

**TRADE WASTE
CUSTOMER SERVICE CODE**

**METROPOLITAN RETAIL AND
REGIONAL WATER BUSINESSES**

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TABLE OF CONTENTS

PART A – INTRODUCTION	1
PART B – PROVISION OF TRADE WASTE SERVICES	2
1. APPLICATION TO DISCHARGE TRADE WASTE	2
1.1 Consider application	2
1.2 Response to application	2
1.3 Rejecting an application	2
2. CLASSIFICATION OF TRADE WASTE CUSTOMERS	2
2.1 Classification requirement and purpose	2
2.2 Classification process	3
2.3 Explanation of basis for classification	3
3. RISK IDENTIFICATION AND MITIGATION	3
3.1 Risks identified by the water business	3
3.2 Risk assessment by the trade waste customer	3
4. TRADE WASTE AGREEMENTS	3
4.1 Form of agreement	3
4.2 Identify trade waste customers	4
4.3 Matters to be dealt with by a trade waste agreement	4
4.4 Agreements arising by customer conduct	4
4.5 Amendments to a trade waste agreement	5
5. FEES AND CHARGES	5
6. ACCEPTANCE CRITERIA	5
6.1 Maintain approved statement	5
6.2 Changes to acceptance criteria	6
6.3 Application for approval	6
6.4 Approval	7
6.5 Establishing customer-specific acceptance criteria	7
7. DISPUTE RESOLUTION	8
7.1 Complaints and disputes policy	8
7.2 Matters involving more than one water business	9
PART C – CAPACITY PLANNING	10
8. CAPACITY PLANNING	10
PART D – CUSTOMER CHARTERS	11
9. TRADE WASTE CUSTOMER CHARTER	11
9.1 Requirement for charter	11
9.2 Content of charter	11
10. PROVISION OF INFORMATION	12
10.1 Publication of charter	12
10.2 Provision of charter	12
10.3 Notification of variation	13
PART E – INTERPRETATION AND DEFINITIONS	14
Definitions	14
Interpretation	15

PART A – INTRODUCTION

This code is made under section 4F of the Water Industry Act 1994, in accordance with clause 15 of the Water Industry Regulatory Order 2003.

Section 178 of the Water Act 1989 and section 93 of the Water Industry Act 1994 provide that it is an offence for a person to cause or permit anything other than *sewage* or *trade waste* discharged in accordance with a *trade waste* agreement to be discharged into the sewerage system of a *water business*.

Section 181 of the Water Act provides that a *regional water business* may make by-laws about *trade waste*. Section 52 of the Water Industry Act 1994 provides that regulations may be made about *trade waste*. Part 3 of the Water Industry Regulations 2006 relate to *trade waste*. The *price determinations* set out the prices *water businesses* may charge (or the manner in which those prices are to be calculated or otherwise determined) for services provided by *water businesses* relating to *trade waste*. *Water businesses* are required to publish their current schedule of charges on their websites.

This code provides for obligations on *water businesses* and *Melbourne Water* specific to the management of *trade waste* services. *Water businesses* must also comply with the Customer Service Code Metropolitan Retail and Regional *Water Businesses* (*customer service code*).

PURPOSE

The purpose of this code is to provide *water businesses* with a consistent, transparent and timely decision making approach to *trade waste* management throughout Victoria.

AMENDMENT TO THIS CODE

This code may be amended by the *Commission* on its own initiative or in response to a proposal by a *water business* or another stakeholder.

The *Commission* will not amend this code until *water businesses* and other stakeholders have had a reasonable opportunity to make representations and those representations have been considered, in accordance with the *Commission's* Charter of Consultation and Regulatory Practice.

The *Commission* will give reasonable notice to *water businesses* of any amendments to this code.

COMMENCEMENT

This code regulates *water businesses* from 1 January 2012.

APPLICATION

Other than in relation to any amendment, extension or renewal, the provisions of a *trade waste* agreement (including any fees, charges, specific conditions, provisions and allowances) made before the commencement of this code will remain in place until the agreement ends despite any inconsistency with this code. Any amendment operative after the commencement of this code must be consistent with this code, and an agreement can only be extended or renewed beyond the commencement of this code to the extent that the extended or renewed provisions are consistent with this code.

