



# Assessment of Legislative Frameworks Governing Waste Management in NAURU



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**Our vision:** A resilient Pacific environment sustaining our livelihoods and natural heritage in harmony with our cultures.

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# About this Report

## Sources of Information



Publicly available online resources about waste management laws in the participating countries (e.g. PacLII, EcoLEX, SPREP, InforMEA and FAOLEX, as well as the websites of government departments and other agencies administering waste and other environmental laws in the participating countries)



Qualitative information derived from interviews (remote and face-to-face) with in-country stakeholders



Additional information on legislation or pipeline initiatives identified by in-country contacts



An online survey sent to in-country participants requesting information on waste laws in their countries and their implementation, administration, and enforcement

In Nauru, interviews were conducted remotely with participants from government departments, agencies and contractors addressing issues of environmental protection, waste management, legal matters, as well as the private sector and NGOs.

Additional interviews were conducted with external consultants and SPREP staff working on specific programs relevant to the Waste Legislative Review.



Available online sources do not always contain the most up-to-date legislation or may be incomplete. Where possible, the UoM team drew on contacts with parliamentary libraries in the participating countries to source more recent legislation. However, it is not possible to say with certainty that all relevant legislation, or the most current versions, were identified in the desktop review.

For identifying proposed legislation, the UoM team relied on an online survey sent out to 110 in-country contacts in the participating countries (with a 21% response rate), as well as interviews with in-country contacts in the Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, the Republic of the Marshall Islands, Samoa, the Solomon Islands, Timor-Leste, the Kingdom of Tonga, Tuvalu, and Vanuatu.

# Introduction

This assessment has been prepared by the *Secretariat of the Pacific Regional Environment Programme's* (SPREP) EU-funded PacWastePlus programme (PacWaste Plus or 'Programme'), drawing upon reporting developed by the University of Melbourne (UoM) on behalf of PacWastePlus for that programme's *Waste Legislative Review* project. The UoM team reviewed legislation relevant to waste management in 14 Pacific region countries and Timor-Leste. Separate assessments are provided for each of the PacWastePlus participating countries.

This assessment was designed to achieve a number of outcomes:

- Gain a working understanding of the legislative framework governing waste management in PacWastePlus participating countries
- Determine which countries have legislation that actively manages issues caused by the generation of waste streams that are the focus of the PacWastePlus programme activities (asbestos, e-waste, healthcare waste, recyclables, organics, bulky waste, disaster waste and waste water) and plastic waste
- Understand strengths and weaknesses of the legislative frameworks to manage the waste issues and social and environmental problems caused by the generation of these wastes
- To provide some guidance on possible modifications to the legislative framework to improve waste management outcomes.

This assessment provides the broad findings of the research and investigation undertaken by the UoM team in relation to Nauru. It provides:

- A **stocktake of the existing legislative environment for waste management** in Nauru, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, recyclables, organics, disaster waste, bulky waste and wastewater, as well as plastic waste, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
- A **stocktake of pipeline legislative initiatives** in Nauru, including an assessment of their impact and approximate timeframe for development.
- An **assessment of the legislative framework** and its relevance to the PacWastePlus programme focus waste streams and plastic waste
- An **assessment of the capacity** of Nauru's government to enact the instruments included in the legislative framework
- **Options for strengthening the legislative framework** for the Government of Nauru to deliver its desired waste management outcomes.

# **SECTION 1: LEGISLATIVE STOCKTAKE**



This stocktake provides a detailed view of the legislative environment governing waste management currently in operation in Nauru

# Legislative Summary

## Legislation impacting waste governance

Nauru has very limited legislation relevant to waste management and governance, and no specific legislation on this topic.

An *Environment Management Bill 2006* and 2011 are discussed in the *National Solid Waste Management Strategy 2017-2026*, *Waste and Dumpsite Management Report 2018*, the *Solid Waste Management in the Pacific: Nauru Country Snapshot 2014* and the *Stockholm Convention Initial National Implementation Plan 2012*. To date, the Environment Management bills have not been passed into law. It appears that the *Litter Prohibition Act* is still, therefore, a major piece of legislation regulating solid waste management in Nauru.

A preliminary analysis of the main national waste situation was undertaken through the National Solid Waste Management Strategy 2017-2026, although recent data on waste flows is limited.

No inter-sectoral coordination mechanism exists. The position of 'Waste Management Officer' in the Department of Commerce, Industry and Environment, Environment Division was filled on 21 May 2018. This position has responsibility for planning and coordinating development of the National Waste Management Policy Framework in response to 'incomplete or inappropriate' waste management legislation.

The following tables provide a stocktake of the existing legislative environment for waste management and governance in Nauru. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments. It is noted that the Nauru official government legislation database, RonLaw, appears to contain current legislation but the link for this database is not functional.

The following tables provide a stocktake of the existing legislative environment for waste management and governance Nauru. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.

- **Table 1** details the legislation impacting waste governance in Nauru.
- **Table 2** lists the key policy instruments and reports.
- **Table 3** notes the departments with responsibilities for waste management.

**Table 1: Legislation impacting waste governance in Nauru**

LEGISLATION	REGULATIONS
<p><b>Litter Prohibition Act 1983 (as at 1983)</b>  <b>Litter Prohibition (Amendment) Act 2014</b>  <b>The Derelict Sites Management Act 2017</b></p>	<p>General prohibition on littering and offence provisions. Legislation contains no power to make regulations under it.</p> <p>‘An Act to make provision for the identification, control, removal, disposal and management of derelict properties, buildings and vehicles in the Republic and for related purposes’.</p> <p>s4: definition of ‘derelict sites’ includes: ... (c) the presence, deposit or collection of litter, rubbish, debris or waste’.</p> <p>s17 provides for the making of regulations by Cabinet to give effect to this Act but no regulations have been made (or none are online).</p>
<p><b>Naoero Roads Act 2017</b></p>	<p>Contains prohibition on discharge of wastewater or other liquids on public roads.</p>
<p><b>Sanitary Inspectors’ Ordinance 1921 (as at 1921)</b>  <b>Ordinance Revision Ordinance 1967</b></p>	<p>Section 5 requires a sanitary inspector to direct an owner or occupier to clean an unclean or unsanitary area and report it to the Administrator for further instructions if it is not cleaned.</p>
<p><b>Ports and Navigation Act 2019</b></p>	<p>Part 5: Environmental Protection and Part 4: Liability and Limitation of Liability - Division 6 – Hazardous and noxious substances – deals with obligations under international conventions.</p>
<p><b>Environmental Management &amp; Climate Change Act 2020</b></p>	<p>The Act makes provision for the management and protection of the environment, climate change, the promotion of sustainable development, to facilitate compliance with the Republic’s international and regional environment related obligations and for related purposes.</p>
<p><b>Environment Management Bill 2006 (not yet in force)</b></p>	<p>It proposed to set a framework vesting powers and responsibilities in the government and permitting regulations to be made to deal with a full range of environment related issues.</p>

**Table 2: Policies and reports impacting waste governance in Nauru**

POLICY	DESCRIPTION
<b>Economic Infrastructure Strategy and Investment Plan, 2011</b>	Includes analysis of infrastructure related to sanitation and waste management, and priorities for this sector. Also includes a solid waste management infrastructure stocktake.
<b>Framework for Climate Change Adaptation and Disaster Risk Reduction, 2015</b>	Waste management prioritised as a strategy under Objective A2.7 Land management and rehabilitation
<b>National Environmental Management Strategy 1996</b>	Although dated, this comprehensive report is referred to in many other reports. Chapter 4, s 4.3.5: Environmental issues and Challenges - Inadequate, or Non-enforcement of Environmental Legislation and s 4.7: Pollution and Waste Management Chapter 5: <i>National Environmental Action Plan</i> <ul style="list-style-type: none"> <li>• Objective 3: Strengthening Environmental Institutions and Legislation</li> <li>• Program 3.8 Enactment of New Environmental Legislation</li> </ul>
<b>National Integrated Environment Policy, 2018 (NB: Final draft)</b>	Waste management and pollution control identified as theme 4 of policy.
<b>National Solid Waste Management Strategy 2017-2026</b>	Analysis of current solid waste management situation in Nauru, with future recommendations and thematic priorities including legislation, education, capacity, and waste management.
<b>National Sustainable Development Strategy 2005-2025, 2005</b>	Priority regarding infrastructure sector is increased use of waste management.
<b>National Sustainable Development Strategy 2005-2025, 2009 (revised)</b>	Poor waste management identified as threat to target 10 (halving proportion of people without safe drinking water).
<b>National Water, Sanitation and Hygiene Implementation Plan, 2012 (NB: Draft)</b>	Includes discussion of wastewater and sewage. Waste identified as risk to water quality. Policy objective 3.1 includes activity to establish regulations for disposal of septic tank and cesspit wastes.
<b>Water and Sanitation Master Plan 2015–2035, 2015</b>	Technical report including analysis of existing water and sewerage system and planning of system with 20-year program.
<b>National Implementation Plan for Persistent Organic Pollutants (POPS) (2012)</b>	Submitted as part of Nauru’s obligations as a party to the Stockholm POPs Convention. Section 2.2.4 states that ‘There are currently no laws or regulations targeted directly at addressing POPs, and consequently the Department of Commerce, Industry and Environment as lead agency is unable to fully implement the Convention’s requirements.

REPORTS	DESCRIPTION
<p><b><u>Distribution and Status of Asbestos: Nauru Country Report 2015</u></b>  <b><u>Environmental Due Diligence Report for Nauru Regional Processing Centre 2012</u></b></p>	<p>Includes survey of asbestos-use in Nauru, risk assessment, remedial options, and significant discussion of disposal, including local burial.</p> <p>Provides an overview of environmental legislation in Nauru and international treaties, agreements and conventions that relate to environmental issues to which Nauru is a signatory. Relevant Nauru Acts are discussed at pp 22–7 but based on outdated National Environmental Management Strategy from 1996.</p>
<p><b><u>Fifth National Report to the Convention on Biological Diversity 2014</u></b>  <b><u>Infrastructure Review 2018</u></b></p>	<p>Ineffective pollution control and solid waste management identified as a key threat to Nauru biodiversity. Case Study 3 on the Clean and Green Programme discusses the waste situation in Nauru.</p> <p>Report assessing Australia’s infrastructure investments in Nauru. Waste management recommended as future investment area.</p> <p>Nauru has also developed and submitted its 6th National Report to the Secretariat of the CBD which a large part of the report is to provide an update on the progress of Nauru in implementing the Aichi Targets.</p>
<p><b><u>Review of Natural Resource and Environment Related Legislation: Nauru 2018</u></b>  <b><u>Second National Communication to the UNFCCC 2014</u></b></p>	<p>Overview of environment-related legislation in Nauru as of January 2018. Includes section on waste management and pollution.</p> <p>Includes discussion of waste in Nauru and associated emissions.</p>
<p><b><u>Solid Waste Management in the Pacific: Nauru Country Snapshot 2014</u></b>  <b><u>Waste and Dumpsite Management Report 2018</u></b></p>	<p>Asian Development Bank overview of solid waste management in Nauru as part of wider Pacific project.</p>
<p><b><u>Basel Convention National 2004 Report (submitted in 2006)</u></b></p>	<p>Includes discussion of legal and institutional context, issues with existing dumpsite, options for a new dumpsite and possible different approaches for waste disposal. This includes a resource recovery centre, waste billing and organic waste.</p> <p>Report submitted in fulfilment of Nauru’s obligations as a Basel Convention party.</p>

**Table 3: Government departments with waste responsibilities in Nauru**

GOVERNMENT DEPARTMENTS	RESPONSIBILITIES
<b>Department of Commerce, Industry and Environment</b>	Waste Management Officer in Department of Commerce, Industry and Environment, Environment division is responsible for planning and coordinating development of the National Waste Management Policy Framework. New department structure approved where within the department there is the Chemicals and Waste Manager, a Solid Waste Officer and a Chemicals Officer
<b>Department of Health</b>	Administers the <i>Litter Prohibition Act 1983</i> , amended by the <i>Litter Prohibition (Amendment) Act 2014</i> , and the <i>Sanitary Inspectors' Ordinance 1921</i> .
<b>Department of Finance and Economic Planning (DFEM)</b>	Responsible for the <i>Economic Infrastructure Strategy and Investment Plan 2011</i> which included a solid waste management infrastructure stocktake.

## Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in Nauru. Limited information on these activities was obtained from the desktop research.

A key long-term ‘pipeline’ activity for Nauru is the development of Environment Management legislation. Previous Bills developed in 2006 and 2011 appear not to have been enacted by the parliament.

The Nauru Bulletin of 31 Dec 2018, produced by the Government Information Office, notes the country’s intention to produce a strategy to reduce single-use plastics.

Nauru is working with the Chemicals and Waste Management Programme in UNEP as part of a three-year project to strengthen institutional capacity for chemicals and waste management in accordance with relevant MEAs to which Nauru is party. This will involve creation of a waste profile, review of the national legislative framework for chemicals and waste management, and development of an Integrated Chemicals and Waste Management policy.

