentally and economically viable to do so, take steps to—
- (a) provide for different types of waste to be collected separately from each other and establish such separate collections for paper, glass, metal and plastic waste;
  - (b) ensure that the recycling and preparation of waste for re-use is increased to a minimum of 50% of the overall weight of any type of waste and ensure that this is the case in relation to paper, glass, metal and plastic waste that originates from private households and, if possible, waste originating from other sources which produce similar types of waste; and
  - (c) ensure that the recycling, preparation of waste for re-use and the recovery of waste, including backfilling operations where waste is used to substitute other materials and non-hazardous waste arising from construction and demolition activities (but excluding soil and stones), is increased to a minimum of 70 % of the overall weight of the waste.
- (3) Every 3 years, the competent authority must report to the Administrator on the progress of the matters referred to in subsection (2), including the extent to which the targets in that subsection have been met and, if not met (or fully met), what action is being, or should be, taken to achieve the targets.
- (4) The Administrator may make regulations imposing requirements on any person in relation to any matter mentioned in this section.
- (5) The functions of the competent authority under subsections (1) and (2) are qualified delegated functions.
- (6) The function of the competent authority in subsection (3) is a general delegated function.

## **Disposal**

**14.—**(1) Where it is not possible for a person to whom section 12(1) applies to subject waste to a recovery operation in accordance with that section, waste must be disposed of in accordance with section 10 (protection of public health and the environment).

(2) The Administrator may make regulations for the purposes of subsection (1).

## **PART 3**

### **Waste Management**

#### **Waste holders – dealing with waste**

**15.—**(1) A waste holder must ensure that waste held by the waste holder does not—

- (a) create a risk to public health;
- (b) have an adverse impact on the environment; or
- (c) cause a nuisance to any other person.

(2) As soon as reasonably practicable, a waste holder who does not hold a waste licence and who is not exempt from doing so under this Ordinance, must deliver or otherwise make available any waste held by the waste holder for collection by a person who may lawfully carry out waste management activities in relation to the waste.

(3) Without limiting provisions in any other legislation relating to waste, unless authorised to do so under a waste licence, or in accordance with arrangements made with a waste licence holder, a person must not—

- (a) deposit (which includes abandon or dump) or keep waste in any public or private place;
- (b) carry out any other waste management activities; or

- (c) permit or instruct any other person to carry out the activities in paragraph (a) or (b).
- (4) Subsection (3) does not apply where—
  - (a) waste management activities are carried out by—
    - (i) a member of a private household in relation to waste generated from the normal activities of the private household; or
    - (ii) such activities are carried out by an establishment or undertaking that is not a waste management establishment or undertaking and the waste is generated from the normal course of business of the establishment or undertaking; and
  - (b) the waste is delivered or otherwise made available for collection in accordance with subsection (2) (except for waste that is recycled and re-used by the private household or, as the case may be, the establishment or undertaking).
- (5) Where a person (“P”) has contravened any provision in this section, the competent authority may—
  - (a) make arrangements for steps to be taken that it considers are necessary to remedy the contravention; or
  - (b) give P the opportunity to take such steps within a reasonable period of time and at P’s expense.
- (6) P must pay the costs incurred by the competent authority for taking any steps under subsection (5)(a).
- (7) Costs incurred by the competent authority for steps taken under subsection (5)(a) are recoverable as a civil debt.
- (8) Subsections (5) to (7) do not—
  - (a) affect any criminal or other civil liability that attaches to any acts or omissions by P or any other person; or
  - (b) prevent any other action being taken or remedies being pursued that lie against P or any other person including any liability, action or remedies under this Ordinance or any enactments made under it.
- (9) The Administrator may make regulations—
  - (a) specifying the circumstances in, and the extent to which, a waste producer or other waste holder or person is or remains liable for waste (including making provision for joint liability);
  - (b) impose requirements on any person in relation to waste.
- (10) Regulations made under subsection (9) must not be incompatible with any requirements imposed on a person under Regulation (EC) No 1013/2006.

### **Network of waste facilities**

**16.—**(1) The Administrator may, by order, make provision for the establishment of an adequate and appropriate network (“waste network”) of waste facilities for the recovery or disposal of waste collected from private households in the Areas.

(2) In establishing a waste network under this section, the Administrator must take into account—

- (a) the need for any specialised facilities for the disposal or recovery of specific categories of waste;
- (b) best available techniques on waste management; and
- (c) geographical circumstances.

(3) Subject to subsection (4), for the purposes of ensuring the efficiency and effectiveness of any waste network established under this section, the Administrator may, by order, prohibit or limit shipments of waste to the Areas where the intention is to incinerate such waste in the Areas for the purposes of recovery and, as a consequence of this, it is likely that any waste in the Areas will

have to be disposed of or treated in a way that is not consistent with any waste management plan established under section 35.

(4) The Administrator may exercise the power in subsection (3) on any of the environmental grounds set out in Regulation (EC) No 1013/2006.

### **Hazardous waste from private households**

**17.**—(1) Sections 18, 19 and 20 do not apply to mixed waste produced by a private household.

(2) Mixed waste is waste which is not separated by type or nature for the purposes of separate collection.

(3) Sections 19 and section 33 (waste management records) do not apply to separate fractions of waste from private households until such waste has been collected and is to be disposed of or recovered by a person who holds a waste licence.

(4) For the purposes of this section, “separate fractions of waste” means hazardous waste which is produced by a private household and which is separated from other waste produced by the household.

### **Control of hazardous waste**

**18.** For the purposes of compliance with section 10, the Administrator may, by order, impose requirements on any person in relation to the production, collection, transportation, storage or treatment of hazardous waste.

### **Prohibition on mixing of hazardous waste**

**19.**—(1) Unless permitted under this section, no person (“P”) may mix hazardous waste with any other waste (including any other type of hazardous waste) or with any other substance.

(2) The mixing of waste includes the dilution, by any means, of hazardous waste.

(3) P must obtain the written consent of the competent authority before mixing any hazardous waste with any other waste or substance.

(4) The competent authority may only consent to the mixing of hazardous waste if—

- (a) P holds a waste licence;
- (b) the waste licence authorises P to carry out the mixing of hazardous waste;
- (c) the competent authority is satisfied that the mixing of the hazardous waste will comply with the provisions of section 10 (protection of public health and the environment); and
- (d) the method P proposes to use to mix the hazardous waste conforms with best available techniques.

(5) Where hazardous waste has been mixed with other waste or a substance in contravention of this section, the person under whose overall direction or control the waste was mixed must make arrangements for the hazardous waste to be separated out from such other waste or substance but only if the competent authority is satisfied that such separation—

- (a) is necessary for the purposes of section 10;
- (b) is technically feasible; and
- (c) is not economically disproportionate when balancing all other relevant factors (including any adverse impact on public health and the environment).

(6) The functions of the competent authority under this section are qualified delegated functions.

### **Labelling, packaging and transport of hazardous waste**

**20.**—(1) The Administrator may, by order, specify requirements for the packaging and labelling of hazardous waste that is being collected, transported or temporarily stored.

(2) Where hazardous waste is being, or has been, transported to a waste facility in the Areas, the persons listed in subsection (3) must ensure that the waste is accompanied at all times by a document (“identification document”) containing the appropriate data specified in the document at Annex 1B (movement document for transboundary shipments of waste) to Regulation (EC) No 1013/2006.

(3) The persons are—

- (a) the waste holder of the hazardous waste;
- (b) any other person under whose overall direction or control the waste is being, or has been transported; and
- (c) the person who carries out, or is to carry out, disposal or recovery operations in relation to the waste.

(4) The identification document must be retained—

- (a) by the persons mentioned in subsection (3)(a) and (b), for a period of 5 years from the date of arrival of the hazardous waste at its final destination; and
- (b) by the person mentioned in subsection (3)(c), for as long as the person continues to carry out disposal or recovery operations.

(5) The persons mentioned in subsection (3) must forward a copy of the identification document to the competent authority by 31 March following the date on which the identification document is completed and must do so at any time if requested by the competent authority.

(6) The functions of the competent authority under this section are general delegated functions.

## **Waste oils**

**21.**—(1) Without limiting any prohibitions or requirements in sections 19 and 20, the Administrator may make regulations—

- (a) for waste oils to be collected separately from other waste, where technically feasible to do so;
- (b) imposing technical standards that must be complied with when doing so;
- (c) imposing obligations on any person in relation to the separate collection of waste oils;
- (d) prohibiting, where technically feasible and economically viable to do so,—
  - (i) the mixing of waste oils which have different characteristics from each other; or
  - (ii) the mixing of waste oils with other types of waste or any other substance, where such mixing is likely to impede the treatment of the waste oils; and
- (e) require that waste oils are dealt in accordance with section 9 (waste hierarchy) and the requirements of section 10 (protection of public health and the environment).

(2) The Administrator may, by order, make provision for the regeneration of waste oils.

(3) For the purposes of giving priority to the regeneration of waste oils, an order under subsection (2) may include provisions restricting the shipment of waste oils from the Areas to any other country, territory or place where the purpose of the shipment is to dispose of the waste oils.