PART B – PROVISION OF TRADE WASTE SERVICES

1. APPLICATION TO DISCHARGE TRADE WASTE

1.1 Consider application

Subject to the receipt of an application fee (if there is one) charged in accordance with clause 5, a *water business* must consider any application, received in the *water business's* required form (if any), for a *trade waste* agreement in respect of the discharge of *trade waste* into its sewerage system.

1.2 Response to application

A *water business* must respond to an application for a *trade waste* agreement within 10 *business days* of receipt of such an application, to indicate:

- (a) whether the application has been accepted or rejected or accepted with amendments; or
- (b) where a longer period is required to assess the application, when a decision will be made and an explanation for the longer period; or
- (c) where further information is required to enable a full assessment, what further information must be provided by the applicant.

1.3 Rejecting an application

If a *water business* rejects an application for a *trade waste* agreement, at the same time as it notifies the applicant of its rejection in accordance with clause 1.2, it must provide a clear statement of reasons for the rejection to the *customer*.

2. CLASSIFICATION OF TRADE WASTE CUSTOMERS

2.1 Classification requirement and purpose

A *water business* must have and comply with policies, practices and procedures for classifying *trade waste customers* in order to establish (where applicable):

- (a) the type of agreement applicable to that *customer*, reflecting the level of complexity of receiving and managing the *trade waste* stream;
- (b) any *trade waste* agreement application fee, reflecting the level of complexity involved in assessment of the application;
- (c) any *trade waste* agreement renewal fee, for reassessment and renewal of an existing agreement at the end of its term;
- (d) any annual *trade waste* management fee, reflecting the level of complexity and resources required from the *water business* to monitor performance and ensure compliance, including the frequency of check sampling to be conducted by the *water business*;
- (e) the frequency of discharge sample monitoring and reporting that the *customer* will be required to undertake;
- (f) the applicable *trade waste* tariff structure and billing cycle; and

- (g) how *trade waste customers* with an agreement by conduct under clause 4.4 are to be dealt with under paragraphs (a) to (f) of this clause 2.1 by the *water business*.

2.2 Classification process

The classification process may take into account any matter, including:

- (a) *customer* location relative to treatment plant;
- (b) volume of *trade waste* discharged;
- (c) nature of the *customer's* business activity;
- (d) quality of the *customer's trade waste*; and
- (e) compliance performance history for that *customer*, where available.

2.3 Explanation of basis for classification

A *water business* must explain to the *customer*, if requested, how its particular classification was determined.

3. RISK IDENTIFICATION AND MITIGATION

3.1 Risks identified by the water business

A *water business* must advise the *customer* of any identified risks associated with accepting a *customer's trade waste* into its *sewer*, including any risk mitigation that the *customer* will be required to implement.

3.2 Risk assessment by the trade waste customer

A *water business* may:

- (a) require a *customer* to conduct its own risk assessments to identify potential causes of non-compliant *trade waste* discharge;
- (b) require a *customer* to discuss the findings of the *customer's* risk assessment with the *water business*; and
- (c) identify further risk mitigation requirements to be implemented by the *customer* to minimise the impact of its *trade waste* discharge on the sewerage system and operations of the *water business*.

4. TRADE WASTE AGREEMENTS

4.1 Form of agreement

- (a) A *water business* may have different forms of agreement to reflect the differing risks and other factors associated with particular *trade waste customers* and their *trade waste*.
- (b) Where a *water business* agrees to accept a *trade waste customer's trade waste*, the *water business* must prepare or use a form of *trade waste* agreement which is appropriate given the particular risks and other factors associated with the particular *trade waste customer* and its *trade waste*.

4.2 Identify trade waste customers

A *water business* must endeavour to identify all *trade waste customers* and ensure that, as required by *water law*, they have an appropriate *trade waste* agreement.