**Table 4: Pipeline activities for Nauru**

PIPELINE ACTIVITY	DESCRIPTION	TIMEFRAME
<b>Development of Environment Management Regulations</b>	To support the enforcement of the <i>Environment Management and Climate Change Act 2020</i>	No details available.
<b>Single-use plastics strategy</b>	Planned development of a strategy to reduce single-use plastics	Mentioned in <u>Nauru Bulletin</u> of 31 Dec 2018.
<b>Work with UNEP Chemicals and Waste Programme to strengthen institutional capacity for chemicals and waste management</b>	Waste profile, legislative review, and policy development to strengthen capacity to implement Stockholm and Basel Convention commitments	<u>Three-year program</u> from 2019.

# Stocktake of Relevant Multilateral Environmental Agreements

The relevant Multilateral Environmental Agreements (MEAs) for the stocktake were the:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm POPs Convention);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- Minamata Convention on Mercury (Minamata Convention); and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

Table 5 provides details of the membership of Nauru to these MEAs.

**Table 5: MEAs active in Nauru**

MEA	IN EFFECT FOR COUNTRY	DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT	IMPLEMENTING LEGISLATION
Basel Convention	10 Feb 2002	Secretary for Commerce Industry and Environment Department of Commerce Industry and Environment Government Office Building Yaren District, Nauru Phone: +674 557 31 33 ext. 293 Email: secretarycienauru@gmail.com	No specific implementing legislation but see <a href="#">Basel Convention National 2004 Report</a> (submitted in 2006).
Minamata Convention	Not party		
Rotterdam Convention	Not party		
Stockholm Convention	17 May 2004	Secretary for Commerce Industry and Environment Department of Commerce Industry and Environment Government Office Building Yaren District, Nauru Phone: +674 557 31 33 ext. 293 Email: secretarycienauru@gmail.com	No specific implementing legislation but see <a href="#">National Implementation Plan for Persistent Organic Pollutants (POPS) (2012)</a>
Waigani Convention	Signed 16 Sep 1995; not ratified.		

## **SECTION 2: LEGISLATIVE ASSESSMENT**



This qualitative assessment of Nauru's legislative environment has classified Nauru's waste-related laws on a scale of low-to-high against the criteria of relevance, coherence, effectiveness, efficiency and impact.

# Legislative Framework Assessment

## Methodology

### Approach and Criteria

This legislative assessment was undertaken utilising a qualitative approach. Legislation in Nauru was evaluated against the following criteria that build on the OECD Development Assessment Committee (DAC) evaluation criteria 1990, as updated:



#### Relevance

defined as the extent to which legislation directly relates to, or provides coverage of, the priority waste streams of healthcare waste, asbestos, e-waste, plastic waste (including single-use plastics), recyclables, organic waste, bulky waste, disaster waste and wastewater.



#### Coherence

defined as the extent to which different elements of legislation and their administration fit together, or whether there are conflicts or lack of coordination between laws that undermine coherence.



#### Effectiveness

defined as the extent to which the legislation contains mechanisms necessary to achieve legislative objectives relating to the management of the priority waste streams.



#### Efficiency

defined as the extent to which the legislation makes provision for the allocation of responsibilities and resources (personnel, information, financial) to allow fulfilment of legislative requirements.



#### Impact

defined as the contribution the legislation makes to waste management and environmental protection from waste-related pollution.

Based on the evaluation of Nauru's legislation against the criteria, gaps in existing legislation relating to waste were identified. These gaps provide a basis for understanding what opportunities exist for Nauru to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

## Overview of the legal system

Nauru is an island republic in the Pacific Ocean, 42 kilometres south of the Equator. The population was estimated at 11,000 in 2019. Nauru has a total land area of 21 square kilometres.

In 1888, Germany annexed Nauru as a German colony. It was occupied by Australian forces in World War I and subsequently became a League of Nations mandate under the administration of Australia, New Zealand, and the United Kingdom (UK). Nauru later became a United Nations trust territory, administered by Australia on behalf of its fellow trust powers, New Zealand, and the UK.

Nauru gained self-government through the Australian *Nauru Independence Act 1967* (Cth) and, following a two-year constitutional convention to establish a constitution, achieved full independence on 31 January 1968.

The Constitution adopted on 29 January 1968 and amended on 17 May 1968 established Nauru as an independent republic with a Westminster-style parliamentary system of government. It is the world's smallest independent democratic republic.

The President is the Head of State and the Head of Government. Nauru's parliament is unicameral, comprising 19 members.

The Nauru court system is three-tiered with the District Court, Supreme Court, and new Court of Appeal.

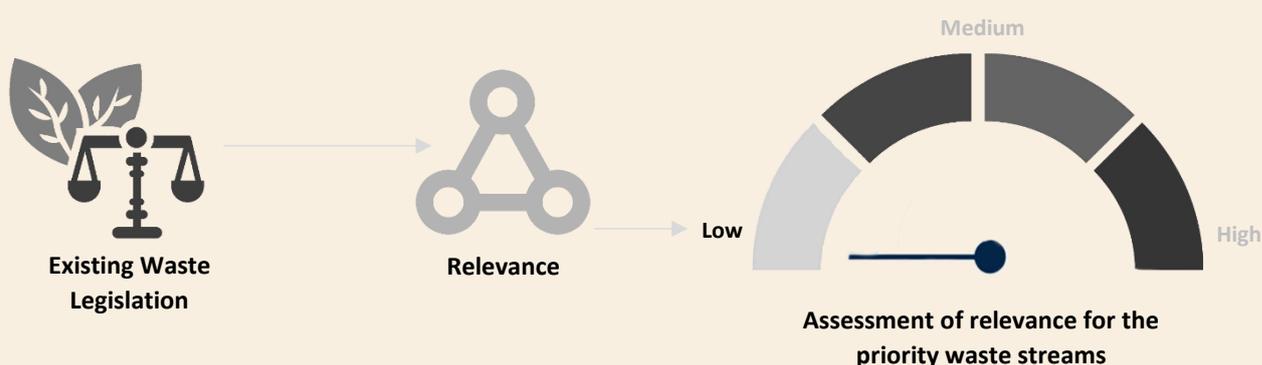
Nauru has a mixed legal system of English-style common law and customary law. The Constitution is the supreme source of law. Other sources of law are laws of the Nauru parliament (as well as unrepealed ordinances from the pre-independence period), adopted laws (from the UK and Australia) and customary law.

## Legislative Assessment

This section contains a qualitative legislative assessment for Nauru against the evaluation criteria: Relevance, Coherence, Effectiveness, Efficiency, Impact. While ratings against the criteria are classified on a scale of low to high, the ratings reflect an assessment of the performance of Nauru’s waste-related laws in their specific operating context.

A glossary of legal terms used in the report is provided in **Annex 1**.

### Relevance



Nauru has no legislation specific to waste management and governance, and very little in the way of legislation that applies to issues of waste in a more general sense. The *Litter Prohibition Act 1983* is the principal law regulating forms of solid waste in terms of littering offences. Some relatively recent laws governing certain places, namely derelict sites, roads and ports, and a law on disaster risk management, have incidental relevance to waste.

An important goal of Nauru’s National Solid Waste Management Strategy 2017-2026 was to have solid waste management laws in force by 2020. Nauru has completed stakeholder consultations on the Environmental Management Bill 2020, which includes a section on waste management, but it has not yet finalised the Bill for presentation to Parliament. This Bill is the responsibility of the Environment Division of the Department of Commerce, Industry and Environment, the government department responsible for developing waste management policy. Drafts of Bills on public health and quarantine are also being prepared under the authority of other departments.

Several of Nauru’s laws refer generally to waste, with reference, for example, to generic and undefined terms like ‘litter’, ‘rubbish’, ‘debris’, ‘waste’ or ‘refuse’. The generic terms could, in principle, cover several of the specific priority waste streams, but those laws focus on offences related to people in the community leaving litter in public places, on derelict properties or in insanitary conditions. These laws are typically old and do not regulate the management of waste streams.

Some of the more recent laws in Nauru relate to specific priority waste streams:

- Wastewater, for example, is specifically mentioned in the limited context of public roads, and some forms of disaster waste, including waste that could be recycled, are contemplated in the context of disaster management legislation.
- The regulation of ozone depleting substances would have incidental relevance to bulky waste, and quarantine legislation and laws on the management of animals is relevant to certain forms of organic waste that is a health risk.

There are few examples of specific waste matters being included in Nauru's legislative framework:

- Laws governing litter, rubbish and abandoned vehicles at derelict sites or on roads, and dangerous goods handled through ports, could have incidental relevance to some of the priority waste streams.
- No laws or other instruments regulating the management of healthcare waste were identified, although the Sanitary Inspectors' Ordinance 1921 regulates places (house, premises, or land) that are unclean or insanitary as opposed to insanitary waste produced in an otherwise sanitary place, such as a hospital.
- There are presently no laws or other instruments specifically regulating asbestos waste, although the Environmental Management Bill 2020 is proposing to introduce controls on 'hazardous waste'.
- Some of Nauru's laws have incidental relevance to asbestos waste.
  - To the extent that asbestos waste is present at a derelict site, it could be covered by the *Derelict Sites Management Act 2017*.
  - If present in an abandoned vehicle, asbestos waste could also fall under the prohibitions in the *Naoero Roads Act 2017*.
  - The *Ports and Navigation Act 2019* regulates the carriage of hazardous substances by sea in accordance with the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea.
- No laws or other instruments regulate e-waste. However, these items may be captured in the following circumstances:
  - the Customs Proclamation (Prohibition of Export of Scrap Metal) 2007, which prohibits the export of: copper waste and scrap, and copper bars, rods, ingots and profile; aluminium waste and scrap; steel waste and scrap; waste lead acid batteries whole or crushed; cadmium slurry in dry or wet form.
  - If e-waste were deemed to be 'litter, refuse or rubbish of any kind whatsoever', e-waste would be governed by the general prohibitions on littering under the *Litter Prohibition Act 1983*.
  - To the extent that e-waste waste is present at a derelict site, it could be covered by the *Derelict Sites Management Act 2017*, discussed above. If placed near a public road, e-waste could also fall under the prohibitions in the *Naoero Roads Act 2017*.
- Other than a limited reference to recyclables in the context of disaster management, no law or other instruments concerning recyclables was identified. As in the case of e-waste, the prohibition on certain exports under the *Customs Proclamation (Prohibition of Export of Scrap Metal) 2007* is relevant to recyclable metals.
- There are no laws or other instruments requiring segregation of organic waste from waste disposed at the rubbish dump. Several of Nauru's laws could have incidental relevance to organic waste, including:
  - If it were deemed to be 'litter, refuse or rubbish of any kind whatsoever', organic waste would be governed by prohibitions in the *Litter Prohibition Act 1983*.
  - Food that is unsafe and must be disposed of under the *Food Safety Act* could generate organic waste. Under the *Food Safety Act*, 'food' means 'any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drinks, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.'
  - The *Public Health Ordinance 1925* regulates certain foodstuffs and permits the destruction of trees and plants that retain water.
  - The *Quarantine Act 1908* permits the destruction of diseased animals and diseased plants.
  - The *Animal Quarantine Act 1999* regulates the treatment and disposal of garbage on ships and aircraft arriving in Nauru. It defines 'garbage' to mean 'animal and human waste, organic refuse, galley scraps or other similar refuse'.
  - The *Animals Act 1982* governs the disposal and destruction of animals, including diseased animals.
  - The *Fisheries Act 1997* provides for the disposal of seized fish and other things. The Chief Executive Officer of Nauru Fisheries and Marine Resources Authority may dispose of fish that are 'unfit for sale' (s 20).
- The *National Disaster Risk Management Act 2016* does not govern disaster waste in the sense defined for the priority waste streams. Under the Act, actors assisting in the case of a national disaster must ensure that any unusable goods or equipment that they import, and other 'waste products', are 'destroyed, recycled or otherwise disposed of in a safe, environmentally sensitive and effective manner and in compliance with the laws of Nauru' (s 49).

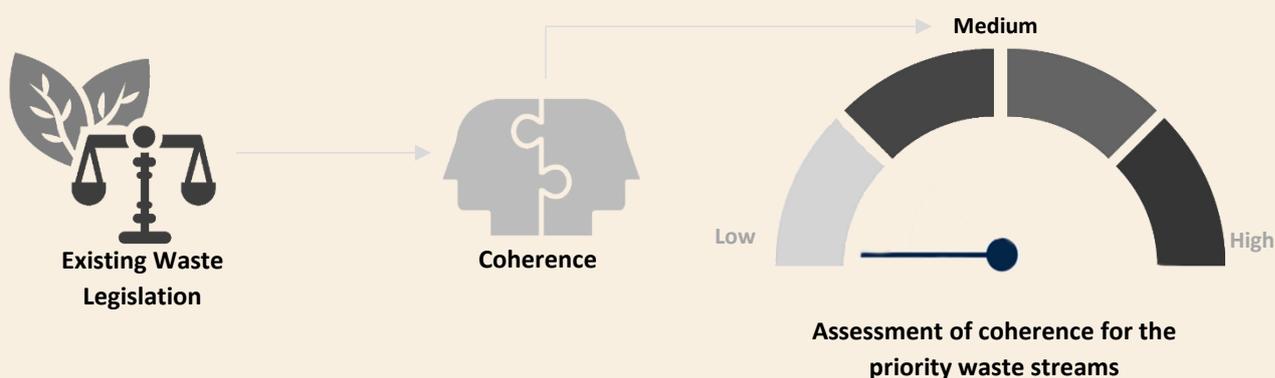
The term 'waste products' is not defined, but it is limited to waste produced by the assisting actors in the course of 'disaster relief or initial recovery assistance operations' (s 49). The Act does not appear to cover the waste produced because of the disaster itself, such as damaged vegetation and buildings.