## **Bio-waste**

**22.**—(1) The Administrator may take any steps considered necessary to encourage—

- (a) the separate collection of bio-waste from other waste (for the purposes of composting and the digestion of the bio-waste);
- (b) waste management activities relating to bio-waste to be undertaken in a manner that provides the highest level of protection for the environment and for such activities to be carried out in accordance with sections 9 (waste hierarchy) and 10 (protection of public health and the environment); and
- (c) the use of environmentally-safe materials produced from bio-waste.



- (2) The Administrator may make regulations relating to the matters set out in subsection (1).
- (3) The functions of the Administrator under subsection (1) are general delegated functions.

## PART 4

### Costs of waste management

#### Polluter-pays principle

**23.**—(1) The costs of waste management must be borne by the waste producer who originally produced the waste, the current waste holder or previous waste holders (the “polluter pays principle”).

(2) In exercise of any functions under this Ordinance or any enactments made under it, the polluter-pays principle must, as far as is possible, be applied.

(3) The Administrator may make regulations—

- (a) requiring a product producer to make arrangements for the disposal, recovery or carrying out of any other waste management activity in relation to waste generated from a product produced by the product producer; and
- (b) for such waste management activities to be financed wholly by the product producer or shared with the distributors of the product.

## PART 5

### Regulation of waste management

#### Requirement to hold a waste licence

**24.**—(1) A person must not carry out any waste management activities ~~without first having obtained a waste licence unless they~~ *unless they hold a waste licence relating to those activities* or (a) are exempt, in accordance with an order made under section 28(1), from the requirement to hold a waste licence.

(2) An application for a waste licence must be made to the competent authority and in accordance with section 25.

(3) The competent authority may—

- (a) grant the application;
- (b) refuse the application; or
- (c) grant the application subject to conditions.

(4) Refusal of an application for a waste licence may include refusal on the grounds that the proposed method for carrying out waste management is inadequate in terms of protecting the environment and cannot be carried out in accordance with the requirements of section 10 (protection of public health and the environment).

(5) Before issuing a waste licence, the competent authority must arrange for an inspection of the waste management facility to satisfy itself that—

- (a) the persons who are to be involved in the carrying out of the waste management activities that may be authorised under the waste licence are properly trained; and
- (b) the waste licence holder is in a position to comply with any conditions subject to which the waste licence may be issued.

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(a) Text deleted and new text inserted by Ordinance 3/2017 – came into force on 24 March 2017

(6) For the avoidance of doubt, the issuing of a waste licence under this Ordinance does not exempt a person from the obligation to obtain any other licences, permits, approvals, consents, etc that are required under any other legislation.

(7) This section does not apply to any activity to which section 15(4) applies (normal waste management activities of private households and establishments and undertakings that are not waste management establishments and undertakings).

(8) The functions of the competent authority under this section are general delegated functions.

## **Waste licences**

**25.**—(1) An application for a waste licence under this Ordinance must be made to the competent authority in the form and manner prescribed by the Administrator in regulations.

(2) The application must be accompanied by—

- (a) any permits, licences, approvals or other consents or permissions required under any legislation including, where relevant, permits relating to the development of immovable property;
- (b) plans, drawings, specifications, etc. and detailed information relating to the location, organisation, operation and, if relevant, the construction, development or after-care of any waste facility;
- (c) information as to the terms which may be imposed under the Environmental Impact Assessment Ordinance 2010(a).

(3) Where the competent authority grants an application for a waste licence, the waste licence must specify—

- (a) the waste management activities permitted under the waste licence;
- (b) the period for which it is valid, which must not exceed 5 years from the date of issue of the licence;
- (c) the types and quantities of waste that may be treated;
- (d) the method to be used for each type of waste management activity;
- (e) technical and other requirements relevant to the waste management activities permitted under the licence;
- (f) safety and precautionary measures to be taken by the licence holder;
- (g) the arrangements that must be in place to deal with emergencies and serious risks to public health or the environment;
- (h) the scientific and technical staff required to undertake the waste management activities permitted under the waste licence;
- (i) the arrangements for monitoring and controlling waste management activities; and
- (j) such closure and after-care provisions as may be necessary.

(4) Where the waste licence covers waste management activities that include incineration or co-incineration with energy recovery, the licence must include a condition that the recovery of energy must take place with a high level of energy efficiency, as specified in the waste licence.

(5) A waste licence may be renewed by the waste licence holder by submitting an application to the competent authority, in the form and manner prescribed by the Administrator in regulations, within the 6-month period prior to the date of its expiry.

(6) The functions of the competent authority under this section are general delegated functions.

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(a) Ordinance 26/2010 – amended by Ordinance 19/2014.

## **Guaranties and insurance**

**26.**—(1) Before commencing any waste management activities under the waste licence, the waste licence holder must provide the competent authority with written evidence of a guarantee or insurance that is sufficient to cover the costs of any pollution or other environmental damage that may be caused by the waste management activities authorised under the waste licence.

(2) The amounts and forms of a guarantee or insurance referred to in subsection (1) must be approved by the competent authority.

(3) The functions of the competent authority under this section are qualified delegated functions.

## **General conditions and other matters – waste licences**

**27.** The Administrator may, by order,—

- (a) specify general conditions subject to which all waste licences under this Ordinance must be issued; and
- (b) specify general conditions and make other provision that apply to waste licences relating to certain types of waste.

## **Exemption from requirement to hold a waste licence**

**28.**—(1) The Administrator may, by order, exempt a person (“P”) from the requirement, under section 24, to hold a waste licence in relation to—

- (a) the disposal of non-hazardous waste produced by P where disposal occurs at the place where the waste was produced; and
- (b) the recovery of waste, as specified in the order.

(2) An order under subsection (1) must, in relation to any exemption provided for in the order, specify—

- (a) the types and quantities of waste covered by the exemption; and
- (b) the waste management activities permitted under the exemption.

(3) An order under subsection (1)(a) must also take into account best available techniques for waste management.

(4) When making an order under subsection 1(b), the Administrator must specify, if relevant,—

- (a) any other requirements the Administrator considers necessary for carrying out different forms of recovery; and
- (b) the limit values for the content of hazardous waste as well as the emission limit values of such waste.

(5) An order under this section must ensure that waste management activities permitted under an exemption are carried out in accordance with section 10 (protection of public health and the environment).

## **Obligations of waste licence holders**

**29.** A waste licence holder must –

- (a) comply with all the conditions (including the conditions referred to in section 27) subject to which a waste licence is granted to the waste licence holder;
- (b) monitor the waste management activities in accordance with the arrangements specified in the waste licence and inform the competent authority (within any timeframes specified in the waste licence) of the outcome of such monitoring; and
- (c) provide such assistance and use of facilities to an inspector as is reasonably necessary for the purpose of inspection under this Ordinance, including the taking of samples and the collection of information by an inspector.

### **Approval of changes to activities permitted under a waste licence**

**30.**—(1) A waste licence holder must not make any changes to the waste management activities permitted under a waste licence, unless the waste licence holder has first obtained the written approval of the competent authority.

(2) An application for approval under subsection (1) must be made, in writing, to the competent authority in the form and manner, if any, prescribed in regulations made by the Administrator.

(3) Any application under subsection (1) for changes that may have a significant adverse impact on public health or the environment must be accompanied by a statement from the waste licence holder stating the extent to which—

- (a) the waste management activities or, if relevant, areas of the premises on which the waste management activities take place, may need to be modified; and
- (b) the extent to which any of the conditions subject to which the waste licence has been granted may be affected by the changes requested.

(4) An application for approval under this section will be treated as an application to amend the waste licence.

(5) The competent authority may—

- (a) approve the changes in whole or in part;
- (b) refuse to approve them; or
- (c) approve them subject to conditions.

(6) Where the competent authority considers that the changes requested are such that, to a significant degree, they alter the nature of the waste management activities permitted under the waste licence, it may request the waste licence holder to submit an application in accordance with section 25 for a new waste licence.

(7) For the purposes of this section, “change” means a change in the nature or manner in which waste management activities are permitted to be carried out under the waste licence including an expansion of the waste management activities to be carried out or modifications to the premises on which such activities take place.

(8) The functions of the competent authority under this section are general delegated functions.

### **Waste licence - revocation, amendment, suspension, etc.**

**31.**—(1) If it appears to the competent authority that the carrying out of waste management activities under a waste licence contravenes or is likely to contravene section 10 (protection of public health and the environment), the competent authority may—

- (a) revoke the waste licence;
- (b) amend the period for which the waste licence is valid;
- (c) add new conditions to the waste licence; or
- (d) amend any of the conditions imposed on the waste licence.

(2) The competent authority may, by written notification to the waste licence holder, suspend a waste licence if it appears to the competent authority that—

- (a) the carrying out of waste management activities under a waste licence contravenes or is likely to contravene section 10; and
- (b) there is an immediate risk of a serious adverse impact on the environment or a serious risk of harm to public health.