4.3 Matters to be dealt with by a trade waste agreement

Subject to clause 4.4, a *trade waste* agreement must:

- (a) Specify, as a minimum, the following:
 - (i) the parties to the agreement;
 - (ii) the address of the premises from which the discharge to *sewer* will take place;
 - (iii) the *discharge acceptance point* and any sampling points;
 - (iv) the sewerage treatment plant or plants that will or may receive and treat the *trade waste* (if known);
 - (v) the term of the agreement;
 - (vi) the nature of the permitted activities conducted on the *trade waste customer's* premises which generate the *trade waste*;
 - (vii) the discharger or occupier's rights and obligations, or provide reference to where those rights and obligations are set out;
 - (viii) the *water business's* rights and obligations, or provide reference to where those rights and obligations are set out;
 - (ix) any fees, charges, tariffs or prices payable by the *trade waste customer*, or provide reference to where they are set out;
 - (x) the dispute resolution process, or provide reference to where the dispute resolution process is set out;
 - (xi) the procedure for serving notices on the other party, or provide reference to where the procedure is set out;
 - (xii) the relevant *trade waste* limitations, including times, rate, physical and chemical composition, prohibited substances, or reference to the *approved acceptance criteria*;
 - (xiii) any monitoring, sampling or maintenance requirements, or reference to where those requirements are set out; and
- (b) only include matters appropriate to managing the discharge of *trade waste*.

4.4 Agreements arising by customer conduct

- (a) Without limiting clause 4.1, where a *water business* has determined that a *trade waste customer*:
 - (i) discharges small quantities of *trade waste* to a *water business's sewer* and which is of a similar nature to domestic *sewage*; or

- (ii) operates a business of a type which discharges small quantities of *trade waste* to a *water business's sewer* and which is of a similar nature to domestic *sewage*,

it may, in its absolute discretion, grant its consent to any such discharge or to discharges generally in those circumstances on the terms of a published form of *trade waste* agreement. The conduct of a *customer* in continuing to discharge *trade waste* after a notification in accordance with clause 4.4(b) will be taken, for the purposes of this code, to constitute an agreement on the terms specified by the *water business*.

- (b) Where a consent is granted under clause 4.4(a), the *water business* must notify the *trade waste customer* that if it continues to make discharges the *trade waste customer* has entered into an agreement with the *water business*. In the case of *trade waste customers* existing at the date of commencement of this code, the *water business* may indicate clearly on its website that the *water business* has offered agreements to a category of *trade waste customer* that includes the *trade waste customer* and must provide a link to a copy of the applicable form of *trade waste* agreement.
- (c) The *water business* must make a copy of the trade waste customer charter available on its website, and provide a hard copy upon request, to a *customer* with an agreement arising under clause 4.4(a).

4.5 Amendments to a trade waste agreement

A *trade waste* agreement must provide that an amendment to the agreement, other than one to reflect a change in the *approved acceptance criteria*, is not effective unless either:

- (a) where the amendment is one which the agreement states can be made by the *water business*, the *trade waste customer* is notified of the amendment in writing; or
- (b) the amendment is in writing and signed by both parties.

5. FEES AND CHARGES

Fees and charges may only be charged by a *water business* in connection with *trade waste* in accordance with the prices or pricing principles set out in the *price determination* applying to that *water business*.

6. ACCEPTANCE CRITERIA

6.1 Maintain approved statement

- (a) A *water business* must maintain a current statement of *approved acceptance criteria* for each sewerage catchment system that *trade waste customers* must, subject to clause 6.5, comply with as a condition of their *trade waste* agreements.
- (b) The statement of *approved acceptance criteria* must be readily available on the *water business's* website.

- (c) Subject to clause 6.4, existing *acceptance criteria* in use by a *water business* on 1 October 2011 will be taken to be the statement of *approved acceptance criteria* as at and from the commencement of this code.

6.2 Changes to acceptance criteria

- (a) A *water business* must have and comply with policies, practices and procedures for determining and amending *customer-specific acceptance criteria* and *approved acceptance criteria*. These policies, practices and procedures must take into consideration, as a minimum, the following:
 - (i) any requirements stated in the *water business's statement of obligations*;
 - (ii) the requirements of this code; and
 - (iii) any other requirements imposed on the *water business* by *water law* or any other relevant law.
- (b) In preparing its policies, practices and procedures, and when considering establishing or changing any *acceptance criteria*, a *water business* must have regard to the Australian Wastewater Quality Management Guideline (formerly known as the National Wastewater Source Management Guideline), published by the Water Services Association of Australia Ltd.
- (c) If the transport or treatment of *trade waste* involves another *water business* or *Melbourne Water*, then that *water business* or *Melbourne Water* (as the case may be) must be consulted or involved in the process to change or establish *acceptance criteria* applicable to that *trade waste*.
- (d) Subject to clause 6.5:
 - (i) a change to *approved acceptance criteria* or *customer-specific acceptance criteria* may be instigated by a *water business*, a *trade waste customer* or the *Commission*; and
 - (ii) a *water business* has no obligation to change any *customer-specific acceptance criteria* or apply for the *Commission's* approval to change its *approved acceptance criteria* at a *trade waste customer's* request.