The Act also provides for the disposition, re-export or donation of unused goods and equipment (ss 66-68). Disaster waste could otherwise be relevant to:

- the implementation of the *Derelict Sites Management Act 2017*. This legislation provides that the responsible Minister can declare buildings and vehicles on property to be a 'derelict site' because they are, for example, ruinous, derelict, dangerous, neglected, unsightly or objectionable or because of the presence of 'litter, rubbish, debris or waste' or 'an abandoned or inoperable vehicle' (s 4).
- There is no general legislation governing wastewater treatment or disposal in Nauru. The legislation dealing with sanitary matters is not like laws in some of the other Pacific jurisdictions, that address public health matters arising from wastewater:
  - The Sanitary Inspectors' Ordinance 1921 comprises 6 sections regulating properties that are 'unclean' or in an 'insanitary condition'.
  - The National Solid Waste Management Strategy 2017-2026 refers only to the impacts of solid waste as a pollutant of water, including groundwater; it does not address wastewater treatment or disposal.

There are no specific definitions of any waste materials in any of the existing Nauru legislative instruments.

## Coherence



Different laws have the potential to regulate the same kinds of waste, and create similar offences, which could lead to conflicts in administration. For example, 'litter' and 'rubbish' are used together but not defined in the *Litter Prohibition Act 1983* or the *Derelict Sites Management Act 2017*. Some positive changes are anticipated in the draft Environment Management Bill 2020, with the matter of waste recognised for its impact on the environment and specific provision made for hazardous waste. However, it appears that even under this and possibly under other new laws planned for 2020, waste will continue to be characterised in generic terms, in different laws, and under the responsibility of different government departments that do not coordinate their management of those wastes.

A range of government departments has responsibility for waste under different laws:

- The Environment Division of the Department of Commerce, Industry and Environment is currently responsible for waste management policy.
- The *Sanitary Inspectors' Ordinance 1921* and *Quarantine Act 1908* fall under the authority of the Department of Health and Medical Services.
- The Department of Infrastructure Development is responsible for the *Derelict Sites Management Act 2017* and *Naoero Roads Act 2017*
- the *Ports and Navigation Act 2019* is administered by the Minister responsible for the Nauru Maritime and Port Authority.

Different government departments also have responsibility for different state-owned or public enterprises involved in waste management and waste generation. Public enterprises are regulated by different ministers, regulated generally by the new *Public Enterprises Act 2019*, and specifically established by typically older legislation particular to each enterprise. The rubbish dumpsite in Nauru is managed by a state-owned enterprise, the Nauru Rehabilitation Corporation.

Operations that are sources of waste are also run by public enterprises. Electrical energy on the island has been diesel generated but is moving to solar energy under the management of a state-owned enterprise, the Nauru Utilities Corporation. One of the two supermarkets in Nauru is the state-owned Eigigu Supermarket Inc. A state-owned enterprise, the Nauru (RPC) Corporation, is involved in maintaining the Nauru Regional Processing Centre. RONPhos, also a public enterprise, operates the phosphate mining activities that are still ongoing in Nauru.

The Nauru Solid Waste Management Advisory Taskforce is a multi-stakeholder forum set up under the Solid Waste Management Strategy 2017-2026, which is coordinated by the Environment Division of the Department of Commerce, Industry and Environment. It was established to ensure coordination among different government departments and enterprises dealing with waste, however, quarterly meetings were suspended in mid-2019 pending the finalisation of the draft Environment Management Bill.

## Effectiveness



A goal of Nauru's *National Solid Waste Management Strategy 2017-2026* was to have solid waste management laws in force by 2020. The draft *Environment Management Bill 2020* is a response to that policy objective, but it has not yet been finalised and enacted. It is expected to address matters relevant to waste and hazardous waste. Pollution of water would be covered, but wastewater treatment or disposal is not within the scope of the draft Bill. It was not possible to ascertain whether wastewater will be covered by the planned Bill on public health.

The legislation relevant to waste typically focusses on the creation of offences by individuals and businesses, rather than stipulating procedures and standards for waste management by government entities or the operational managers of waste. An exception is the *National Disaster Risk Management Act 2016*, which requires actors assisting in the case of a national disaster to manage their waste 'in a safe, environmentally sensitive and effective manner and in compliance with the laws of Nauru' (s 49).

## Efficiency



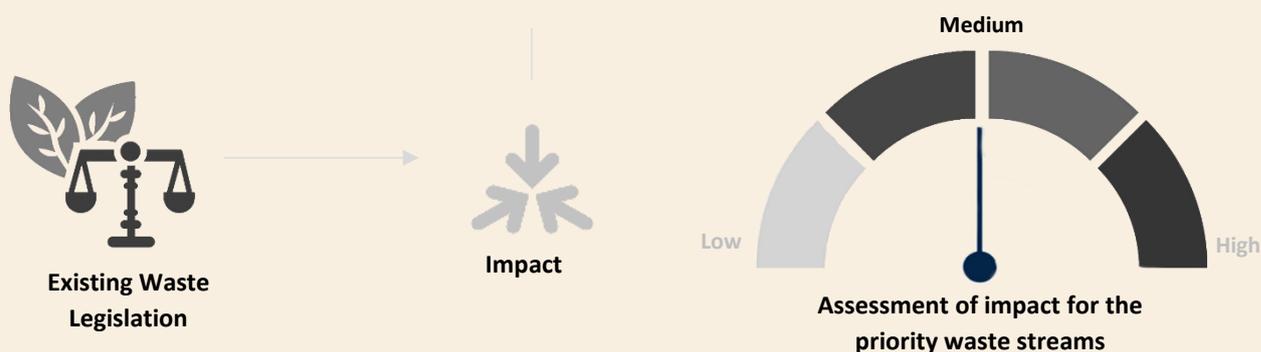
The Environment Division of the Department of Commerce, Industry and Environment has a small number of personnel with responsibilities for waste management. A Waste Management Officer oversees a Waste Officer and Chemicals Officer (this position was vacant as of March 2020). As the work of the Environment Division intersects to some degree with the work of the Department of Health and Medical Services and the Department of Infrastructure Development, people employed in those departments might in some circumstances be assigned to matters relevant to waste management.

Operational responsibilities for waste management fall largely to public enterprises, with some collection services provided by community-based operators. There is little to no private sector involvement in waste collection or management, such as recycling.

Revenue collected in the form of fees for disposal of waste at the Nauru rubbish dump is collected by the public enterprise that manages the site, the Nauru Rehabilitation Corporation. Businesses and waste collectors depositing waste at the rubbish dump are charged by weight, but individuals dispose of waste there at no charge. Waste pickers have access to the rubbish dump site to recover any items for reuse or spare parts.

Government funds are allocated to pay community members for waste collection services. Since 2015, some or all, household waste has been collected under a community 'bidding' scheme managed by the individual ministers responsible for Nauru's villages, that make up 14 political districts and the area called 'Location'. A budget for the bidding system was apparently approved and handled by the Department of Finance before being handed over to the Department of Chief Secretary. Eigigu Transport Services charges individuals and companies a fee for the collection of sewage from cesspits.

## Impact



The new *Environmental Management and Climate Change Act 2020* is now the predominant environmental / waste management legislation operating in Nauru. The Act:

- assigns specific powers to the Minister, Secretary, and Authorised Officers
- establishes reporting responsibilities
- identifies responsibilities under MEAs
- identifies monitoring responsibilities,
- describes controls on waste collection, littering, burning of waste, and management of hazardous waste
- clarifies offences related to waste management

Until such time as the draft Environment Bill 2020 is enacted, there remains little in the way of legislation governing waste and therefore very few laws to be assessed for their impact. To the extent that there are laws, they typically contain offences rather than regulating processes of waste management with, for example, a permit system for waste collectors, or standards for waste management at the rubbish dump site. Historically enforcement of environmental offences is low. No evidence was found that the offences in the *Litter Prohibition Act* have ever been prosecuted. There was no record of any cases concerning the legislation relevant to waste.

Much of the management of waste in Nauru is undertaken by public enterprises, in accordance with practices developed over time and in response to available resources and infrastructure. It appears that there is little in the way of law, standards, policies, or procedures to guide or direct these practices.

Community groups have complained that waste in Nauru has a disproportionate impact on communities and groups in communities. In 2010, for example, the Aiwo District Committee, raised concerns with the United Nations Human Rights Council about the adverse health effects of waste on people in the Aiwo District, the main area for phosphate mining operations. They called for environmental protection laws and it appears that draft bills concerning environmental management have been in development for many years, at least since 2006 when a draft of the Environmental Management Bill was reportedly first produced.

Initiatives aimed at raising awareness in the community around waste management, and keeping Nauru clean of litter, as well as the crusher and shredder being installed at the rubbish dump site, have been undertaken independently of any laws or regulations, with various forms of development assistance.

# SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of Nauru's capacity to engage in different aspects of waste governance is on a scale ranging from low to high. It considered drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under relevant Multilateral Environmental Agreements (MEAs).

# Methodology

## Approach and Elements

This legislative capacity assessment was undertaken utilising a qualitative approach, evaluating the capacity of Nauru's to engage in different aspects of waste governance on a scale ranging from low to high.

The evaluation was made based on the following aspects of Nauru's waste management legislation/governance:



### Drafting

Relating to processes for the drafting of new, modified or additional legislation, including the availability of legal expertise, personnel and supporting technical knowledge or information.



### Enactment

Relating to processes for enacting new, modified or additional legislation, including the existence of appropriate powers to legislate on the topic and relevant obligations of the country under international conventions and agreements, such as MEAs, as well as trade and investment agreements.



### Implementation

Capacity to carry out existing or proposed legislation, including the availability of appropriate personnel, information, powers, administrative delegations, and resources.



### Compliance and Enforcement

Capacity to ensure those bound by obligations under legislation comply with those obligations, as well as the capacity to prosecute or otherwise take action in response to breaches of legislative requirements, including the availability of enforcement personnel, powers, administrative delegations, tribunals for bringing enforcement actions and resources



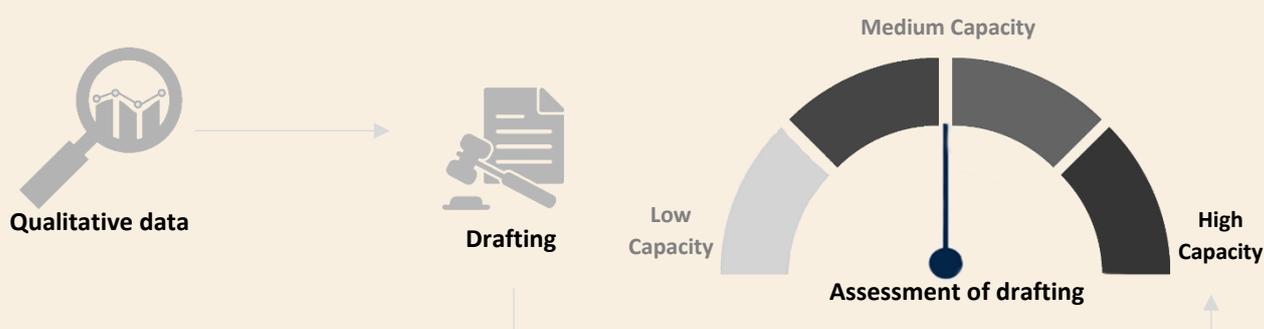
### Reporting under relevant MEAs

Capacity to comply with reporting and other notification requirements specified under relevant MEAs to which the participating country is party, including availability of data, personnel and resources to produce the required reports. The assessment of MEA reporting compliance adopted a coding approach that rated the countries' level of compliance based on several indicators.

## Capacity Assessment

This section contains a qualitative assessment of Nauru's capacity with respect to drafting, enactment, implementation, ensuring compliance with, and enforcing its existing and proposed legislation relevant to waste management, as well as its capacity to comply with reporting obligations under the MEAs to which it is party.

### Drafting



Nauru's 2015 Legislative Drafting Manual is a comprehensive guide for departmental staff on the process and protocols for drafting legislation in Nauru. It states that it must be regarded by departmental staff, consultants and legislative drafters in the Department of Justice and Border Control 'as mandatory legislative drafting requirements.