(3) Where the competent authority exercises functions under subsection (2), it must—

- (a) provide a copy of the written notice of suspension referred to in that subsection to the Administrator at the same time as it is sent to the waste licence holder;

- (b) keep the Administrator fully informed of the progress of matters relating to the suspension, in particular of any adverse impact, or risk of such impact, on the environment or on public health; and
  - (c) provide any other information relating to the suspension as requested by the Administrator.
- (4) Where any of the following apply, the Chief Officer may direct that a waste permit issued under, *or entry into the waste management records in accordance with* (a) Republican Law 185(I)/2011 is not to be regarded as a waste licence for the purposes of this Ordinance—
- (a) it appears to the Chief Officer that the carrying out of waste management activities under the waste permit contravenes or is likely to contravene section 10;
  - (b) the holder of the permit is otherwise in breach of this Ordinance or any enactments made ~~under it.~~ *under it;* (b)
  - (c) *it appears to the Chief Officer that the carrying out of waste management activities by virtue of an entry in the waste management records contravenes or is likely to contravene section 10;*
  - (d) *the person entered into the waste management records is otherwise in breach of this Ordinance or any enactments made under it.*
- (5) The functions of the competent authority under subsection (1) are qualified delegated functions.
- (6) The functions of the competent authority under subsections (2) and (3) are general delegated functions.

### **Waste register**

- 32.—**(1) The competent authority must maintain a register (“the Register”) of—
- (a) waste licence holders;
  - (b) any person who, in accordance with an order made under section 28(1), is exempt from the requirement to obtain a waste licence and who is carrying out such activities in the Areas;
  - (c) waste producers; and
  - (d) dealers and brokers.
- (2) The Administrator may make regulations to—
- (a) require any of the persons specified in subsection (1) to submit any prescribed details for the purposes of the competent authority’s function under subsection (1); and
  - (b) prescribe the form and content of the Register.
- (3) In order to minimise the administrative burden on persons who must be included in the Register when compiling and maintaining the Register, the competent authority must, where possible, use the records already held by it.
- (4) The functions of the competent authority under this section are general delegated functions.

### **Waste management records**

- 33.—**(1) The persons referred to in subsection (3) must keep a record of—
- (a) the origin, nature and quantity of the waste in relation to which they carry out waste management activities; and
  - (b) where applicable, the destination, frequency of collection, mode of transport and the treatment of the waste.

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(a) Text inserted by Ordinance 03/2017 – came into force on 24 March 2017

(b) Text substituted and new sub-paragraphs (c) and (d) inserted by Ordinance 3/2017 – came into force on 24 March 2017

- (2) The persons referred to in subsection (3) must also—
  - (a) send a copy of the record referred to in subsection (1) to the competent authority by 31 March in each year and at any other time, if requested by the competent authority;
  - (b) at the request of the competent authority or the previous waste holder of the waste, provide documentary evidence of the waste management activities that have been carried out in relation to the waste; and
  - (c) where they cease to carry out waste management activities, deposit the records referred to in subsection (1) with the competent authority.
- (3) The persons are—
  - (a) a waste licence holder;
  - (b) a person who, in accordance with an order made under section 28(1), is exempt from the requirement to obtain a waste licence; and
  - (c) in relation to hazardous waste—
    - (i) a waste producer;
    - (ii) a person who collects or transports hazardous waste on a commercial or professional basis; and
    - (iii) a dealer or broker.
- (4) Subject to subsection (5), the records referred to in subsection (1) must be retained—
  - (a) for a minimum period of 5 years from the date of issue of a waste licence; or
  - (b) where a person, in accordance with an order made under section 28(1), is exempt from holding a waste licence, for a minimum period of 5 years from the date that a person first carried out the waste management activities.
- (5) Where a waste licence relates to a waste facility for hazardous waste, the waste licence holder must retain the records referred to in subsection (1) throughout the period that the waste licence (including one that is renewed) is valid.
- (6) The Administrator may, by order, require any other person to comply with the requirements of this section.
- (7) The functions of the competent authority under this section are general delegated functions.

### **Cessation of waste management activities**

**34.—**(1) A person who ceases to carry out waste management, or who intends to do so (whether due to the expiry of a waste licence or otherwise), must—

- (a) remedy any damage caused, or likely to be caused, to the environment as a result of the waste management activities;
- (b) comply with any conditions of a waste licence that specify the steps to be taken in relation to the environment and any premises on which waste management activities are or were being carried out;
- (c) comply with any written requirements that the competent authority consider to be reasonably necessary for the purposes of paragraph (a).

(2) Subject to subsection (1), the procedure to be followed when ceasing to carry out waste management activities must comply with the requirements of Republican Law 56(I)/2003 (the Integrated Pollution Prevention and Control Law of the Republic).

(3) The functions of the competent authority under this section are qualified delegated functions.

### **Waste management plan**

**35.—**(1) The Chief Officer may prepare a waste management plan for the Areas in accordance with this section.

- (2) A waste management plan and any amendments made to it (whether following a review under this section or otherwise) must be approved by the Administrator.
- (2) A waste management plan must be consistent with the provisions of the Waste Framework Directive and, in particular, with the following of its articles—
- (a) article 4 (waste hierarchy);
  - (b) article 13 (protection of public health and the environment); and
  - (c) article 16 (principles of self-sufficiency and proximity).
- (3) A waste management plan must cover the entire geographical territory of the Areas.
- (4) A waste management plan may include—
- (a) an analysis of current waste management in the Areas;
  - (b) the measures to be taken to improve environmentally sound techniques for preparing waste for re-use, recycling, recovery and the disposal of waste; and
  - (c) an evaluation of how the waste management plan will support the implementation of this Ordinance.
- (5) Where appropriate, and taking into account the geographical extent of the Areas, a waste management plan must include—
- (a) information on the type, quantity and source of waste generated within the Areas and the type, quantity and source of waste imported to or exported from the Areas;
  - (b) an evaluation of the development of waste streams in the future;
  - (c) details of existing waste collection schemes and waste disposal and recovery facilities in the Areas including details of special waste management arrangements, if any, for waste oils, hazardous waste or waste streams addressed by specific legislation;
  - (d) an assessment of the need for—
    - (i) new waste collection schemes;
    - (ii) additional waste facilities for the purposes of any waste network established in accordance with section 16;
    - (iii) the closure of existing waste facilities; and
    - (iv) any necessary investments required in relation to such matters;
  - (e) information on the criteria for the location and identification of sites for waste facilities;
  - (f) information on the capacity for further waste disposal or recovery facilities in the future, if required; and
  - (g) general waste management policies, including planned waste management technologies and methods, and any policies for waste posing specific management problems.
- (6) Where appropriate, and taking into account the geographical extent of the Areas, the waste management plan may include—
- (a) information on the organisational aspects of waste management, including a description of the allocation of responsibilities for waste management between the public and private sector;
  - (b) an evaluation of the usefulness and suitability of the use of economic and other instruments in tackling various waste management issues;
  - (c) information on awareness campaigns and the provision of information to the general public or to a specific group or category of persons;
  - (d) if relevant, details of any historical contaminated waste disposal sites and the measures to be taken for their rehabilitation which should, as far as possible, reflect the protective measures in the Control of Water Pollution Ordinance 2005(a); and

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(a) Ordinance 1/2005 as amended by Ordinance 5/2009.

- (e) assessments of the cost of waste disposal and recovery activities.
- (7) The waste management plan must, where applicable, comply with—
  - (a) the provisions of section 5 of Republican Law No. 32(I)/2002 (the Packaging and Waste Packaging Law 2002)(a); and
  - (b) the strategy, referred to in regulation 5 of Republican P.I. 562(I)/2003 (the Solid and Hazardous Waste (Landfills of Waste) Regulations 2003)(b), for the implementation of arrangements to reduce the disposal of biodegradable waste in landfills.
- (8) The Chief Officer may, at any time, review the waste management plan but must do so at least once in every 6 years.
- (9) The Chief Officer must report the findings of a review under subsection (8) to the Administrator together with any proposals for amending the waste management plan.
- (10) Subject to the approval of the Administrator, the Chief Officer may, at any time, amend a waste management plan, whether following a review or otherwise.
- (11) Any review or amendments to the waste management plan under this section must take into account the matters specified in section 10 (protection of public health and the environment).
- (12) The Administrator may make any regulations or orders that the Administrator considers appropriate for the purposes of this section.
- (13) The functions of the Chief Officer under this section are general delegated functions.

### **Waste prevention programmes**

- 36.—**(1) The Chief Officer may prepare a draft waste prevention programme for the Areas in accordance with this section.
- (2) A waste prevention programme and any amendments made to it (whether following a review under this section or otherwise) must be approved by the Administrator.
  - (2) A waste prevention programme must be consistent with the provisions of the Waste Framework Directive and with section 10 (protection of public health and the environment).
  - (3) If appropriate, a waste prevention programme must be included in a waste management plan or in other environmental policy programmes for the Areas and, if so included, the waste prevention programme must be clearly identifiable.
  - (4) A waste prevention programme must—
    - (a) specify the objectives of the waste prevention programme;
    - (b) provide information on existing waste prevention measures; and
    - (c) in relation to the Areas, include an assessment of the usefulness of the examples of waste prevention measures set out in Annex IV of the Waste Framework Directive or the usefulness of other appropriate measures.
  - (5) The objectives and waste prevention measures included in a waste prevention programme must take into account the aim of severing the link between economic growth and any adverse environmental impacts associated with the generation of waste from such growth.
  - (6) The Chief Officer may, at any time, review a waste prevention programme but must do so at least once in every 6 years.
  - (7) The Chief Officer must report the findings of a review under subsection (6) to the Administrator together with any proposals for amending the waste prevention programme.
  - (8) Subject to the approval of the Administrator, the Chief Officer may, at any time, amend a waste prevention programme, whether following a review or otherwise.
  - (9) Any review or amendments to a waste prevention programme under this section must take into account the matters specified in section 10 (protection of public health and the environment).