6.3 Application for approval

- (a) Subject to clause 6.1(c), a statement of *approved acceptance criteria* can only be established, replaced or amended with the *Commission's* prior written approval.
- (b) Before submitting *acceptance criteria* or changes to *approved acceptance criteria* to the *Commission* for approval, a *water business* must:
 - (i) advertise on its website and notify all stakeholders (including potentially affected *trade waste customers*, the *Commission* and the Environment Protection Authority) that it is considering a change to its *approved acceptance criteria* or establishing *approved acceptance criteria*;

- (ii) call for submissions from interested parties and note that submissions will be published on its website unless it is notified that a submission or part of a submission is confidential;
 - (iii) subject to any confidentiality requirement, publish all submissions received (if any); and
 - (iv) undertake appropriate stakeholder consultation, which is open for at least 30 *business days* from the last date a stakeholder is notified.
- (c) When a *water business* submits *acceptance criteria* or changes to *approved acceptance criteria* to the *Commission* for approval, it must also submit:
- (i) the reason for the new *acceptance criteria* or the proposed change, including the factors considered in establishing the new criteria;
 - (ii) details of the stakeholder consultation undertaken;
 - (iii) a summary of concerns or comments raised in any submissions received and a summary of any responses provided by the *water business*; and
 - (iv) an implementation plan, outlining how the new criteria or the change will be integrated into existing operational practices and what timeframe *customers* will have to comply with the new requirements.

6.4 Approval

- (a) On receipt of an application made under clause 6.3, the *Commission* may, in its absolute discretion:
- (i) approve the proposed *acceptance criteria*;
 - (ii) reject the proposed *acceptance criteria*;
 - (iii) require the *water business* to provide further information; or
 - (iv) require changes to the proposed *acceptance criteria*.
- (b) The *Commission* will endeavour to respond to an application made under clause 6.3, within 80 *business days* of receipt to indicate:
- (i) whether the application has been approved or rejected or whether further information is required or amendments to the proposed *acceptance criteria* are required; or
 - (ii) if a longer period is required to assess the application, when a decision is likely to be provided.

6.5 Establishing customer-specific acceptance criteria

- (a) Subject to clause 6.2, a *water business* may, in its absolute discretion, decide to require a *trade waste customer* to comply with *customer-specific acceptance criteria* in addition to or instead of some or all of the statement of *approved acceptance criteria* in order to suit the specific requirements of the *trade waste customer* and the sewerage catchment and treatment systems.

- (b) Subject to the receipt of any application fee charged in accordance with clause 5, a *water business* must consider any application for *customer-specific acceptance criteria*.
- (c) A *water business* or *Melbourne Water* (as the case may be) must respond to an application for *customer-specific acceptance criteria* within 10 *business days* of receipt of such an application (in *Melbourne Water's* case the response is to be given to the *water business* that notified it of the application), to indicate:
 - (i) whether the application has been accepted or rejected or accepted with amendments; or
 - (ii) where a longer period is required to assess the application, when a decision will be made.
- (d) If a *water business* or *Melbourne Water* (as the case may be) rejects, or accepts with amendments, an application for *customer-specific acceptance criteria*, at the same time as it notifies the applicant (or, in *Melbourne Water's* case, the *water business* that notified it of the application) of its decision in accordance with clause 6.5(c), it must provide a clear statement of reasons for the rejection or amendment to the applicant.
- (e) The *water business* must maintain a register of all *customer-specific acceptance criteria* that have been established, and include in relation to each entry the name and address of the *trade waste customer*, the receiving sewerage catchment or treatment plant, the particular *acceptance criteria* parameter, the requested limit for the parameter and the current *approved acceptance criteria* limit for the parameter.
- (f) The register must also include all applications for *customer-specific acceptance criteria* or for amendments to such *acceptance criteria*, including the *water business's* decision and the basis for that decision.
- (g) The *Commission* may request a copy of the register at any time.
- (h) The *water business* must provide a statement to the *Commission*, in a form provided by the *Commission*, setting out all changes to the register in respect of each quarter within 25 *business days* after the end of each quarter.