The Legislative Drafting Section of the Department of Justice and Border Control is responsible for drafting all of Nauru's laws. The Drafting Section is under the leadership of a Principal Government Lawyer, with assistance from a Legislative Drafter and a Pleader (a special category of legal practitioner in Nauru). The present Principal Government Lawyer has extensive experience with legislative drafting and has been an active contributor on legislative drafting matters for the Pacific region as the Secretariat Coordinator of the Pacific Islands Law Officers' Network.

The Legislative Drafting Section normally receives drafting instructions from the implementing Ministry, prepared based on approved policy, which is then used to draft a Bill for stakeholder consultation and approval by Cabinet. A template for the drafting instructions is contained in the Legislative Drafting Manual. Laws relevant to legislative drafting include the *Law Revision and Consolidation Act 2019*, the *Interpretation Act 2011*, *Administrative Arrangements Act 2011*, *Public Service Act 2016*, *Public Accounts Committee Act 1992* and the *Public Enterprises Act 2019*.

In some cases, the implementing Ministry might elect to engage a consultant to assist with preparing the policy instructions for legislative drafting. The engagement of consultants is subject to strict requirements and must be done in consultation with the Department of Justice and Border Control. The Legislative Drafting Manual states that a consultant engaged to prepare policy instructions must 'have a minimum of 8 years in experience of drafting legislation and proof of laws drafted must be provided'.

Under the Legislative Drafting Manual, Terms of Reference for engaging the consultant to prepare drafting instructions must include the following requirements:

- 'A drafter must respect the culture and traditions of the Nauruan people
- A drafter must understand the impact of the legislation to be drafted on the Nauruan economy, infrastructure and culture and provide a report on the same
- Once engaged, a drafter is required to provide a summary of laws that will be impacted by the required draft legislation.'

Stakeholder consultation is a requirement in the legislative drafting process. The Legislative Drafting Manual states that *'[b]road stakeholder consultation is an essential feature of nearly all successful law reform.'* The implementing Ministry is responsible for identifying appropriate stakeholders and the Department of Justice and Border Control must ensure that the consultations are 'representative'.

Important for drafting capacity is the availability of trained legal personnel. The Nauru Law Society was established in 2019 and members include legal practitioners with a degree in law and 'pleaders' who have completed a Pleadings Course (see *Legal Practitioners Act 2019*). The qualification of pleaders ensures that a greater number of people can acquire legal qualifications in Nauru than would otherwise be the case.

The *Litter Prohibition Act 1983* is the principal law in Nauru concerning waste. It is drafted in a style typical of that era of Nauru's legal history and is not indicative of Nauru's current legislative drafting capacity. Several laws enacted in recent years have incidental relevance to waste management.

These include:

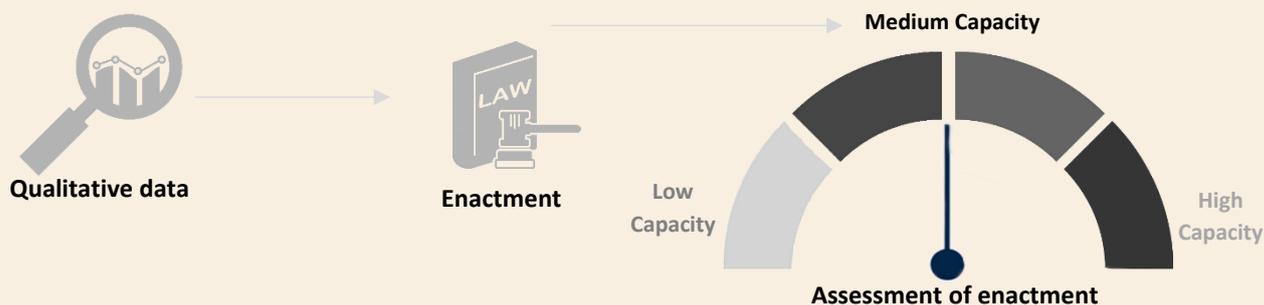
- the *Public Enterprises Act 2019*
- *Ports and Navigation Act 2019*
- *Derelict Sites Management Act 2017*
- *National Disaster Risk Management Act 2016*

These laws are complex and comprehensive, indicating a high capacity for legislative drafting in Nauru, despite there being only a small team in the Legislative Drafting Section of the Department of Justice and Border Control. The experience of drafting the *Environmental Management and Climate Change Act 2020* has had a long history, dating back to at least 2006, complicating the process and extent of the policy instructions.

The *Environmental Management and Climate Change Act 2020* Environment Management Bill 2020 is the responsibility of the Environment Division of the Department of Commerce, Industry and Environment. The law is an important vehicle for addressing the implementation of Nauru's international commitments on the environment, including those dealing with hazardous waste, and provide an important basis for assessing the impacts of proposed, substantial development projects and monitoring harmful impacts on Nauru's environment through annual reporting and a state of the environment report. The elements of the Act relating to waste management and pollution control actively contribute to the coherence of laws on waste, incorporating provisions from the *Litter Prohibition Act 1983*, which it repeals.

*Environmental Management and Climate Change Act 2020* is limited in its scope, emphasising offences of littering and pollution from vehicles and of water, as well as discharges of hazardous wastes and substances, without regulating processes of waste management or creating supporting institutional infrastructure. The extent of the regulatory authority of the Environment Division is not well defined and much of the detailed regulation of waste management will need to be addressed in secondary regulations or other legal instruments under this or other legislation.

## Enactment



The 1968 Constitution of Nauru is the supreme source of law and gives the Parliament of Nauru the power to make legislation (art. 27). Nauru's Parliament is unicameral, comprising 19 members for 8 constituencies that incorporate 14 political districts for each of the villages around the island (with a 15th district called 'Location' now or planned to be created). Proposed legislation must be tabled in the form of a Bill for two, possibly three, readings and possible scrutiny by a Parliamentary Committee. Article 47 of the Constitution provides that '[a] proposed law becomes law on the date when the Speaker certifies that it has been passed by Parliament'.

Other sources of law include 'subsidiary legislation,' such as regulations. Subsidiary legislation is made under powers contained, for example, under primary legislation. The department responsible for administering the primary legislation drafts the regulation or asks the Department of Justice and Border Control to draft it, after which it is submitted to Cabinet for signing. It is then to be gazetted and tabled in Parliament.

There is no provision in the *Litter Prohibition Act 1983* for a responsible Minister to make subsidiary legislation. However, several of the relatively recent laws in force in Nauru, could be used as a platform for enacting new laws relevant to waste. Each of these laws contain powers to make regulations, and other forms of subsidiary legislation, by the Cabinet, and some give powers to make other instruments that would be relevant to waste management.

Regulations can be made under:

- *Public Enterprises Act 2019* (by the Minister responsible for a particular public enterprise, s 85)
- *Ports and Navigation Act 2019* (by Cabinet, s 217)
- *Derelict Sites Management Act 2017* (by Cabinet, s 17)
- *National Disaster Risk Management Act 2016* (by Cabinet, s 86)
- *Customs Act 2014* (by Cabinet, s 310).

There are, in some cases, powers to make specific regulations, or other subsidiary legislation under these laws. For example, the *Customs Act 2014* allows for the Cabinet to make certain regulations on imported and exported goods (ss 63, 75) and for fees and charges on imported goods (s 65).

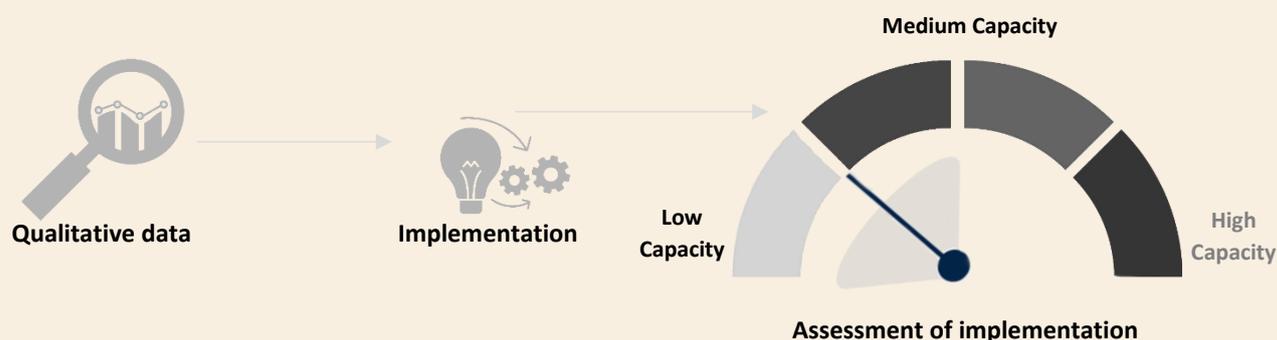
Regulations could, for example, be made for the following purposes under the following laws:

- Waste management practices by the Nauru Rehabilitation Corporation (rubbish dump site) including segregation and other management of the priority waste streams applied to waste collectors or by Eigu Transport Services (sewage collection and treatment), consistent with the principle of prudent and efficient management under the *Public Enterprises Act 2019*. Regulations can be made by the Minister responsible for a particular public enterprise (s 85), for example, under the *Nauru Rehabilitation Corporation Act 1997*.
- Handling and management of asbestos under:
  - the *Derelict Sites Management Act 2017* with respect to asbestos in or at derelict sites (regulations can be made by Cabinet, s 17)
  - *Ports and Navigation Act 2019* with respect to dangerous goods (regulations can be made by Cabinet, s 217)
  - *Customs Act 2014* for exported goods (regulations can be made by Cabinet, s 310)
- Designation and management of disaster waste under the *National Disaster Risk Management Act 2016* (regulations can be made by Cabinet, s 86). For example:
  - the regulations made to manage COVID-19 state: *‘[d]espite any other written law, any human dejecta, solid or liquid waste or any matter which the Secretary deems to be contaminated, shall be subject to such measures or disposal as directed by the Secretary’* (s 21).
  - Policy for disaster waste could be formulated by the National Disaster Risk Management Council established under the Act. It has a general power to *‘formulate policy for disaster risk reduction and disaster management’* (s 16).
  - Disaster waste could also be addressed in the National Disaster Risk Management Plan for Nauru to be prepared under the Act by the Department of National Emergency Services, in consultation with the Council (s 23).
- Deposit fee on recyclable drink containers and other products generating recyclable waste, payable on imports, under the *Customs Act 2014* (regulations by Cabinet, s 310; also regulations by Cabinet on imported and exported goods (ss 63, 75) and for fees and charges on imported goods (s 65), with possible implications for the *Business Licences Act 2017* (regulations can be made by Cabinet, s 30, and also capacity to attach licence conditions, s 11).
- Transfer of equipment for waste treatment under laws relevant to the Memorandum of Understanding between the Republic and the Commonwealth of Australia, for the establishment of a regional processing centre in Nauru, including under the *Nauru (RPC) Corporation Act 2017* (regulations can be made by Cabinet, s 34).

The *Environmental Management and Climate Change Act 2020* provides Cabinet the power to make regulations under the Act (as per clause 56). Regulations could be made in respect of:

- ‘the pollution of the air, water or land and the depositing or dumping of litter, rubbish or any substance of a dangerous, noxious or offensive nature’, waste management (including categories of waste)
- management of landfills and ‘dumping of non-recyclable products’.
- ‘prescribe forms and fees for applications, licence or permits under this Act or any other written law relating to the management of the environment or for the provision of advisory, inspection or other services by the Department’ responsible for the environment and climate change.

## Implementation



Nauru's existing laws governing waste are, for the most part, in the form of prohibitions on forms of littering as opposed, for example, to permitting systems or recycling programs, that rely on significant implementation mechanisms. Prohibitions are legislative requirements that should be enforced, with appropriate structures and personnel to support enforcement, but mechanisms for implementation would be limited to the capacity to collect fines.

The waste management staff of the Environment Division of the Department of Commerce, Industry and Environment do significant work to raise awareness about the impacts of waste, in schools and the general community, and they work with staff involved in the handling of wastes to access appropriate training. However, the laws do not support that work through, for example, a requirement to establish education and training programs, which would then attract the allocation of government resources. There are no provisions that are equivalent to those in the *Ports and Navigation Act 2019*, requiring handlers of dangerous goods to have necessary training and to comply with certain standards.

Overlapping, uncoordinated and limited responsibilities across different government departments, under multiple laws, impede efficient implementation of waste-related laws in Nauru. The number of staff and financial resources across the different departments is limited. There are at present only three people in the Environment Division responsible for waste (a Chemicals and Waste Manager, a Solid Waste Officer and a Chemicals Officer).

The Department of Commerce, Industry and Environment has primary responsibility for waste management, but many other departments, such as the Department of Health and Medical Services, Department of Finance, Department of Multi-Cultural Affairs, Department of Infrastructure Development and Department of Justice and Border Control, and the various Ministers responsible for individual public enterprises, all have roles relevant to waste.