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(a) Republic of Cyprus Gazette Number 3594 of 12 April 2002.

(b) Republic of Cyprus Gazette Number 3735 of 11 July 2003.



(10) The Administrator may make any regulations or orders that the Administrator considers appropriate for the purposes of this section.

(11) Without limiting the power in subsection (10), the Administrator may make regulations prescribing appropriate and specific qualitative or quantitative benchmarks for the purposes of monitoring and assessing the progress of the waste prevention measures included in a waste prevention programme.

(12) The functions of the Chief Officer under this section are general delegated functions.

### **Scope of sections 38 to 41 (public consultation, information and records)**

**37.** Sections 38 to 41 do not apply—

- (a) to the extent to which compliance with those sections may be detrimental to the military or security interests of the Crown;
- (b) where a waste management plan or a waste prevention programme is established solely for the purposes of protecting the military or security interests of the Crown or to deal with cases of emergency or crisis.

### **Consultation – waste management plan and waste prevention programmes**

**38.—**(1) Before establishing or amending a waste management plan or a waste prevention programme, the Chief Officer must consult with members of the public in accordance with this section.

(2) Any consultation under this section must be in accordance with any guidance or directions given by the Administrator.

(3) Notice of the intention to establish or amend a waste management plan or a waste prevention programme must be published in—

- (a) the Gazette;
- (b) 2 daily newspapers that are widely circulated in the Areas; and
- (c) in an easily accessible format on an appropriate internet website.

(4) As appropriate, the notification under subsection (2) must include—

- (a) a summary of the proposals relating to the waste management plan or, as the case may be, the waste prevention programme including, where appropriate, any proposals to amend the same;
- (b) information stating when, where and for what period of time further information relating to the proposals will be made available for public inspection;
- (c) information stating that representations on the proposals can be made by any member of the public within 36 days from the date of publication of the notice; and
- (d) information as to how and to whom such representations are to be made.

(5) The Chief Officer must, in an easily accessible format on an appropriate internet website, publish—

- (a) a notice of the matters to be included in a waste management plan or, as the case may be, a waste prevention programme or any proposals for amendments to such plan or programme; and
- (b) any representations received in response to the matters specified in paragraph (a), including those received in response to a notification under subsection (3).

(6) The Chief Officer may also consult specifically with any members of the public including—

- (a) any person that the Chief Officer considers is likely to be directly or indirectly affected by the proposals; and
- (b) any non-governmental organisations, or other organisations, promoting issues relating to the protection of the environment or public health.

(7) The functions of the Chief Officer under this section are general delegated functions.

### **Public hearing**

**39.**—(1) In establishing a waste management plan or a waste prevention programme, the Administrator may make arrangements for a public hearing to take place in cases that are of significant interest or importance to the public.

(2) The purpose, form and procedure to be followed at a public hearing may be prescribed by the Administrator in regulations.

### **Decision-making**

**40.**—(1) Before establishing a waste management plan or a waste prevention programme, the Chief Officer must take into account any representations made under section 38 and, if applicable, those made at a public hearing under section 39.

(2) The function of the Chief Officer under subsection (1) is a general delegated function.

### **Notification and information**

**41.**—(1) Notice that the Administrator has approved a waste management plan or a waste prevention plan must be published by the Administrator in—

- (a) the Gazette;
- (b) 2 daily newspapers that are widely circulated in the Areas; and
- (c) in an easily accessible format on an appropriate internet website.

(2) The notice referred to in subsection (1) must—

- (a) inform the public that a waste management plan or, as the case may be, a waste prevention programme has been approved by the Administrator;
- (b) confirm that, in accordance with section 42, information has been recorded in the register referred to in that section;
- (c) state where the following information can be found or is available for inspection—
  - (i) a description or copy of the waste management plan or, as the case may be, the waste prevention programme;
  - (ii) a summary of how any representations received under section 38 and, if applicable, views expressed at a public hearing under section 39 were taken into account and the reasons underpinning the final decisions made following consideration of such representations and views.

### **Record-keeping.**

**42.**—(1) The Chief Officer must maintain records which include—

- (a) a summary of the contents of the waste management plan, or as the case may be, the waste prevention programme and any amendments made to them;
- (b) details of the representations made under section 38 and, if applicable, section 39; and
- (c) the information contained in the notice referred to in section 41.

(2) The Chief Officer must deposit a copy of the records referred to in subsection (1) at each Area Office and at any other place the Chief Officer considers appropriate for the purposes of inspection by the public during normal office hours.

(3) The functions of the Chief Officer under this section are general delegated functions.

## PART 6

### Inspection and enforcement

#### **Appointment of inspectors, etc.**

**43.**—(1) The Chief Officer may appoint suitably qualified persons as inspectors for the purposes of this Ordinance including a Chief Inspector.

(2) An appointment made under subsection (1) must be published in the Gazette but failure to do so does not affect the validity of the appointment or the exercise, by a person appointed under subsection (1), of any powers under this Ordinance.

(3) The Chief Officer may also authorise, in writing, a suitably qualified person (“authorised person”) to exercise any of the functions of an inspector under this Ordinance.

(4) An authorisation under subsection (3) is subject to such terms and conditions as specified in the authorisation and will expire at the end of any period specified in the authorisation unless terminated earlier by the Chief Officer.

(5) Prior to any authorisation under subsection (3), an authorised person must confirm, in writing, that they have no direct or indirect pecuniary or other interest in relation to the matter or duties in respect of which they are to be authorised.

(6) Subject to the terms of the authorisation under subsection (3), an authorised person is subject to the direction and control of the Chief Inspector.

(7) When exercising functions under this Ordinance, an inspector and an authorised person must show a document provided to them by the Chief Officer confirming their appointment or, as the case may be, authorisation under this section when requested to do so by any operator or other person whose activities are being inspected under this Ordinance.

(8) The functions of the Chief Officer under this section are general delegated functions.

(9) The functions of any person authorised by the Chief Officer under subsection (3) are general delegated functions.

#### **Functions of inspectors.**

**44.**—(1) An inspector must carry out an inspection of waste management activities, a waste facility or any activities that are suspected to be waste management activities, if requested to do so by the competent authority.

(2) An inspector may, at any time, carry out an inspection of the matters mentioned in subsection (1).

(3) The purposes of an inspection include—

- (a) establishing whether activities undertaken by any person are being, or have been, carried out in accordance with this Ordinance or any enactments made under it;
- (b) where applicable, establishing whether a person is complying with the conditions of a waste licence; and
- (c) for the purposes of section 24(5) (inspection prior to determination of application for a waste licence).

(4) The matters that may be inspected are—

- (a) waste management carried out by—
  - (i) a waste licence holder; or
  - (ii) a person who, in accordance with an order made under section 28(1), is exempt from the requirement to obtain a waste licence;
- (b) the activities of—
  - (i) a waste management establishment or undertaking involved in the collection or transportation of waste;

- (ii) brokers and dealers;
    - (iii) a waste producer; and
    - (iv) product producers;
  - (c) the steps taken by any person to remedy any adverse environmental impact, or risk of such impact, or steps taken for the rehabilitation of sites where waste management activities have ceased or are to cease;
  - (d) the activities of any person who the competent authority has reasonable cause to suspect may be carrying out waste management activities in contravention of this Ordinance or any enactments made under it.
- (5) For the purposes of an inspection under this section, an inspector may—
- (a) enter any premises where waste management may be, or is being, carried out;
  - (b) conduct tests on, or take measurements of, any waste, other substance, tools, machinery or other implement or object found on the premises;
  - (c) examine, take samples from and conduct tests on any construction, machinery, devices or equipment found on the premises;
  - (d) require a waste licence holder, operator or other person on the premises being inspected, who is in a position to do so, to produce any information, records, register, books or documents which may be relevant to the inspection;
  - (e) take or request copies of any information that may be relevant for the purposes of the inspection, including photographs and videos;
  - (f) seize any item, object or substance (waste or otherwise) or take samples from any of these for the purposes of investigating whether an offence under, or other contravention of, this Ordinance or any enactments made under it has taken place;
  - (g) require a waste licence holder, operator or other person on the premises being inspected, who is in a position to do so, to provide—
    - (i) safe access for the inspector to any part of the premises;
    - (ii) reasonable facilities for the carrying out of tests, examinations and the taking of measurements that the inspector considers to be reasonably necessary for the purposes of the inspection;
    - (iii) access to information that may be relevant for the purposes of the inspection;
  - (h) require that the premises or any part of them or any machinery, devices, equipment or substances found on the premises remain as they are for as long as the inspector considers necessary for the purposes of the inspection, subject to compliance with any requirement under this paragraph not resulting in the termination or interruption of any essential activity on the premises.
- (6) The power of entry under this section may be exercised—
- (a) at reasonable times of the day; or
  - (b) at any time, where it appears to an inspector that there is an immediate risk of serious pollution, contamination or damage to the environment or an immediate risk of serious harm to public health.
- (7) An inspection concerning the collection and transportation of waste must consider the source, type, quantity and destination of the waste.
- (8) If an inspector considers it necessary for the purposes of exercising any functions under this Ordinance, a police officer or a person authorised by the Chief Inspector, or both, may accompany the inspector onto the premises being inspected.
- (9) A waste licence holder or other operator must allow the person accompanying an inspector under subsection (8) access to all parts of the premises, as requested by the inspector.
- (10) The functions of an inspector under this section are general delegated functions.