7. DISPUTE RESOLUTION

7.1 Complaints and disputes policy

- (a) Without limiting clause 3 of the *customer service code*, a *water business* must have and comply with policies, processes and practices for resolving disputes relating to *trade waste*.
- (b) In addition to the requirements of clause 3.1(d) of the *customer service code*, where a *complaint* relates to technical or economic aspects of *trade waste* management, a *complaint* escalation must also give a *customer*:
 - (i) the opportunity to agree with the *water business* to engage the services of an independent expert or mediator to help resolve the *complaint*; and

- (ii) the opportunity to request that the *Commission* consider whether the *water business* has complied with this code, the *customer service code* or a *price determination*.

7.2 Matters involving more than one water business

Without limiting clause 3 of the *customer service code*, where a *complaint* relates to any decision, act or omission by a *water business* other than the *water business* with which the *customer* has (or would have) a *trade waste agreement* (“**the customer’s water business**”), or by *Melbourne Water*, the *customer’s* water business must notify the *customer* of the other *water business’s*, or *Melbourne Water’s*, involvement.

PART C – CAPACITY PLANNING

8. CAPACITY PLANNING

A *water business* must plan for *trade waste* volume and pollutant capacity management in its business planning processes. This would include:

- (a) being aware of current hydraulic capacities of sewerage systems and receiving treatment plants;
- (b) identifying any pollutant loads or concentrations, and any other treatment parameters, that are limiting, or close to limiting, treatment capacity, and understanding the next steps required to accommodate changes in capacity;
- (c) identifying likely changes in demand for *sewage* treatment capability; and
- (d) collecting and maintaining data on *trade waste* volume and pollutant loads.

Where a *water business* relies on another *water business* or *Melbourne Water* for sewerage and *trade waste* services, the *water business* must consult with that other *water business* or *Melbourne Water* (as the case may be) when planning.

PART D – CUSTOMER CHARTERS

9. TRADE WASTE CUSTOMER CHARTER

9.1 Requirement for charter

- (a) In addition to its requirement to develop a *customer* charter under Part C of the *customer service code*, a *water business* must develop and issue a trade waste customer charter (or a trade waste section of its *customer* charter) to inform *customers* about the services performed by the *water business* and the respective rights and responsibilities of the *water business* and of *customers* in connection with *trade waste*.
- (b) Clauses 14.2, 14.3 and 14.4 of the *customer service code* apply to the trade waste customer charter.
- (c) A *water business* must amend its charter at the request of the *Commission* to:
 - (i) deal with matters raised by the *Commission* as a result of its assessment under clause 9.1(b); or
 - (ii) update the charter to reflect an amendment to this code.

9.2 Content of charter

A *water business* must set out in its charter:

- (a) information about or explaining each of the standards and conditions in Part B of this code; and
- (b) all material rights and responsibilities of the *water business* and its *customers* in relation to *trade waste*.

In particular, and without limiting this general obligation, the charter must include or provide reference to:

- (c) a simple description of *trade waste*, that is consistent with and with reference to the prescribed definition in the *water law* applicable to the *water business's* *trade waste* functions;
- (d) a statement that it is an offence under *water law* to discharge *trade waste* into the sewerage system of a *water business* other than in accordance with a *trade waste* agreement;
- (e) the process for applying for a *trade waste* agreement;
- (f) where this code requires a *water business* to have a policy or provide information, an indication of how the policy or information may be obtained;
- (g) an explanation of the *water business's* rights, obligations, policies, practices and procedures in respect of:
 - (i) applications to discharge *trade waste* in accordance with clause 1;
 - (ii) classification of *trade waste customers* in accordance with clause 2;
 - (iii) risk identification and mitigation in accordance with clause 3;