The inter-governmental and multi-stakeholder forum, the Nauru Solid Waste Management Advisory Taskforce, set up under the *Solid Waste Management Strategy 2017-2026*, could assist implementation with information sharing and allocation of responsibilities, but the quarterly meetings were suspended in mid-2019 pending the finalisation of the draft *Environment Management Bill*.

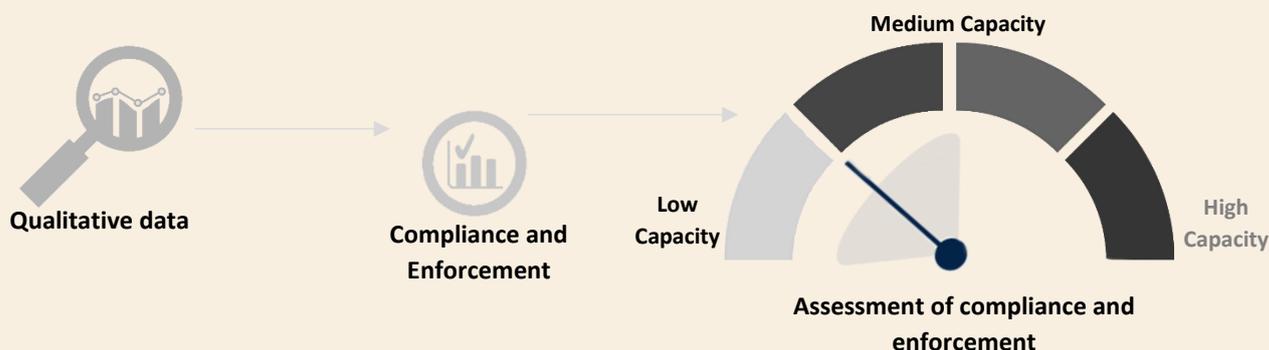
Given the significant involvement of public enterprises in the management and generation of waste in Nauru, provision in the *Public Enterprises Act 2019* could be useful to implementation. Requiring public enterprises to adhere to principles, such as the principle of prudent and efficient management, and stipulating rules for director conduct and management, are mechanisms in that legislation that are very important to the implementation of good practices by the public enterprises involved in waste management.

The *Environmental Management and Climate Change Act 2020* contains a number of implementation mechanisms. Significantly, it contains annual reporting requirements of the responsible Department and provision for a State of the Environment Report, which would assist to identify and monitor issues of waste management.

The Secretary of the Department responsible for the environment and climate change (currently the Secretary of the Department of Commerce, Industry and Environment) is to have several powers (as per clause 7) regarding:

- 'waste management'
- 'the movement or disposal of hazardous wastes and substances'
- 'ozone depleting substances'
- 'environmentally sound technologies'
- 'water management'
- 'natural disasters'
- 'sanitation'

## Compliance and enforcement capacity



Compliance is facilitated by public access to laws. Nauru’s Online Legal Database, RONLAW, contains current legislation, including regulations and a searchable index of court judgments. It is well-maintained, although there have been technical issues that closed the site for a period in 2020.

As noted earlier, much of the regulation of waste under Nauru’s laws comes in the form of prohibitions on forms of littering, attracting fines for breach. The older laws, such as the *Litter Prohibition Act 1983*, and the old ordinances, are not supported by more modern mechanisms aimed at facilitating enforcement, such as a process for notices of a breach and an opportunity to address non-compliance before a penalty is imposed. Specified penalties do not appear to be appropriate in all instances.

Relevant offences and fines under the *Litter Prohibition Act* include the following:

- Prohibition on littering unless litter placed in a rubbish bin, with a fine up to \$300.
- Requirement for business owners to ensure their business: (1) is free of litter and (2) disposes of all rubbish at a dump, or (3) be made liable to a fine of up to \$1,000.
- Drivers of cars from which littering has occurred are liable to fine up to \$300.
- Observers of littering must report it to police or face a fine of up to \$300.
- Relieves children of liability but makes their parents liable to a fine up to \$300.
- Allowance for the Minister to authorise depositing of anything in any place provided it is reasonable.
- Gives district constables powers of enforcement by reference to the *Criminal Procedure Act 1972*, including the power to arrest someone who does not provide their name and address.

The *Environmental Management and Climate Change Act 2020* was expected to repeal the *Litter Prohibition Act 1983*, although this did not happen, it does incorporate some of the offences set out in that law.

The *Nauru Police Force Act 1972* provides for the disposal of property coming into the possession of police (s 28), which could include various forms of waste taken in the course of enforcing, for example, the *Litter Prohibition Act 1983*.

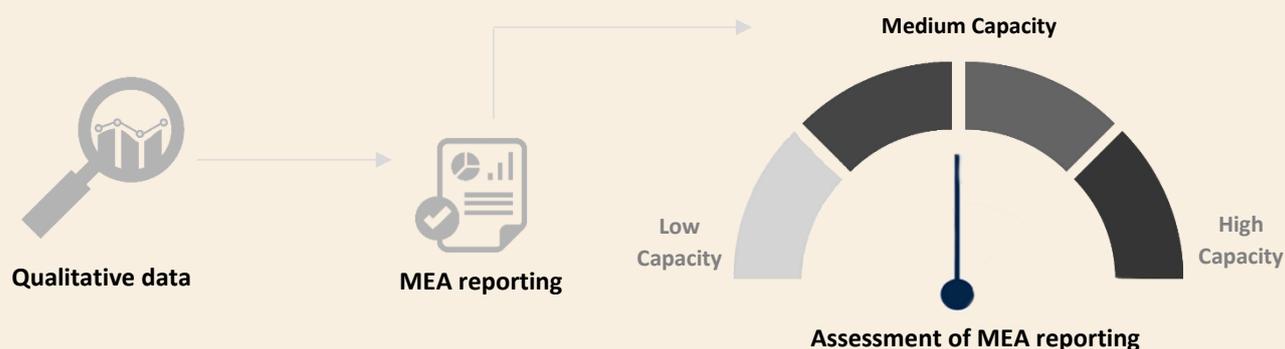
The *Sanitary Inspectors’ Ordinance 1921* regulates any ‘house, premises, or land in an unclean or insanitary condition’. A Sanitary Inspector can direct that such property be cleaned (s 4). Medical officers, and sanitary inspectors may enter and inspect any house, premises, or land. The penalty for obstructing a medical officer or sanitary inspector is \$10. This law appears to have some cross-over with the *Derelict Sites Management Act 2017*.

Newer laws contain some mechanisms to support enforcement and penalties appear reasonable.

Under the *Derelict Sites Management Act 2017*, an authorised officer can serve a written notice on the responsible person for a derelict site requiring that measures be taken to 'remedy or improve' the derelict site (s 12(2)(a)). Failure to comply with such a notice is an offence, subject to either a fine of up to AUD\$10,000 or imprisonment up to 12 months (s 14). Exemptions apply (s 16). A person obstructing an authorised officer is liable upon conviction to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months.

The *Naoero Roads Act 2017* prohibits nuisances in the form of the 'discharge of wastewater or other liquids', the placing or throwing of rubbish and the abandonment of any vehicle on a public road (s 16). A person convicted of committing these nuisances is liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding 12 months or to both. A proprietor or occupier of any land adjoining a public road must 'keep the frontage clean' (s 19). The responsible Minister may authorise a person to be an authorised officer (s 27) to perform any act required under the Act (s 8). Police officers are authorised officers and may enforce the Act (s 30).

## MEA reporting



Nauru is party to the Basel and Stockholm Conventions. The notification, information sharing and reporting requirements established by these MEAs for parties are set out in **Annex 2**. Nauru's level of compliance with notification, information sharing and reporting requirements under the MEAs to which it is party has varied between the different Conventions. Compliance with reporting and other similar requirements under the Stockholm Convention focused on chemicals management has been higher than for the Basel Convention dealing with hazardous waste management.

### Stockholm Convention

Nauru finalised a revised National Implementation Plan (NIP) under the Stockholm Convention in 2018, which includes strategies to improve data collection to support fulfilment of reporting obligations under the Convention. This NIP has been validated by UNEP but has not yet been officially endorsed by the national government and submitted to the Stockholm Convention Secretariat. Nauru's initial NIP for the Stockholm Convention, submitted in 2012, stated in section 2.2.4 that '[t]here are currently no laws or regulations targeted directly at addressing POPs, and consequently the Department of Commerce, Industry and Environment as lead agency is unable to fully implement the Convention's requirements'. The NIP identified relevant legislation that could be used as the basis for regulating POPs, including the *Customs Act* and a then draft *Environment Management Bill 2006*.

The latter has been superseded by Nauru's new *Environmental Management and Climate Change Act 2020*, which contains provisions for implementing the country's obligations under relevant MEAs, including the Stockholm Convention (listed as one of the international conventions to which Part 4 on International and Regional Environmental Obligations apply).

### Basil Convention

Under the Basel Convention, the Secretariat referred Nauru in 2019 to the MEA's Implementation Committee based on the country's lack of national reporting under that Convention over the past decade.

The *Environmental Management and Climate Change Act 2020* provides powers to the Secretary of the Department responsible for the environment and climate change (currently the Secretary of the Department of Commerce, Industry and Environment) to (per clause 13(1)):

- Manage or participate in any project or part of a project, aimed at implementing any aspect of a Convention or Protocol;
- Advise on international and regional environmental Conventions and Protocols, including implementation strategies;
- Recommend the enactment or amendment to any legislation to give effect to a Convention or Protocol;

- Work in conjunction with relevant Government Departments and statutory authorities to implement any obligation under a Convention or Protocol;
- Prepare and submit any report on a regular basis to the Minister and the Cabinet on the implementation of a Convention or Protocol;
- Prepare and coordinate the preparation of any report required under a Convention or Protocol to ensure that the Republic meets its reporting obligations;
- Liaise with regional and international organisations; and
- Provide secretariat, administrative and technical support to any committee having the designated status of a competent national authority for a Convention or Protocol.

These provisions provide a basis for further action by the Department to recommend legislation to give effect to international convention obligations and to coordinate and prepare necessary reports. However, without supporting infrastructure such as information gathering, licensing and waste audit requirements it may still be difficult for the Department to carry out these functions effectively for relevant MEAs.

Some information relevant to preparing reports may potentially be obtained through the annual reporting and State of Environment reporting provisions of the Act. In addition to the Stockholm Convention, the Basel and Waigani Conventions are included in the schedule to which Part 4 of the Act applies. It is unclear why the Waigani Convention has been included in the Act as, although Nauru is a signatory, it has not completed the ratification process necessary to become a party to the treaty. In respect of its obligations under the Basel Convention, it was noted in a 2012 Environmental Due Diligence Report for Nauru Regional Processing Centre that Nauru *'does not report directly to the Basel Convention's Secretariat in respect of wastes that are controlled under the Basel Convention [as] [t]his reporting is achieved through the activities of the Secretariat of the Waigani Convention'*. Nauru is not presently a party to the Waigani Convention as it has signed but not ratified this MEA, so it is unclear how activities of the Waigani Convention Secretariat have contributed to Nauru's reporting under the Basel Convention.

It is likely that Nauru's present lack of reporting under the Basel Convention is linked to a lack of personnel and technical and other capacity to support this activity, given the country's limited capacity for implementation of its waste-related laws, identified above. Nauru's participation in a three-year project with the UNEP Chemicals and Waste Management Project offers the opportunity to strengthen the country's institutional capacity to implement sound chemicals and waste management in accordance with the Basel and Stockholm Conventions. The UNEP project includes efforts to develop a centralised database for chemicals and waste to enable updated data on chemicals and hazardous substances to be collected, centrally stored, and reported to all government agencies. It is expected that this will greatly improve Nauru's capacity to prepare and submit reports under both the Basel and Stockholm Conventions.

**Table 6: Compliance with MEA reporting requirements**

<b>Relevant MEAs party to</b>	<b>Comments</b>
<i>Basel</i>	Competent authority/focal point designated. National report provided for 2004 after becoming party in 2002 but no further reports since. March 2019: Secretariat referred Nauru to Implementation Committee of Convention on basis of lack of reporting.
<i>Stockholm</i>	Official contact point/National focal point designated. Initial National Implementation Plan (NIP) submitted in 2012. Revised NIP finalised in 2018 but not yet submitted to Stockholm Convention Secretariat. No reports submitted in first four reporting cycles.

# **SECTION 4: LEGISLATIVE OPPORTUNITIES**



The opportunities identified in this section have been drawn from the findings of the legislative assessment and capacity assessment to provide guidance to Nauru on possible actions they may wish to take to strengthen the legislative frameworks governing waste management

## Legislative models for waste governance

Waste management has become a pressing concern for the PacWastePlus participating countries. These nations are impacted by growing levels of hazardous and non-hazardous wastes, which cause environmental pollution, and may threaten human health. The mounting levels of waste place socio-economic burdens on these nations and may pose risks to important cultural values and customary land ownership that distinguish these countries and the region. Internationally, Goal 12 of the 2015 United Nations Sustainable Development Goals calls for ensuring sustainable consumption and production patterns.