## **Enforcement notices**

**45.**—(1) This section applies where an inspector has reasonable cause to believe that waste management activities are being carried out in contravention of a waste licence.

(2) Where subsection (1) applies, an inspector may serve a notice (“enforcement notice”) on the waste licence holder specifying the steps that must be taken to remedy the breach.

(3) An enforcement notice must—

- (a) state that, in the opinion of the inspector, there has been a breach of the waste licence;
- (b) specify any conditions in the waste licence that have been breached;
- (c) set out the details of the breach;
- (d) specify the steps that are required to be taken to remedy the breach; and
- (e) specify the date by which such steps must be completed.

(4) The date specified under subsection (3)(e) must not be less than 21 days from the date of service of the notice on the waste licence holder.

(5) An inspector must—

- (a) at the same time as serving an enforcement notice under this section, send a copy of it to the Chief Officer; and
- (b) if requested by the Chief Officer, keep the Chief Officer informed of compliance or non-compliance with the enforcement notice.

(6) A person who fails to comply with an enforcement notice (including a failure to comply with the notice by the date specified in the notice) commits an offence.

(7) On conviction for an offence under subsection (6), a person is liable to a term of imprisonment not exceeding 3 years or to a fine not exceeding €500,000 or to both such penalties.

(8) The functions of an inspector under this section are general delegated functions.

## **Prohibition notices**

**46.**—(1) This section applies where an inspector has reasonable cause to believe that waste management activities are being carried out in a manner that creates a serious risk of environmental pollution or a serious risk of harm to public health.

(2) Where subsection (1) applies, an inspector may serve a notice (“prohibition notice”) on the waste licence holder or on any other operator who appears to the inspector to be responsible for the waste management activities.

(3) A prohibition notice must—

- (a) state that, in the opinion of the inspector, there is a serious risk of environmental pollution or a serious risk of harm to public health or both;
- (b) set out the reasons why the inspector considers there to be such a risk;
- (c) specify the steps that must be taken to reduce or eliminate the risks referred to in the prohibition notice and the date by which such steps must be completed; and
- (d) specify the waste management activities that must cease if the steps referred to in paragraph (c) are not completed by the date specified in that paragraph.

(4) Where subsection (3)(d) applies, the date on which the waste management activities must cease is the date specified under subsection (3)(c) for completion of the steps specified in prohibition notice under that subsection.

(5) If an inspector considers that there is an immediate risk of the pollution or harm referred to in subsection (1) occurring, a prohibition notice may require any or all of the waste management activities carried out by the person on whom the notice is served to cease immediately on service of the notice and not to be re-commenced until authorised, in writing, by an inspector.

(6) A waste licence holder or other operator must comply with a prohibition notice unless an inspector confirms, in writing, that compliance with all or part of the notice is no longer necessary.

- (7) Where an inspector exercises functions under this section, the inspector must—
- (a) at the same time as serving a prohibition notice under this section, serve a copy of it on the Chief Officer;
  - (b) keep the Chief Officer fully informed of the progress of matters relating to the prohibition notice, in particular of any adverse impact, or risk of such impact, on the environment or on public health; and
  - (c) provide any other information relating to the prohibition notice as requested by the Chief Officer.
- (8) A person who fails to comply with a prohibition notice commits an offence and, on conviction, is liable to a term of imprisonment not exceeding 3 years or to a fine not exceeding €500,000 or to both such penalties.
- (9) The functions of an inspector under this section are general delegated functions.

### **Compliance notices - batteries and accumulators.**

**47.—**(1) For the purposes of this section and section 48—

- (a) “battery” or “accumulator” means any source of electrical energy generated by direct conversion of chemical energy and consisting of one or more primary battery cells (non-rechargeable) or consisting of one or more secondary battery cells (rechargeable);
- (b) “placing on the market” means supplying or making available, whether in return for payment or free of charge, to a third party within the Areas and includes importing a battery or accumulator into the Areas and cognate expressions must be construed accordingly; and
- (c) “the Regulations” means Republican P.I. No 125 of 2009 (the Solid and Hazardous Waste (Batteries and Accumulators) Regulations)(a).

(2) If it appears to an inspector that a battery or an accumulator does not comply with any provisions in this Ordinance or in the Regulations, the inspector may serve a notice (“compliance notice”) on—

- (a) a person who places the battery or accumulator on the market; or
- (b) on a person who is the end-user of the battery or accumulator.

(3) A compliance notice must—

- (a) describe the battery or accumulator in sufficient detail for it to be identified including—
  - (i) the type of battery or accumulator;
  - (ii) the category and name under which the battery or accumulator is normally sold on the market;
  - (iii) the commercial, industrial or brand name, if any, of the battery or accumulator; and
  - (iv) an indication of the lot to which the battery or accumulator belongs;
- (b) specify the provision in the Ordinance or in the Regulations with which the battery or accumulator fails to comply and in what respect it fails to comply with the provision;
- (c) set out the steps that must be taken to remedy non-compliance and the date by which such steps must be completed;
- (d) inform the person on whom the notice is served of the date by which representations may be made to the inspector about the compliance notice; and
- (e) provide information on the steps that may be taken by the inspector for non-compliance with the compliance notice (including the service of a notice under section 48 requiring the withdrawal or removal of the battery from the market place).

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(a) Republican Gazette No 4343 of 20 March 2009.

- (4) An inspector must—
  - (a) at the same time as serving a compliance notice, send a copy of it to the Chief Officer; and
  - (b) if requested by the Chief Officer, keep the Chief Officer informed of compliance or non-compliance with the compliance notice.
- (5) Where a person fails to comply with a compliance notice by the date specified in the notice, an inspector may take any action that the inspector considers to be appropriate for the purposes of preventing the battery or accumulator, temporarily or permanently, from being sold or used including serving a notice for withdrawal or removal under section 48.
- (6) The functions of an inspector under this section are general delegated functions.

### **Withdrawal and removal of batteries and accumulators**

- 48.**—(1) A further notice may be served on a person under this section, where—
- (a) an inspector requires a battery or accumulator to be withdrawn from the market for a specified period of time or removed permanently from circulation; and
  - (b) a person on whom a compliance notice under section 47 has been served is in breach of that notice.
- (2) A notice (“withdrawal notice”) requiring a battery or accumulator to be withdrawn for a specified period of time takes effect on the date it is served and from that date prohibits the person on whom it is served from placing the battery or accumulator on the market during the period of time specified in the notice (which must not exceed 6 months from the date of service of the notice).
- (3) A notice (“removal notice”) requiring a battery or accumulator to be removed permanently from circulation takes effect on the date it is served and prohibits the person on whom it is served from placing the battery or accumulator on the market.
- (4) A withdrawal notice or a removal notice served under this section must—
- (a) describe the battery or accumulator to be withdrawn or removed in sufficient detail for it to be identified including—
    - (i) the type of battery or accumulator;
    - (ii) the category and name under which the battery or accumulator is normally sold on the market;
    - (iii) the commercial, industrial or brand name, if any, of the battery or accumulator; and
    - (iv) an indication of the lot to which the battery or accumulator belongs; and
  - (b) state the reasons for requiring the withdrawal or, as the case may be, the removal of the battery or accumulator from the marketplace including the provisions in this Ordinance or in the Regulations with which the battery or accumulator fails to comply.
- (5) An inspector must—
- (a) at the same time as serving a withdrawal notice or removal notice, send a copy of it to the Chief Officer; and
  - (b) if requested by the Chief Officer, keep the Chief Officer informed of compliance or non-compliance with the withdrawal or removal notice.
- (6) A person on whom a notice under this section is served must keep the inspector informed of the place in which a battery or accumulator, that has been withdrawn or removed from the market, is kept.
- (7) A person who fails to comply with a notice under this section commits an offence and, on conviction, is liable to a term of imprisonment not exceeding 3 years or to a fine not exceeding €500,000 or to both such penalties.
- (8) The functions of an inspector under this section are general delegated functions.

## PART 7

### Offences and administrative penalties

#### Offences

**49.**—(1) A person falling within subsections (2) to (5) commits an offence and, on conviction, is liable to a term of imprisonment not exceeding 3 years or to a fine not exceeding €500,000 or to both such penalties.

(2) A person falls within this subsection if the person contravenes—

- (a) sections 15(1), (2) or (3) (dealing with waste);
- (b) section 19(1) (prohibition on mixing of hazardous waste);
- (c) section 20(2), (4) and (5) (labelling, packing and transfer of hazardous waste);
- (d) section 24(1) (requirement to hold a waste licence);
- (e) section 29 (obligations of waste licence holders);
- (f) section 30(1) (approval of changes to activities permitted under a waste licence);
- (g) section 33 (waste management records) including a person who is required to comply with section 33 by virtue of an order made under section 33(6);
- (h) section 34(1) (cessation of waste management activities).

(3) A person falls within this subsection if the person contravenes any regulations made in accordance with—

- (a) section 11(1) (additional requirements imposed on product producers);
- (b) section 12(4) (recovery);
- (c) section 13(4) (re-use and recycling);
- (d) section 14(2) (disposal);
- (e) section 15(9) (dealing with waste);
- (f) section 21(1) (management of waste oils);
- (g) section 22(2) (bio-waste);
- (h) section 23(3) (polluter-pays principle); and
- (i) section 55 (regulations and orders).