- (iv) *trade waste* agreements in accordance with clause 4;
 - (v) *acceptance criteria* in accordance with clause 6; and
 - (vi) how the *water business* will deal with *complaints* and disputes under clause 7;
- (h) the information required to be provided to the *water business* in order for it to determine:
- (i) whether a *trade waste* agreement should be entered into,
 - (ii) what type of *trade waste* agreement is appropriate, and
 - (iii) what conditions a *trade waste* agreement should be subject to;
- (i) the risk factors considered by the *water business* when assessing an application;
- (j) the fees associated with applying for a *trade waste* agreement, and the ongoing fees associated with each *trade waste* classification type, as well as any other potential costs, such as monitoring;
- (k) the current *trade waste* discharge fees, as approved by the *Commission*;
- (l) the current statement of *approved acceptance criteria* for the relevant sewerage catchment system;
- (m) the process for applying for *customer-specific acceptance criteria*;
- (n) the time within which a *water business* must respond to a *customer's* application;
- (o) typical pre-treatment requirements; and
- (p) typical obligations on a *trade waste customer* under a *trade waste* agreement (this requirement could be met by making available the standard *trade waste* agreement pro-formas on the *water business's* website and referring to those pro-formas (and where to find them) in the information provided).

10. PROVISION OF INFORMATION

10.1 Publication of charter

The provisions of clause 16.1 of the *customer service code* also apply to the *trade waste* charter of a *water business*.

10.2 Provision of charter

A *water business* must provide a copy of the *trade waste* charter:

- (a) to existing *trade waste customers* (other than *trade waste customers* with an agreement arising under clause 4.4(a)) within six months of the commencement of this code; and

- (b) to new *trade waste customers* (other than *trade waste customers* with an agreement arising under clause 4.4(a)) within one month of the *trade waste customer* entering into a *trade waste* agreement.

10.3 Notification of variation

If a *water business* materially changes its *trade waste* charter, it must inform each *trade waste customer* within the next billing cycle that the charter has changed and that details of the change are available on its website or upon request.

PART E – INTERPRETATION AND DEFINITIONS

Definitions

Italicised terms used in this code have the meanings set out below.

“**Acceptance criteria**” means criteria applied by a *water business* to determine whether *trade waste* should be accepted into a *water business's sewer*.

“**Approved acceptance criteria**” means *acceptance criteria* which have been approved by the *Commission* in accordance with clauses 6.1(c) or 6.4.

“**Business day**” means a day on which banks are open for general banking business in the city or town in which the *Commission* or the *water business's* head office (as the case may be) is located, not being a Saturday or a Sunday.

“**Commission**” means the Essential Services Commission.

“**Complaint**” has the meaning given to that term in the *customer service code*.

“**Customer**” has the meaning given to that term in the *customer service code*.

“**Customer service code**” means the Customer Service Code Metropolitan Retail and Regional Water Businesses made by the *Commission*.

“**Discharge acceptance point**” means the physical point at which the *trade waste* is deemed to enter a *water business's sewer*.

“**Melbourne Water**” means Melbourne Water Corporation (ABN 81 945 386 953) and its successor.

“**Metropolitan water business**” means City West Water Limited (ACN 066 902 467), South East Water Limited (ACN 066 902 547), Yarra Valley Water Limited (ACN 066 902 501) and their successors.

“**Price determination**” means a determination in respect of a *water business* made by the *Commission* under section 33 of the *Essential Services Commission Act 2001* and clause 8 of the Water Industry Regulatory Order 2003.

“**Regional water business**” means a Regional Urban Water Authority as defined in section 4A of the Water Industry Act 1994.

“**Sewer**” has the meaning given to that term in section 3 of the Water Act 1989.

“**Sewage**” has the meaning given to that term in section 3 of the Water Act 1989.

“**Statement of obligations**” means a statement of obligations made and issued by the Minister under section 4I or section 8 of the Water Industry Act 1994.

“**Trade waste**” has the meaning given to that term in the relevant *water law*.

“**Trade waste customer**” means a *customer* who discharges or intends to discharge *trade waste* into a *water business's sewer*.

“**Water business**” means a *metropolitan water business* or a *regional water business*.

“Water law” means the relevant requirements contained in or made under the Water Act 1989 and the Water Industry Act 1994.

Interpretation

- (a) If there is any inconsistency between this code and a *price determination*, the *price determination* shall prevail to the extent of the inconsistency.
- (b) If there is any inconsistency between this code and the *customer service code*, this code shall prevail to the extent of the inconsistency.
- (c) Any question as to whether a *water business* has complied with this code will be determined by the *Commission* on the basis of the *Commission's* interpretation of this code.
- (d) A reference to legislation includes subordinate legislation and other instruments under them, and amendments or replacements of any of them.
- (e) A reference to codes, determinations, guidelines or statements of obligations includes a reference to amendments or replacements of any of them.