### Trends in waste governance across the participating countries

Waste is a particular problem for many Pacific region countries due to increasing imports of waste-producing items (such as electronic and consumer goods), limited in-country facilities for collection, treatment and storage of many wastes, and a reduced availability of suitable land for conventional waste disposal methods, such as landfills.

In several cases, participating countries have adopted innovative legislation and instruments to better manage and minimise waste, such as: dedicated legislation for waste management, measures to incentivise recovery and recycling, prohibitions on specific waste-generating items entering the country, and measures to promote waste minimisation and cost recovery. Several Pacific countries are also exploring new institutional arrangements, such as identifying lead agency responsibilities for coordination of waste management laws, arrangements for more effectively managing responsibilities across different levels of government, and/or approaches to increase private sector involvement in waste management through licencing regimes and partnerships for extended producer responsibility.

Many countries in the Pacific adopted applicable laws and institutional structures for managing wastes some time ago that may no longer serve current needs. Significant challenges remain in some nations in establishing a firm economic basis to underpin waste management within the relevant legal frameworks, and in dealing with longstanding waste management issues, such as the sorting of wastes and their diversion, where possible, from landfill.

Increasing attention is being directed to questions of how to promote effective implementation of existing laws and to the development of new legislation and regulation for waste management if this is required. This raises critical issues for resourcing of various components of the waste management cycle within each nation, as well as the possibilities for regionally harmonised approaches. A range of ancillary legislation beyond specific waste management laws may be important for facilitating implementation, and there is a need in some participating countries to develop more coherent cross-agency referral models.

Compliance with, and enforcement of, waste management laws is also vital to their effectiveness and impact. At the same time, these measures must be sensitive to the community context, realistic in terms of the available staffing and technical expertise in government departments and municipal organisations, and cognisant of the competing compliance priorities in the legal system. There is scope within the legislation of several participating countries to widen the range of compliance and enforcement measures beyond monetary penalties and criminal prosecutions.

In addition, there are opportunities to broaden the engagement with communities and the non-governmental sector, and to provide a legislative basis or more formal designation for measures such as community education, consultation and partnerships in managing wastes, particularly those of a non-hazardous nature. The participation of the private sector, whether as waste collector contractors, operators of recycling companies, sewage transporters or tourism agents, is likewise important for effective waste management laws. Regulation needs to be carefully targeted but also to ensure transparency and accountability.

## Key recommendations to increase national legislative and institutional capacity

Overall, the existing legislation of Nauru for waste governance was assessed as performing at a low level. The capacity of Nauru was assessed overall as low-to-medium with respect to the administration of its waste legislative framework, with the greatest needs arising in respect of support for drafting, enactment, implementation, compliance, and enforcement of laws.

The *Environmental Management and Climate Change Act 2020* covers littering and hazardous wastes governed by international conventions. The provisions on waste management are modest relative to the laws of some of the other countries participating in the PacWastePlus project. To make the new law effective in Nauru, more is needed in terms of detailed provisions and standards for waste management under secondary laws. Other laws, such as the *Public Enterprises Act 2019*, *Ports and Navigation Act 2019*, *Derelict Sites Management Act 2017*, and the *National Disaster Risk Management Act 2016*, could be a platform for detailed secondary laws on waste management.

### Opportunities for improving legislative instruments to support improved waste management

- A permitting system for waste collection services, and standards applied to the process of waste collection. These standards could govern collection of waste from or by businesses, as well as community waste collectors engaged to collect waste under the waste collection bidding system.
- Several reforms to landfill infrastructure and practices proposed as options in the Waste and Dumpsite Management Report 2018 would demand standards for waste management, including occupational health and safety and measures aimed at environmental protection.
- Requirements and standards for wastewater collection, treatment, and disposal with provision for ongoing training on use of equipment and required standards.
- Requirements for training in safe handling and disposal of certain wastes, particularly hazardous wastes, like those applicable to dangerous goods under the *Ports and Navigation Act 2019*.
- Regulations and standards for handling, storage, and disposal of asbestos waste.
- Requirements for waste management by public enterprises could be developed under the broader principles of prudent and efficient management under the *Public Enterprises Act 2019*.
- Requirements governing any transfer of waste treatment infrastructure to the Nauru Government from international or foreign agencies should be addressed in laws or other legal instruments, such as regulations.
- Requirements for waste management and donations, like those imposed on actors helping in the case of natural disasters under the *National Disaster Risk Management Act 2016*, could be considered.
- Waste generated by the retail sector, both from the process of selling goods (such as plastic or recyclable packaging, expired food products that produce food waste), and from the products sold at the end of their operational life (such as e-waste and bulky waste), could be subject to specific regulation. Nauru plans to introduce container deposit scheme. Consideration could be given to including a range of products that is broader than drink containers within the scope of that law.
- Disaster waste could be addressed in regulations made under the *National Disaster Risk Management Act 2016*. Any such regulations would need to provide details as to the nature of disaster and likely waste, as well as assigning responsibility to specific entities to coordinate clean up and disposal of disaster waste.

## Recommendations to address legislative capacity needs

Key capacity needs arising for Nauru relating to legislative drafting, enactment of laws, implementation, compliance, and enforcement activities to enhance its management of waste and related environmental protection are listed below.

- **Training and augmentation of staff working legislative issues**
  - Engagement of consultants, where necessary, to augment drafting capacity for laws, including waste regulations and standards, subject to compliance with requirements of consultants set out in Nauru's Legislative Drafting Manual.
  - Consideration of regional drafting models and experience of other Pacific countries to ensure best practice approaches are included in secondary legislation under the *Environmental Management and Climate Change Act 2020*, or under other legislation e.g., *Public Enterprises Act 2019*, *Ports and Navigation Act 2019*, *Derelict Sites Management Act 2017*, *National Disaster Risk Management Act 2016*, and *Customs Act 2014*.
  - Technical and legal drafting support for the development of regulations dedicated to waste management, including solid and liquid wastes that are hazardous and non-hazardous. This should address the suite of regulatory approaches contemplated under dedicated waste management legislation in other Pacific region countries but be tailored to the specific circumstances of waste management practices in Nauru, where operational functions are primarily conducted by public enterprises and the community. Emphasis should be placed on developing incentives for compliance by public enterprises and for building behavioural change toward waste management.
  - Technical and legal drafting support for regulations dedicated to waste management under specific laws such as the *Public Enterprises Act*, *National Disaster Risk Management Act*, *Derelict Sites Management Act*, and laws relevant to public health.
- **Revenue schemes and funding sources**
  - Revenue generating schemes, such as a public fund for waste management, developed through a 'waste' fee charged to non-residents arriving in Nauru, or on any arrangements with international or foreign providers of services and products in Nauru.
  - Support for the design and introduction of an Advance Recovery Fee & Deposit system to implement a version of extended producer responsibility which provides funding to receiver and recycle problem wastes.
  - Support for public and government education and training programs relating to waste management.
  - Support to identify and negotiate arrangements for exports of waste for recycling or recovery e.g., used motor oil.
- **Transparency & Community Consultation**
  - Reinvigoration of the Nauru Solid Waste Management Advisory Taskforce to assist with information sharing and allocation of responsibilities across government agencies, with guidance on how to set expectations of members and structure the agenda of the Taskforce to achieve effective outcomes.
  - Technical and resourcing support for reporting requirements under international conventions, either independent of or under the new Environment Management Bill 2020, once enacted.
  - Support to maintain and develop RON-law (Nauru's online legal database) to facilitate access to laws and funding to acquire access for legislative drafters in the Department of Justice to subscription legal databases.
- **Enforcement**
  - Review of penalties specified for offences under waste-related legislation e.g., littering offences.

# Annex 1: Glossary of legal terms

**Table 7: Glossary of legal terms**

<b>Term</b>	<b>Definition</b>
<i>Accession</i>	Accession is the act by which a country accepts the offer or the opportunity to become a party to a convention already signed by other states. It has the same legal effect as ratification.
<i>Acts</i>	Also called statutes or laws. An Act is a document stating the law that has been passed by the legislature (the law-making body of government).
<i>Acts as made</i>	Also called Acts as passed, Acts as enacted, and Sessional Acts. An 'Act as made' is an Act with its contents exactly as they were when passed by the legislature.
<i>Amending Acts</i>	Amending Acts are Acts that change one or more provisions of the Principal Act, often titled, for example, as the Environment Protection (Amendment) Act. Amending Acts must also be passed by Parliament. Where amendments have not been included in the Principal Act, the Principal Act and the Amending Acts must be read together.
<i>Bills</i>	Proposed Acts. Once passed by the legislature and enacted by any formalities required in the country (for example, signature, assent, publication, or notification in the official Gazette), a bill becomes an Act.
<i>Chapter</i>	Some countries consolidate all their Acts at the same time. For example, Tonga consolidated all its legislation (both Acts and Regulations) in 2016. Each Act in the Consolidation was given a Chapter number, so the front cover of an Act in this consolidation states e.g. <i>Environment Management Act, Chapter 47.02, 2016 Revised Edition</i> . The Act as made was the <i>Environment Management Act, Act 27 of 2010</i> . 'Chapter' is often abbreviated to Cap. An Act made after the Consolidation will not have a chapter number.
<i>Code</i>	<p>Several countries are former U.S. territories and arrange legislation into Codes. Such Codes contain all the Acts enacted by the legislature that are current (in force) at the time of the compilation of the Code.</p> <p>Codes are arranged by numbered topic. Each topic is called a Title. As each Principal Act is made it is assigned to a Title. The Act may become a chapter in that Title or only a single new section in an existing chapter, or it may amend an existing chapter or section.</p> <p>Example: in the Marshall Islands, all environmental Acts are contained in Title 35: Environment. Chapter 2 of this Title is the <i>Littering Act 1982</i>. This is abbreviated to 35 MIRC Ch 2 i.e. Title 35 (Environment), Marshall Islands Revised Code, Chapter 2.</p> <p>Once in the Code the section numbers in an Act change because the Code numbering is consecutive. So, what was section 1 in the Act as made becomes section 201 in the Code i.e.: Chapter 2, section 1. Sections are generally denoted in Codes by the symbol §, as in U.S. legislation.</p>
<i>Consolidated Acts</i>	Comprise the Act as made and all amendments up to the date of the consolidation. For example, a 2012 consolidation of an Act originally made in 1999 will include all amendments up until 2012. They may also be known as consolidations or compilations or noted 'as amended'.
<i>Executive</i>	The Executive or the Government, is the branch which implements laws through the making of regulations and administers and enforces the laws. The Executive is also generally the branch of government that signs and ratifies international conventions.

<b>Term</b>	<b>Definition</b>
<i>Judiciary</i>	Also, the Courts, the branch of government which interprets laws and formally determines legal disputes.
<i>Legislation</i>	The collective term for both principal (Acts) and subordinate laws (usually regulations).
<i>Legislature</i>	The Legislature or the Parliament, is the branch of government which makes laws.
<i>International conventions</i>	Are also known as international agreements, and treaties. Conventions come into effect on a certain date. This is not the date the Convention takes effect in a particular country. For the Convention to take effect in a particular country, the country must become a party to the Convention. Countries may sign a Convention – this does not make it a party. Countries may ratify or accede to a Convention – this makes it a party. Following ratification or accession, written instruments evidencing the country’s consent to be bound by the convention are deposited with the Depository – this is generally the Secretary-General of the United Nations, but also, for example, the South Pacific Forum Secretariat in the case of the Waigani Convention. Once these written instruments are deposited by enough parties, the convention takes or comes into effect in the country and the country becomes a party to the convention.
<i>Principal Acts</i>	Principal Acts contain the entirety of a topic, for example, the Environment Protection Act.
<i>Provisions</i>	Provisions are individual numbered clauses within legislation. The most used provision types are: <ul style="list-style-type: none"> <li>• Articles in Constitutions – abbreviated to Art. or art.</li> <li>• Sections in Acts – abbreviated to s (or § in the case of Codes)</li> <li>• Regulations within a Regulation - abbreviated to r</li> <li>• Clauses in Schedules at the end of Acts or subordinate legislation</li> </ul>
<i>Ratification</i>	Ratification is the act by which a country indicates its consent to be bound to a convention.