(4) A person falls within this subsection if the person contravenes any provision in an order made in accordance with—

- (a) section 11(3) (additional requirements imposed on product producers);
- (b) section 16(1) and (4) (network of waste facilities);
- (c) section 18 (control of hazardous waste);
- (d) section 20(1) (labelling, packing and transfer of hazardous waste);
- (e) 21(2) (management of waste oils);
- (f) section 27 (general conditions and other matters – waste licences);
- (g) section 28(1) (exemptions from requirement to hold a waste licence);
- (h) section 33(6) (waste management records); and
- (i) section 55 (regulations and orders).

(5) A person falls within this subsection if the person—

- (a) is in breach of a condition of a waste licence (including one imposed by virtue of an order under section 27); or
- (b) fails to comply with the requirements of Regulation (EC) No 1013/2006 (shipment of waste) or Regulation (EC) No 1102/2008 of the European Parliament and of the



Council of 22 October 2008 on the banning of exports of metallic mercury and certain mercury compounds and mixtures and the safe storage of metallic mercury(a).

(6) Where a person has been charged with an offence mentioned in this section, a court may make an interim order—

- (a) prohibiting the act that constitutes the offence; or
- (b) where the offence consists of an omission or failure to act, requiring that interim steps be taken to remedy the omission or failure.

(7) A court may only make an order under subsection (6) if it is satisfied that—

- (a) there is a risk of pollution to the environment or a risk to public health; and
- (b) the order is necessary to prevent or mitigate the risk.

(8) Any appeal against an order made under subsection (6) must be made within 14 days of the date that the order is made.

(9) A person who fails to comply with an order made under subsection (6) commits an offence and, on conviction, is liable to a term of imprisonment not exceeding 3 years or to a fine not exceeding €500,000 or to both such penalties.

(10) In addition to, or instead of, imposing a penalty, a court may order a person (“P”) convicted of an offence under this Ordinance or any enactments made under it to do one or more of the following —

- (a) at P’s expense, to remedy any matter, including the removal of waste or the reinstatement of any premises, immovable property or other matter to its former state or to a state such that the waste or site does not pose a risk to public health or the environment;
- (b) pay to the Crown all expenses incurred in connection with any works or other action (including those referred to in paragraph (a)) undertaken by the Crown as a consequence of the offence.

(11) If an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent, connivance or knowledge of, or to be attributable to neglect on the part of a person who was, at the time the offence was committed,—

- (a) a director, manager or other similar officer of the body; or
- (b) a person purporting to act in such capacity,

that person, as well as the body corporate, commits the offence.

### **Out-of-court-disposal**

**50.**—(1) This section applies to an offence under—

- (a) section 49(2)(a) (contravention of section 15(1), (2) or (3) - dealing with waste);
- (b) section 49(2)(d) (contravention of section 24(1) - requirement to hold a waste licence);
- (c) section 49(2)(e) (contravention of section 29 - obligations of waste licence holders);
- (d) section 49(3)(e) (contravention of regulations made under section 15(9) - dealing with waste);
- (e) section 49(4)(f) (contravention of an order made under section 27 – general conditions and other matters – waste licences);
- (f) section 49(4)(g) (contravention of an order made under section 28(1) – exemptions from requirement to hold a waste licence);
- (g) regulations made under section 55.

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(a) OJ No. L 304, 14.11.2008, p74.

(2) An inspector, who suspects that a person (an “offender”) is committing, or has committed, an offence to which this section applies may, in accordance with this section, determine that the offence can be disposed of by means of a fine (“out-of-court disposal”).

(3) An inspector—

- (a) must be satisfied that an out-of-court disposal is the most appropriate way in which to deal with the offence; and
- (b) may determine the amount of the fine payable by the offender under this section which must not exceed €4,000.

(4) In determining the matters mentioned in subsection (3), the inspector must take into account the nature and seriousness of the offence.

(5) If the inspector determines that an out-of-court disposal is appropriate, the inspector must serve a notice (“disposal notice”) on the offender that includes the following information—

- (a) the offence committed;
- (b) the time, date, place and details of the offence;
- (c) if applicable, a requirement that the offender must, within 48 hours of service of the disposal notice, cease to do an act, or take steps to remedy an omission, that constitutes the offence;
- (d) the amount of the fine payable under this section;
- (e) the date by which the fine must be paid and to whom; and
- (f) the consequences of not paying the fine by the date specified in the disposal notice.

(6) Subject to subsection (1), if an offender has been served with a disposal notice for an offence (“first offence”) but, having ceased to commit the first offence, subsequently commits the same offence (“second offence”), the fine specified in the disposal notice for the second offence must be at least an amount equivalent to double the fine imposed for the first offence or €4,000, whichever is the lower amount.

(7) The fine payable for an offence (including, for the avoidance of doubt, a second offence) will be increased to double the amount of the fine specified in a disposal notice or €4,000, whichever is the lower amount, where an offender—

- (a) has been served with a disposal notice that includes a requirement to cease to do an act or to remedy an omission; and
- (b) the offender fails, within 48 hours of the date of service of the disposal notice, to cease do the act or, as the case may be, remedy the omission.

(8) Where subsection (7) applies, the inspector must serve a further disposal notice on the offender that—

- (a) specifies the new fine that is payable for the offence;
- (b) gives details of why the new fine is payable; and
- (c) includes a requirement that the act ceases or, as the case may be, the omission is remedied, within 48 hours of the date of service of the further disposal notice.

(9) The inspector must take steps for an offender to be prosecuted where either of the following applies—

- (a) following the commission of a second offence, the offender commits the same offence again;
- (b) following the service of a further disposal notice under subsection (8), the offender has not, within 48 hours of the date of service of that notice, ceased to do the act or, as the case may be, remedied the omission that constitutes the offence.

(10) If an act or an omission that constitutes the offence has not ceased or been remedied within 48 hours of the date of service of a further disposal notice served under subsection (8),—

- (a) the offender commits an offence on each day, following the date of service of that further disposal notice, until the act ceases or, as the case may be, the omission is remedied; and
- (b) an offence under this subsection may be treated as a second offence for the purposes of subsection (6).

(11) Upon payment of a fine under this section, the person receiving the fine must give the offender a receipt that includes—

- (a) the offender's full name;
- (b) the offence and a summary of the details of the offence;
- (c) the date of the offence and the place at which it was committed; and
- (d) the amount paid and the date of payment.

(12) Unless subsection (9) applies, where an offender pays a fine under this section within 14 days of the date of service of a disposal notice, the offender may not be prosecuted for the offence that is the subject of the disposal notice.

(13) An out-of-court disposal is not a conviction but—

- (a) a fine payable under this section may be treated as if it was a fine imposed on conviction for an offence; and
- (b) if an offender is subsequently convicted for the same offence, a court may, for the purposes of sentencing, take into account the out-of-court disposal and the circumstances of the offence to which the out-of-court disposal relates.

(14) The functions of an inspector under this section are modified general delegated functions.

(15) The modification referred to in subsection (14) is that section 18(c) of the Delegation of Functions to the Republic Ordinance 2007 (prohibition on the compounding of any offence) does not apply.

(16) The function under subsection (11) (receipt for payment of fines under this section) is a general delegated function.

### **Administrative penalties and powers to suspend or terminate waste management activities**

**51.—**(1) The Chief Officer may impose an administrative penalty of up to €500,000 on any person ("P") where, as a result of waste management activities being carried out by P or under P's direction and control, one or both of the following applies—

- (a) pollution or other damage is being, or has been, caused to the environment;
- (b) there is, or has been, an adverse impact on public health.

(2) In the circumstances set out in subsection (1), where serious environmental pollution or damage occurs or there is a serious adverse impact on public health, the Chief Officer may, with the approval of the Administrator impose an administrative penalty of up to €1,000,000.

(3) The competent authority may issue a direction to P requiring P to suspend the carrying out of all or some waste management activities (as specified in the direction) for such period of time as the competent authority considers necessary for steps to be taken to remedy or reduce the risks of the matters referred to in subsection (1)(a) or (b).

(4) The competent authority may issue a direction to P requiring P to cease to carry out waste management activities or may suspend P's waste licence where—

- (a) P fails to comply with a direction given under subsection (3); or
- (b) the competent authority considers that it is not possible to take any steps that would be effective in remedying or reducing the matters referred to in subsection (1)(a) or (b).

(5) The powers in subsections (3) and (4) may be exercised whether or not an administrative penalty under subsection (1) or (2) has been imposed.

(6) The Chief Officer may, in the following circumstances, impose an administrative penalty of up to €40,000 for each day that P fails to comply with a direction made under subsection (3) or (4)—

- (a) the competent authority has recommended to the Chief Officer that an administrative penalty should be imposed; and
- (b) considering the nature, extent and significance of the environmental harm or damage caused or that may be caused, there is a risk of serious environmental pollution or damage arising.

(7) Before imposing an administrative penalty under this section, the Chief Officer must serve a notice on P—

- (a) informing P of the intention to impose the penalty;
- (b) stating why the penalty is to be imposed;
- (c) specifying the amount of the penalty;
- (d) setting out the consequences of non-payment; and
- (e) requiring P to make representations about the notice within 5 days of receipt of the notice or, if requested by P, within 10 days of receipt.