Term	Definition
<i>Subordinate legislation</i>	<p>Subordinate legislation is also called subsidiary legislation, delegated legislation, and statutory instruments. These are collective terms. Individual pieces of subordinate legislation are most called regulations, but other types of subordination legislation include:</p> <ul style="list-style-type: none"> <li>• Rules</li> <li>• Ordinances</li> <li>• By-laws</li> <li>• Orders-in-council</li> <li>• Executive orders</li> <li>• Decrees</li> <li>• Decree-Laws (this terminology is used in Timor-Leste)</li> </ul> <p>Acts (principal legislation) expressly authorise the making of subordinate legislation.</p> <p>Example: Section 121 of the Marshall Islands <i>National Environmental Protection Act 1984</i> authorises the Environment Protection Authority to make regulations regarding pollutants and discharge or hazardous waste.</p> <p>Subordinate legislation is made by a person or agency other than the legislature – usually the Government Ministry or Department responsible for implementing the Act. A regulation is usually on a specific topic and contains the practical machinery to implement one or more provisions of the Act.</p> <p>Example: regulations made under Section 121 of the Marshall Islands <i>National Environmental Protection Act 1984</i> include the <i>Solid Waste Regulation 1989</i>, the <i>Toilet Facilities and Sewage Disposal Regulation 1990</i>, and the <i>Public Water Supply Regulation 1994</i>.</p>

## Annex 2: Acronyms

**Table 8: Acronyms**

ACRONYM	REFERRING TO
DAC	Development Assessment Committee
ECOLEX	ECOLEX is an information service on environmental law, operated jointly by FAO, IUCN and UNEP
EIA	Environmental Impact Assessment
EU	European Union
FAOLEX	FAOLEX is a database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management.
ICI	Infrastructure Cook Islands
IEA	Island Environment Authority
INFORMEA	United Nations Information Portal on Multilateral Environmental Agreements
MEA	Multilateral Environmental Agreements
MOH	Ministry of Health
NES	National Environment Service
NIP	National Implementation Plan
NGO	Non-Government Organisation
NZPCO	New Zealand Parliamentary Council Office
OECD	The Organisation for Economic Co-operation and Development
PACLII	Pacific Islands Legal Information Institute
PILON	Pacific Islands Law Officers' Network
POPS	Persistent Organic Pollutants
SPREP	Secretariat of the Pacific Regional Environment Programme
UOM	University of Melbourne
UNEP	United Nations Environment Program

## Annex 3: Priority Waste Definitions

The PacWastePlus definitions of the priority waste streams included in the programme are detailed below.

Please note, PacWastePlus programme's waste definitions *do not always directly correspond with definitions found in national legislation*.

For example, public health and water/sanitation legislation may reference 'sewage' within concepts of wastewater or broader definitions of solid waste. Where countries' legislation dealing with wastewater or other waste streams includes sewage in the legislative definitions of wastes, these references have been retained for this assessment. This ensures that of the assessment's reproduction of the legislative provisions are accurate, even though human wastes are not encompassed within the PacWastePlus definition of 'wastewater'.

**Table 9: PacWastePlus programme definitions**

<b>Priority waste</b>	<b>Definition/understanding</b>
<i>Asbestos</i>	Asbestos refers to six naturally occurring silicate minerals composing of long and thin fibrous crystals. These crystals contain many microscopic fibres that can be released into the atmosphere by abrasion and other processes. Asbestos has been used as a building material for many years. Natural disasters can increase the risk of exposure to asbestos found in damaged building materials.
<i>Healthcare waste</i>	Waste generated by health care facilities. Includes used needles and syringes, soiled dressings, body parts, diagnostic samples, blood, chemicals, pharmaceuticals, medical devices, and radioactive materials. It is essential that all medical waste materials are segregated at the point of generation, appropriately treated, and disposed of safely.
<i>E-waste</i>	Electronic waste or e-waste refers to discarded electrical or electronic devices. Used electronics which are destined for refurbishment, reuse, resale, material recovery, or disposal are also considered e-waste. Electronic scrap components, such as CPUs, contain potentially harmful materials such as lead, cadmium, beryllium, or brominated flame retardants.
<i>Organic waste</i>	Organic waste is waste that is biodegradable and has the potential to disintegrate. These wastes often include vegetable and fruit peelings, paper, and food waste. Organic waste is typically a significant proportion of a waste stream, and if managed through landfill creates leachate and harmful greenhouse gases. When processed appropriately, organic waste can add significant value to soil quality and potentially increase food production/soil water retention and help in elimination of invasive weeds.
<i>Disaster waste</i>	The generated waste during a natural disaster i.e. a sudden devastating event (cyclone, flood, earthquake, tsunami, fire etc) that seriously disrupts the functioning of a community or society and causes human, material, economic or environmental losses that exceed the community's or society's ability to cope using its own resources.
<i>Recyclables</i>	Recyclable wastes refer to wastes that can easily be recovered or made into other products. They typically include glass, paper, cardboard, metal, plastic, tyres, textiles, batteries, and electronics.
<i>Bulky waste</i>	Bulky waste (end-of-life vehicles, tyres, white goods, furniture, and other large household goods) describes waste items that are too large to be accepted by the regular waste collection service. It includes damaged furniture, abandoned vehicles and large appliances.
<i>Wastewater</i>	Wastewater refers to waterways impacted by solid wastes and related aspects, such as leachates from landfills or point source pollution from storm water drains.
<i>Plastic waste</i>	Plastic wastes may be recyclable wastes as discussed above. Plastic packaging and single-use plastics may also be a significant source of plastic waste.

## Annex 4: Existing Legislation Addressing Waste Management

A summary of existing Cook Islands legislation related to waste management is provided in **Table 10**.

**Table 10: Legislation impacting waste governance in Nauru**

<b>Legislation</b>	<b>Regulations</b>	<b>Description</b>
<u><i>Agricultural Quarantine Act 1999</i></u>	Various, including <u><i>Plant and Animal Quarantine Regulations 2004</i></u>	This Act regulates the treatment and disposal of garbage on ships and aircraft arriving in Nauru. It defines ‘garbage’ to mean ‘animal and human waste, organic refuse, galley scraps or other similar refuse’
<u><i>Animals Act 1982</i></u>	Various.	The <i>Animals Act 1982</i> governs the disposal and destruction of animals, including diseased animals
<u><i>Chemical Weapons Convention Act 2012</i></u>	None identified.	Although not specifically discussed, hazardous waste materials may be able to be managed via some elements of this Act.
<u><i>Customs Act 2014</i></u>	Various, including <u><i>Customs Proclamation (Prohibition of Export of Scrap Metal) 2007</i></u> and <u><i>Customs (Prohibited Imports) Regulations 2016</i></u>	Incidentally relevant to bulky waste is a prohibition under the <i>Customs (Prohibited Imports) Regulations 2016</i> on imports of washing machines and air conditioners from the People’s Republic of China, with an express permission for such imports from Australia and New Zealand. Also relevant is the prohibition on certain exports of certain metals, including steel, under the <i>Customs Proclamation (Prohibition of Export of Scrap Metal) 2007</i> .
<u><i>Derelict Sites Management Act 2017</i></u>	None identified.	<p>Under the <i>Derelict Sites Management Act 2017</i>, the responsible Minister can declare buildings and vehicles on property to be a ‘derelict site’ because they are, for example, ruinous, derelict, dangerous, neglected, unsightly or objectionable or because of the presence of ‘litter, rubbish, debris or waste’ or ‘an abandoned or inoperable vehicle’ (s 4 Definitions). This could conceivably cover any of the priority waste streams, particularly asbestos, e-waste, plastic waste, disaster waste, bulky waste, and wastewater.</p> <p>Both the <i>Derelict Sites Management Act 2017</i> and <i>Naoero Roads Act 2017</i> regulate some ‘abandoned’ vehicles. The <i>Derelict Sites Management Act 2017</i> defines ‘vehicle’ broadly as ‘machinery that has been designed to be operated on a road and cannot be moved under its own power or is inoperable or abandoned or dismantled’ (s 4). ‘Vehicle’ is defined in the <i>Naoero Roads Act 2017</i> as ‘a mechanically propelled vehicle intended or adapted for use on roads’ (s 3).</p>
<u><i>Fisheries Act 1997 (as at 2011)</i></u>	Various.	The <i>Fisheries Act 1997</i> governs, among other things, the sustainable use and conservation of fisheries, covering ‘fisheries waters’ and other waters. Fisheries waters includes ‘internal waters’. The Act contains offences relevant to ‘garbage’, defined to include ‘all kinds of victuals, domestic and operational wastes, excluding fresh fish and parts of a fish, generated during the normal operation of a vessel and liable to be disposed of continuously or periodically, but does not include oil,

<b>Legislation</b>	<b>Regulations</b>	<b>Description</b>
<u><i>Fisheries (Amendment) Act 2017</i></u>		pollutants, or sewage from vessels' (s 21A). It refers to 'Nauru waters' in this context but does not define it, but it might include internal waters polluted, for example, by land-based waste.
<u><i>Food Safety Act 2005</i></u>	<u><i>Food Safety (Prohibited Imports) Regulations 2016</i></u>	Food that is unsafe and must be disposed of under the Food Safety Act could generate organic waste. Under the Food Safety Act, 'food' means 'any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drinks, chewing gum and any substance which has been used in the manufacture, preparation or treatment of "food" but does not include cosmetics or tobacco or substances used only as drugs.'  This Act does not manage waste, but may create food waste through the determination of unsafe food.
<u><i>Litter Prohibition Act 1983 (as at 2014, including amending Act of 2014)</i></u>	None identified.	The <i>Litter Prohibition Act 1983</i> regulates 'litter, refuse or rubbish of any kind whatsoever' (s 2). Persons are prohibited from depositing litter, refuse or rubbish of any kind whatsoever in any place in the open air unless authorised by law (s 2).  The <i>Nauru Police Force Act 1972</i> provides for the disposal of property coming into the possession of police (s 28), which could include various forms of waste taken in the course of enforcing, for example, the <i>Litter Prohibition Act 1983</i> .  The <i>Environment Management Bill 2020</i> is expected to repeal the <i>Litter Prohibition Act 1983</i> .
<u><i>Naoero Roads Act 2017</i></u>	None identified.	The <i>Naoero Roads Act 2017</i> prohibits the 'discharge of waste water or other liquids' (not defined), the placing or throwing of 'rubbish' (not defined) and the abandonment of 'any vehicle' (defined) on a 'public road' (defined) (s 16 Nuisances).  This law covers wastewater discharged onto public roads, but it could conceivably cover as 'rubbish' several of the other priority waste streams, including e-waste, organic waste and plastic or asbestos in abandoned vehicles, and bulky waste in the form of abandoned vehicles.  Both the <i>Derelict Sites Management Act 2017</i> and <i>Naoero Roads Act 2017</i> regulate some 'abandoned' vehicles. The <i>Derelict Sites Management Act 2017</i> defines 'vehicle' broadly as 'machinery that has been designed to be operated on a road and cannot be moved under its own power or is inoperable or abandoned or dismantled' (s 4). 'Vehicle' is defined in the <i>Naoero Roads Act 2017</i> as 'a mechanically propelled vehicle intended or adapted for use on roads' (s 3).  This Act addresses wastewater in specific situations, where it prohibits the 'discharge of wastewater or other liquids' on a 'public road' (s 16). 'Wastewater' is not defined.
<u><i>National Disaster Risk Management Act 2016</i></u>	<u><i>COVID-19 regulations</i></u>	

<b>Legislation</b>	<b>Regulations</b>	<b>Description</b>
<u><i>Ozone Layer Protection Act 2017</i></u>	None identified.	<p>The <i>Ozone Layer Protection Act 2017</i> includes provisions relating to the ‘disposal’ and ‘handling’ of ‘controlled substances, prescribed goods, refrigeration or air-conditioning equipment’ (ss 29-30).</p> <p>The responsible Minister can make regulations for disposal but there appeared to be none made at the time of this assessment. It is an offence to dispose ozone depleting substances into the atmosphere ‘except for minimal releases that occur as a result of efforts to recover, reclaim or recycle ozone depleting substances’ from prescribed goods, refrigeration or air-conditioning equipment (s 29).</p>
<u><i>Ports and Navigation Act 2019</i></u>	None identified.	<p>The <i>Ports and Navigation Act 2019</i> regulates the carriage by Nauruan vessels and foreign vessels in Nauru waters of ‘dangerous goods’ (defined with reference to the <i>International Maritime Dangerous Goods Code (IMDG Code)</i> (s 67)). This law could impact the carriage of wastes from Nauru for recycling, recovery, or disposal, including, for example, e-waste or asbestos.</p> <p>This Act also regulates ballast water, marine pollution (including by hazardous and noxious substances) and the salvage of wrecks, which are not priority waste streams included in this review.</p>
<u><i>Public Health Ordinance 1925</i></u>	None identified	The <i>Public Health Ordinance 1925</i> regulates certain foodstuffs and permits the destruction of trees and plants that retain water.
<u><i>Public Enterprises Act 2019</i></u> (note individual Acts for each enterprise)	None identified.	<p>Different government departments also have responsibility for different state-owned or public enterprises involved in waste management and waste generation. Public enterprises are regulated by different ministers, regulated generally by the new <i>Public Enterprises Act 2019</i>, and specifically established by typically older legislation particular to each enterprise.</p> <p>The rubbish dumpsite in Nauru is managed by a state-owned enterprise, the Nauru Rehabilitation Corporation.</p>
<u><i>Quarantine Act 1908</i></u> (as at 2011)	None identified.	The <i>Quarantine Act 1908</i> permits the destruction of diseased animals and diseased plants
<u><i>Sanitary Inspectors’ Ordinance 1921</i></u> (as at May 2011)	None identified.	<p>The <i>Sanitary Inspectors’ Ordinance 1921</i> regulates any ‘house, premises, or land in an unclean or insanitary condition’. These terms are not defined. They could potentially include a property storing any form of waste that is ‘unclean’ or ‘insanitary’, but it would depend on how those terms are interpreted as a matter of statutory interpretation.</p> <p>The <i>Public Health Bill 2020</i> might repeal this law.</p>
<i>Environment Management and Climate Change Act 2020</i>	None identified	The Act makes provision for the management and protection of the environment, climate change, the promotion of sustainable development, to facilitate compliance with the Republic’s international and regional environment related obligations and for related purposes. The Act provides specific powers to government staff, and identifies offences related to litter, burning of waste, and discharge of hazardous substances.