(8) Where the competent authority issues a direction under subsection (3) or (4), it must—

- (a) provide a copy to the Administrator of any documentation sent to P, including a copy of any direction issued under those subsections;
- (b) keep the Administrator fully informed of any environmental pollution or damage or any adverse impact on public health (including any ongoing or further risks of such pollution, damage or adverse impact occurring or increasing); and
- (c) provide any other information to the Administrator, if requested by the Administrator.

(9) An administrative penalty must be paid to the Fiscal Officer<sup>(a)</sup> within 75 days from the date on which a notice under subsection (7) is received by P.

(10) Where an application is made to the Administrator under section 52 for a review of an administrative penalty imposed under this section or any court action is commenced in relation to an administrative penalty, the 75 days referred to in subsection (9) starts from the date that the application under section 52 or any court action (including any appeal) relating to the penalty is finally determined.

(11) An administrative penalty imposed under this section is recoverable as a civil debt.

(12) A person is jointly liable with a body corporate for payment of an administrative penalty where—

- (a) an act or omission on the part of the body corporate results in an administrative penalty being imposed under this section; and
- (b) it is proved that the act or omission took place with the consent, connivance or knowledge of, or was attributable to the neglect on the part of a person who is, or who was at the time the act or omission took place, a director, manager or other similar officer of the body or a person purporting to act in such capacity.

(13) The exercise of any functions under this section does not—

- (a) affect any criminal or other civil liability that attaches to any acts or omissions by P or any other person; or
- (b) prevent any other action being taken or remedies being pursued that lie against P or any other person including any liability, action or remedies under this Ordinance or any enactments made under it.

(14) The functions of the competent authority under this section are general delegated functions.

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(a) “Fiscal Officer” is defined in Schedule 2 to the Interpretation Ordinance 2012 (Ordinance 8/2012).

### **Right of review – administrative penalty**

**52.**—(1) A person (“applicant”) may apply to the Administrator to review a decision under section 51 to impose an administrative penalty, including a review of the amount of the penalty imposed.

(2) An application under this section must be made within 21 days of receipt by P of the notice served under section 51(7) and include the grounds for challenging the administrative penalty.

(3) The Administrator may permit the applicant to make further written representations before determining the application or, where the Administrator considers it appropriate or necessary to do so, may permit the applicant to make oral representations.

(4) In determining an application under this section, the Administrator may ask any person to provide advice or assistance that may be relevant to the application, including advice and assistance from experts in environmental, waste and public health matters.

(5) The Administrator must determine the application as soon as is reasonably practicable.

(6) The Administrator may—

- (a) decide that no administrative penalty is payable;
- (b) uphold the decision to impose the penalty; and
- (c) where the decision to impose the penalty is upheld, the Administrator may reduce or increase the amount of the penalty.

(7) The Administrator’s decision under subsection (5) must be notified to the applicant and the Chief Officer as soon as reasonably practicable and must include the reasons for the decision.

## **PART 8**

### **Final provisions**

#### **Application to the Crown**

**53.**—(1) This Ordinance binds the Crown except as provided for in subsections (2), (3) and (5).

(2) The following provisions do not apply to the Crown—

- (a) section 15(2) and (3) (waste holders – dealing with waste);
- (b) section 24 (requirement to hold a waste licence);
- (c) section 33 (waste management records);
- (d) section 49 (offences).

(3) A provision listed below does not apply to the Crown but only to the extent that compliance with the provision would, or would be likely to, seriously prejudice the military or security interests of the Crown—

- (a) section 9 (waste hierarchy);
- (b) section 10(1)(b) to (f) (protection of public health and the environment);
- (c) section 13(2) (collection, recycling and re-use targets);
- (d) section 15(1)(b) and (c) (waste holders – dealing with waste);
- (e) section 19 (prohibition on mixing of hazardous waste); and
- (f) section 34 (cessation of waste management activities).

(4) In relation to acts or omissions that are not exempt under this section, the Senior Judges’ Court may, on an application in any proceedings, declare an act or omission of the Crown as unlawful if any such act or omission contravenes this Ordinance.

(5) A declaration under subsection (4) may not be made in relation to any acts or omissions by Her Majesty in right of Her Government in the United Kingdom.

## **Fees**

- 54.**—(1) Any fees or charges payable under this Ordinance are—
- (a) as specified in the corresponding Republican legislation; and
  - (b) must be paid in accordance with the corresponding Republican legislation.
- (2) Without limiting subsection (1), the fees referred to in subsection (1) include fees for—
- (a) an application for a waste licence;
  - (b) any other licence, consent, approval or permission required under this Ordinance or any enactments made under it; and
  - (c) any annual or other fee payable by waste licence holders for inspections or any other regulation of waste management activities (including enforcement action).
- (3) The competent authority may refund part of any annual fee referred to in subsection (1)(c), if the waste licence holder, voluntarily or in accordance with a condition in a waste licence, installs equipment which measures or records waste or any other substance or matter relating to waste.
- (4) For the purposes of this section, “corresponding Republican legislation” means Republican Law No. 185(I)/2011 (the Waste Law)(a) and any enactments made under that Law.
- (5) The functions of the competent authority under this section are general delegated functions.

## **Regulations and orders**

- 55.**—(1) The Administrator may make regulations for—
- (a) for any of the purposes of this Ordinance;
  - (b) the regulation of any matter within the scope of this Ordinance; and
  - (c) for the better implementation of this Ordinance.
- (2) Without limiting the general power in subsection (1) or any other powers in this Ordinance, regulations made under subsection (1) may make provision relating to—
- (a) the regulation of batteries and accumulators;
  - (b) electrical and electronic equipment waste;
  - (c) waste landfills;
  - (d) the regulation of polychlorobiphenyls and polychloroterphenyls;
  - (e) the licensing of collective or individual systems for waste management; and
  - (f) the regulation of used frying oils (vegetable oils and animal fats used for the preparation or processing of food).
- (3) Regulations made under this section may have retrospective effect.
- (4) Without limiting any other powers under this Ordinance to make regulations and orders, the Administrator may make orders to regulate matters of a technical or an administrative nature.
- (5) In particular and without limiting the general powers in subsections (1) and (4) or any other powers in this Ordinance, an order made under subsection (4) may make provision for—
- (a) general conditions or special measures for the management of certain types of waste or certain types of management operations under which a waste licence is issued;
  - (b) requirements to be complied with by waste holders, managers of installations or product producers;
  - (c) controls and inspections of waste management activities;
  - (d) the drawing up of waste management plans for certain categories of waste, including the provision of information to the public and public participation in drawing-up such plans;

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(a) Republic of Cyprus Gazette Number 4313 of 23 December 2011.

- (e) formulating waste prevention programmes;
- (f) information and participation of the public in waste management plans;
- (g) the procedure for applications for waste licences (including the forms to be used and information to be provided);
- (h) the form and content of any registers required to be maintained under this Ordinance;
- (i) the categorisation and qualifications of persons managing waste and waste management facilities;
- (j) technical details and specifications for waste management facilities;
- (k) criteria for certain categories of waste to be managed in certain waste management facilities;
- (l) methods of measurement, reference and technical standards;
- (m) special measures to encourage the involvement of persons in the management of certain categories of waste;
- (n) requirements relating to European Union or international standards relating to waste.

### **Amendment of the Fixed Penalties Ordinance 2010**

**56.**—(1) The Fixed Penalties Ordinance 2010(a) is amended as follows.

(2) At the end of section 3(4), substitute “and 130 of Schedule 2” with “, 130, 152 and 153 of Schedule 2.”.

(3) After serial number 151, insert—

“152.	Without a waste licence, etc., to deposit (which includes abandoning or dumping) or to keep waste in any public or private place.	€340	Waste Ordinance 2015	Section 15(3)(a)
153.	Permitting or instructing a person to deposit (which includes abandoning or dumping) or to keep waste in any public or private place	€340	Waste Ordinance 2015	Section 15(3)(c)”. .

### **Repeals**

**57.** The following enactments are repealed—

- (a) the Waste Management Ordinance 2007(b);
- (b) section 69 of the Overlapping Municipalities Ordinance 2011(c).

### **Saving - waste licences issued under the Waste Management Ordinance 2007**

**58.**—(1) This section applies to a licence issued under section 11 or 19 of the Waste Management Ordinance 2007 (“pre-existing licence”).

(2) A pre-existing licence, which was valid immediately before the date this Ordinance comes into force is, from that date, deemed to be a waste licence issued under section 24.

(3) A pre-existing licence falling within subsection (2) expires on the date that the pre-existing licence would have expired had the Waste Management Ordinance 2007 not been repealed.

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(a) Ordinance 25/2010. Schedule 2 of the Ordinance has been amended by P.I. 8/2013 and P.I. 23/2013.  
(b) Ordinance 7/2007.  
(c) Ordinance 20/2011.

(4) Where a person holding a pre-existing licence wishes to continue to carry out waste management activities after the date that the pre-existing licence is to expire, the person must make an application under section 25(1) for a new waste licence and, for the avoidance of doubt, section 25(5) (renewal of waste licences) does not apply to a pre-existing licence.

(5) An application under subsection (4) must be made within the 6-month period prior to the date of expiry of the pre-existing licence.

### Consequential amendments

**59.**—(1) The reference to “Waste Management Ordinance 2007” in the following enactments is repealed and replaced with “Waste Ordinance 2015”—

- (a) sub-paragraph 5(1) of Schedule I to the Control of Water Pollution Ordinance 2005(a);
- (b) section 27(5)(b) of the Overlapping Municipalities Ordinance 2011.

(2) For regulation 5(1) of the Waste Management (Import and Export) Regulations 2007(b), substitute—

“**5.**—(1) For the purposes of these regulations, the competent authority means—

- (a) where the Crown is the producer, holder, transporter or disposer of hazardous waste, the person who, for the time being and by whatever name known, occupies the position of Defence Organisation Technical Manager for the Areas;
- (b) for all other hazardous waste, the Chief Officer.”.

## SCHEDULE 1

Section 3

### Recovery Operations

R1	Use principally as a fuel or other means to generate energy(*)
R2	Solvent reclamation/regeneration
R3	Recycling/reclamation of organic substances which are not used as solvents (including composting and other biological transformation processes)(**)
R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation of other inorganic materials(***)
R6	Regeneration of acids or bases
R7	Recovery of components used for pollution abatement
R8	Recovery of components from catalysts
R9	Oil re-refining or other reuses of oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Use of waste obtained from any of the operations numbered R1 to R10
R12	Exchange of waste for submission to any of the operations numbered R 1 to R 11 (****)
R13	Storage of waste pending any of the operations numbered R1 to R12 (excluding temporary storage, pending collection, on the site where the waste is produced) (*****)

(\*) This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or above—

(a) Ordinance 1/2005. Sub-paragraph 5(1) of Schedule 1 was inserted by Ordinance 5/2009.

(b) P.I. 12/2007, as amended by P.I. 42/2007.



- (a) 0.60 for installations in operation and permitted in accordance with applicable Community legislation before 1 January 2009; or
- (b) 0.65 for installations permitted on or after 1 January 2009, using the following formula:

$$\text{Energy efficiency} = \frac{(E_p - (E_f + E_i))}{(0.97 \times (E_w + E_f))}$$

Where—

- a)  $E_p$  means annual energy produced as heat or electricity. It is calculated with energy in the form of electricity being multiplied by 2.6 and heat produced for commercial use multiplied by 1.1 (GJ/year);
- b)  $E_f$  means annual energy input to the system from fuels contributing to the production of steam (GJ/year);
- c)  $E_w$  means annual energy contained in the treated waste calculated using the net calorific value of the waste (GJ/year);
- d)  $E_i$  means annual energy imported excluding  $E_w$  and  $E_f$  (GJ/year);
- e) 0.97 is a factor accounting for energy losses due to bottom ash and radiation.

This formula applies in accordance with the reference document on best available techniques for waste incineration.

*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)  $CCF = -(0.25/1200) \times HDD + 1.698$  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)  $CCF = -(0.12/1200) \times HDD + 1.335$  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)  $HDD = (18^\circ\text{C} - T_m) \times d$  if  $T_m \leq 15^\circ\text{C}$  (heating threshold);
- (b)  $HDD = 0$  if  $T_m > 15^\circ\text{C}$ ,

where  $T_m$  is the mean outdoor temperature ( $\frac{T_{\min} + T_{\max}}{2}$ ) over a period of  $d$  days.

Calculations are to be executed on a daily basis ( $d = 1$ ), added up to a year. **(a)**

**(\*\*)** This includes gasification and pyrolysis using the components as chemicals.

**(\*\*\*)** This includes soil cleaning resulting in recovery of the soil and recycling of inorganic construction materials.

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**(a)** CCF formula inserted by Ordinance 9/2017 – came into force on 21 December 2017

(\*\*\*\*) If there is no other R code appropriate, this can include preliminary operations prior to recovery including pre-processing such as, inter alia, dismantling, sorting, crushing, compacting, pelletising, drying, shredding, conditioning, repackaging, separating, blending or mixing prior to submission to any of the operations numbered R1 to R11.

(\*\*\*\*\*) Temporary storage means preliminary storage as included in the definition of “collection” in section 2.

## SCHEDULE 2

Section 3

### Disposal Operations

D1	Deposit into or on to land (e.g. landfill, etc.)
D2	Land treatment (e.g. biodegradation of liquid or sludgy discards in soils, etc.)
D3	Deep injection (e.g. injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
D4	Surface impoundment (e.g. placement of liquid or sludgy discards into pits, ponds or lagoons, etc.)
D5	Specially engineered landfill (e.g. placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
D6	Release into a water body except seas/oceans
D7	Release into seas/oceans including sea-bed insertion
D8	Biological treatment not specified elsewhere in this Schedule which results in final compounds or mixtures which are discarded by means of any of the operations listed at D1 to D7 and D9 to D12
D9	Physico-chemical treatment not specified elsewhere in this Schedule (e.g. evaporation, drying, calcinations, etc.) which results in final compounds or mixtures which are discarded by means of any of the operations listed at D1 to D8 and D10 to D12
D10	Incineration on land
D11	Incineration at sea(*)
D12	Permanent storage (e.g. emplacement of containers in a mine, etc.)
D13	Blending or mixing prior to the application of any of the operations at D1 to D12 (**)
D14	Repackaging prior to submission to any of the operations numbered D1 to D13
D15	Storage pending any of the operations listed at D1 to D14 (excluding temporary or preliminary storage, pending collection, on the site where it is produced) (***)

(\*) This operation is prohibited by EU legislation and international conventions.

(\*\*) If there is no other appropriate D code, this can include preliminary operations prior to disposal including pre-processing such as, inter alia, sorting, crushing, compacting, pelletising, drying, shredding, conditioning or separating prior to submission to any of the operations numbered D1 to D12.

(\*\*\*) Temporary storage means preliminary storage according to the definition of the term “collection” in section 3.

## SCHEDULE 3

Section 3

### Properties of hazardous waste (a)

## SCHEDULE 3

Section 3

### Properties of hazardous waste

#### Interpretation

##### 1. In this Schedule—

“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**

Hazard Class and Category Code(s)	Hazard Statement Code(s)
Unst. Expl.	H 200
Expl. 1.1	H 201
Expl. 1.2	H 202
Expl. 1.3	H 203
Expl. 1.4	H 204

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(a) Schedule 3 repealed and replaced by Ordinance 9/2017 – came into force on 21 December 2017

<i>Self-react. A</i>	<i>H 240</i>
<i>Org. Perox. A</i>	
<i>Self-react. B</i>	<i>H 241</i>
<i>Org. Perox. B</i>	

### **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>
<i>Ox. Gas 1</i>	<i>H 270</i>
<i>Ox. Liq. 1</i>	<i>H 271</i>
<i>Ox. Sol. 1</i>	
<i>Ox. Liq. 2, Ox. Liq. 3</i>	<i>H 272</i>
<i>Ox. Sol. 2, Ox Sol. 3</i>	

### **HP 3: flammable**

4.—(1) Waste is flammable if it falls within any of the following descriptions—

- 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;*
- 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;*
- flammable solid waste: solid waste which is readily combustible or may cause or contribute to fire through friction;*
- flammable gaseous waste: gaseous waste which is flammable in air at 20°C and a standard pressure of 101.3 kPa;*
- water reactive waste: waste which, in contact with water, emits flammable gases in dangerous quantities;*
- 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>
<i>Flam. Gas 1</i>	<i>H220</i>
<i>Flam. Gas 2</i>	<i>H221</i>
<i>Aerosol 1</i>	<i>H222</i>

<i>Aerosol 2</i>	<i>H223</i>
<i>Flam. Liq. 1</i>	<i>H224</i>
<i>Flam. Liq. 2</i>	<i>H225</i>
<i>Flam. Liq. 3</i>	<i>H226</i>
<i>Flam. Sol. 1</i>	<i>H228</i>
<i>Flam. Sol. 2</i>	
<i>Self-react. CD</i>	<i>H242</i>
<i>Self-react. EF</i>	
<i>Org. Perox. CD</i>	
<i>Org. Perox. EF</i>	
<i>Pyr. Liq. 1</i>	<i>H250</i>
<i>Pyr. Sol. 1</i>	
<i>Self-heat. 1</i>	<i>H251</i>
<i>Self-heat. 2</i>	<i>H252</i>
<i>Water-react. 1</i>	<i>H260</i>
<i>Water-react. 2</i>	<i>H261</i>
<i>Water-react. 3</i>	

**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**

Hazard Class and Category Code(s)	Hazard Statement Code(s)	Concentration Limit
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%

**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**

Hazard Class and Category Code(s)	Hazard Statement Code(s)	Concentration Limit
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.

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

(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**

Hazard Class and Category Code(s)	Hazard Statement Code(s)	Concentration Limit
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**

Hazard Class and Category Code(s)	Hazard Statement Code(s)	Concentration Limit
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**

Hazard Class and Category Code(s)	Hazard Statement Code(s)	Concentration Limit
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**

Hazard Statement(s) / Supplemental Hazard(s)	
May mass explode in fire	H205
Explosive when dry	EUH001



<i>May form explosive peroxides</i>	<i>EUH019</i>
<i>Risk of explosion if heated under confinement</i>	<i>EUH044</i>

### ***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.