## Annex 5: MEA Reporting

### Reporting requirements under relevant MEAs

The relevant MEAs for the PacWastePlus project are:

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention);
- Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention);
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention);
- Minamata Convention on Mercury (Minamata Convention); and
- Convention to ban the Importation of Hazardous and Radioactive Wastes into Forum Island Countries and to Control the Transboundary Movement and Management of Hazardous Waste within the South Pacific Region (Waigani Convention).

These MEAs establish requirements for countries which are party to them to provide certain notifications, share information and produce national reports on their implementation of the conventions. **Table 11** below summarises the key notification, information and reporting requirements for each of the relevant MEAs.

Based on the information summarised in **Table 3**, compliance with these requirements was coded on a five-point scale (with 0 as no data), as follows:

- **5** – high compliance, e.g. all or majority of national reports provided, relevant national authorities designated and updated, all necessary notifications and information provided.
- **4** – medium-to-high compliance, e.g. most national reports provided, relevant national authorities designated, most notifications and information provided.
- **3** – medium compliance, e.g. some national reports provided, some national authorities designated, some notifications and information provided.
- **2** – low-to-medium compliance, e.g. few national reports provided, national authorities not designated or updated, few relevant notifications and information provided.
- **1** – low compliance, e.g. no evidence of national reporting, national authorities not designated, no notifications or information provided.

In some cases, the assessment of reporting compliance was preliminary, for instance, because a particular MEA only recently came into effect for a particular country. An average compliance score was calculated overall based on individual scores for different MEAs for each participating country. This data suggests that participating countries' level of compliance with reporting, information sharing and notification requirements under relevant MEAs tends to increase based on the number of those MEAs to which they are party, although it is noted this is a correlation only.

This trend may arise because countries are able to transfer learning and capacity developed for reporting and information exchange under one treaty to another related treaty. It may also reflect the fact that joining MEAs gives countries access to capacity building resources and support under those treaties that has a positive effect for their reporting compliance across other treaties they are party to.

**Table 11: Notification, information sharing and reporting requirements of MEAs**

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
<b>Basel Convention</b>	<p>To protect, by strict control, human health and the environment against the adverse effects which may result from the generation, management and transboundary movement of hazardous wastes and other wastes (preamble).</p> <p>Ban Amendment (in force 5 Dec 2019) prohibits all transboundary movements of hazardous wastes from OECD countries to developing country parties.</p>	<p>Parties must notify Secretariat of wastes considered hazardous under national legislation and update as appropriate (Art. 3)</p> <p>Obligation to designate one or more competent authorities (which receive notifications of movements of hazardous wastes) and one focal point (responsible for transmitting decision on import bans) (Art 5.1).</p>	<p>Provision of information to other parties on import bans (Art.4 and Art. 13).</p>	<p>Obligation for annual national reports (Art. 13(3)).</p>
<b>Stockholm Convention</b>	<p>Mindful of the precautionary approach, to protect human health and the environment from persistent organic pollutants (Art. 1).</p>	<p>Notifications to Secretariat for registration of specific exemptions for import/ export (Art. 4)</p> <p>Obligation to designate national focal point for information exchange Art. 9(3) –</p>	<p>Obligation to develop and transmit to Conference of Parties a national implementation plan (NIP), and to review and update plan, as appropriate, on a periodic basis (Art. 7).</p>	<p>Article 15 requires periodic reporting on national implementation measures. At the 1<sup>st</sup> Conference of the Parties it was decided that national reports should be submitted every four years).</p> <p>Four reporting cycles since convention entered into force (2006, 2010, 2014, 2018). Fourth report was required to be submitted by 31 Aug 2018.</p>

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
<b>Rotterdam Convention</b>	To promote shared responsibility and cooperative efforts among parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to parties (Art. 1).	<p>Parties must designate one or more national authorities authorised to act on the country's behalf in performance of the administrative functions required by the Convention.</p> <p>These details are to be notified to the Secretariat no later than the date of entry into force of the Convention for that party and any changes are to be notified 'forthwith' (Art. 4).</p> <p>Parties required to notify the Secretariat of new or existing 'final regulatory actions' banning or severally restricting a chemical e.g. pesticide or industrial chemical regulated by the Convention (Art. 5).</p> <p>Notifications of export of listed chemicals (Art. 13).</p>	Obligations in respect of chemicals listed in Annex III, include notifications to the Secretariat of the country's proposed response for future imports (e.g. decision to prohibit, allow, allow with conditions). Should be accompanied by details of legislative or administrative measures on which it is based (Art. 10).	No specific requirement for national reporting.
<b>Minamata Convention</b>	To protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds (Art. 1).	<p>Notifications regarding export of mercury (Art. 3).</p> <p>Requirement for designation of national focal point for information exchange and notifications under article 3 (Art. 17).</p>	Discretionary obligation, following an initial assessment, to develop implementation plan and transmit to Secretariat (Art. 21).	<p>Obligation to report on measures taken for implementation (Art. 21). Pursuant to decision of COP MC-1/8 on the Timing and format of reporting by the parties (2017), reporting is on a biennial basis with short form every 2 years and long form every 4 years.</p> <p>Deadline for 1<sup>st</sup> biennial short report</p>

MEA	OBJECTIVE	NOTIFICATION REQUIREMENTS	INFORMATION SHARING	REPORTING
<p><b>Waigani Convention</b></p>	<p>To prohibit the importation of hazardous and radioactive wastes into Pacific Island developing countries and to facilitate environmentally sound management of such wastes (preamble).</p>	<p>Obligation to notify Secretariat of wastes considered/ defined as hazardous wastes under legislation beyond those listed in Annex I and inform of any significant changes (Art. 3).</p> <p>Must designate one competent authority and one focal point (Art. 5).</p> <p>Notifications of transboundary movements of hazardous wastes (Art. 6).</p>	<p>Obligation to forward to Secretariat information on any illegal hazardous wastes import activity in jurisdiction (Art. 4).</p> <p>Obligation to provide information to Secretariat on changes to competent authorities/ focal points or changes to national definitions of hazardous wastes (Art. 7).</p>	<p>31 Dec 2019, 1<sup>st</sup> long report 31 Dec 2021.</p> <p>Requirement to submit 'such reports as COP may require' regarding hazardous wastes generated in jurisdiction (Art. 4).</p> <p>At its Second Meeting in 2004, the COP agreed that Reporting and Transmission of Information forms should be filled out annually by parties and submitted to SPREP in its role as the Convention Secretariat. Parties were requested to begin reporting starting at the 2004 calendar year.</p>

## Annex 6: Models and Concepts for Waste Management

There are a number of general models and concepts that inform contemporary waste management regulation and practice. These models often require quite significant supporting institutional and economic infrastructure that may not be in place or possible in many participating countries. Adopting these models may, therefore, be a long-term strategic goal rather than an immediate policy priority for nations.

### The Waste Hierarchy

The generally accepted model for waste management that appears in the strategies of a number of countries in the Pacific region, is the 'waste hierarchy' model.

The aims of the hierarchy are:

- To generate as little waste as possible in the first place; and
- To extract the maximum practical benefit from the waste that is still produced.

The waste hierarchy suggests that as a priority order in waste management legislation and policy, governments should pursue waste avoidance, reduction (prevention or minimisation), re-use, recycling, and other recovery (e.g., waste-to-energy) (see Figure 1). The hierarchy dictates that the last option is disposal for end-of-life products.



Figure 1: Waste hierarchy (Creative Commons Licence BY-SA 3.0)

### The Circular Economy

The 'circular economy' is also increasingly regarded as relevant to waste management legislation and policy. A 'circular economy' is one that values resources by keeping products and materials in use for as long as possible. This contrasts with a linear economy – take, make and dispose – approach. In waste management, this means placing a value on re-use and recycling, with the aim of zero waste.

Related to the circular economy are producer responsibility approaches, where producers are required, to design and make products that are recoverable, or recyclable, and accept the return of waste produced by their products. Producer responsibility can be encouraged by importing countries via legislative mechanisms, such as levies on imported products that can be recycled at the end of their operational life.

## Environmental Models

These newer policy models sit alongside other general environmental models for managing waste safely and preventing waste pollution. These models may adopt tools such as EIA for waste generating activities, permitting, or licensing of waste management facilities, regulation of waste collection and offences for harmful actions with respect to waste such as littering or dumping, as well as incentives to segregate and separate wastes. Few of the participating countries, however, have extensive testing, monitoring, and tracking measures in their waste management legislation to support the successful operation of these models. Effective compliance and enforcement of standards are also necessary.

The model used to formulate the waste management legislative framework will necessarily influence the efforts and input needed to manage not only waste, but the legislation and the government's required management:

- Different types of legislative models can be adopted to give effect to different types of policy objectives. In turn these different models require differing levels of institutional support and administrative arrangements to make them work.
- Operation, regulation, and enforcement are distinct functions that can be divided among different agencies. Sometimes these roles are divided among public and private bodies, but in some cases, they are all the responsibility of government or semi-public entities. All these functions may involve the community in different ways, such as providing information to the community and involving the community in enforcement activities.

**Table 12** summarises, in general terms, different kinds of legislative models for waste management, the overall policy objectives they relate to, and the key institutional underpinning required for their administration and operation, as well as examples drawn from the waste-related laws of the participating countries.

**Table 13** describes how the existing and pipeline waste management legislation of participating countries maps against these general models.

**Table 12: Legislative models and institutional requirements**

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p><b>Dedicated waste management legislation [WMA]</b></p> <ul style="list-style-type: none"> <li>• Definitions of waste streams /other waste as prescribed by regulation</li> <li>• Designation of responsibilities for waste management</li> <li>• Standards/protocols for collection, treatment, storage/ disposal</li> <li>• Waste licencing/ permitting of waste operators (OHS/safe handling)</li> <li>• Audit and monitoring provisions</li> <li>• Sustainable financing mechanisms, e.g., levies/ charges</li> <li>• Enforcement provisions and incentive-based regulation</li> </ul>	<ul style="list-style-type: none"> <li>• Waste reduction / prevention</li> <li>• Re-use, Recycling, Recovery</li> <li>• Identification and achievement of waste reduction targets</li> <li>• Safe handling, storage, and disposal</li> <li>• Minimising harm to environment and people</li> <li>• Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility)</li> <li>• Incentivising behavioural change, including re-use, and recycling</li> <li>• Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility</li> <li>• Inter-agency cooperative approach</li> <li>• Cooperation between different levels of government</li> <li>• Supporting ‘soft’ law instruments</li> <li>• Staffing / resourcing for implementation, monitoring and enforcement</li> <li>• Ongoing access to information; technical and policy setting</li> <li>• Support for storage, recovery, and disposal</li> <li>• Community / private sector consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Waste Management Acts in Samoa, Tonga, Tuvalu, and Vanuatu</li> <li>• Proposed Solid and Hazardous waste legislation in Cook Islands</li> </ul>
<p><b>Regulation of specific waste streams under environment protection legislation e.g., solid waste, bulky waste, organic waste, recyclables, plastics, disaster waste, wastewater [EPAct]</b></p> <ul style="list-style-type: none"> <li>• Definitions of waste streams</li> <li>• Provisions re storage, collection, segregation, and disposal of waste</li> <li>• Technical standards/ specialist implementation</li> <li>• Enforcement provisions</li> </ul>	<ul style="list-style-type: none"> <li>• Effective / efficient waste management</li> <li>• Minimising harm to environment and people</li> <li>• Sustainable financing</li> <li>• Comprehensive Waste Collection</li> <li>• Improvement of waste sorting and diversion from landfill</li> <li>• Recycling; Recovery</li> <li>• Minimising waste pollution and human health risks</li> <li>• Hazard reduction and climate change adaptation</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility</li> <li>• Inter-agency cooperative approach</li> <li>• Supporting ‘soft’ law instruments</li> <li>• Staffing / resourcing for implementation, monitoring and enforcement</li> <li>• Ongoing access to information</li> <li>• Support for secure storage, recovery, and disposal</li> <li>• Community / private sector consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Solid Waste Management Regulations in Yap State (the FSM), Palau and the RMI</li> <li>• Environment Management (Waste Disposal and Recycling) Regulations in Fiji</li> <li>• Proposed <i>Waste Management Bill 2016</i> to amend <i>Environment Act</i> in Solomon Islands</li> </ul>
<p><b>Regulation of hazardous waste e.g., healthcare waste, asbestos, e-waste, wastewater [Haz waste]</b></p> <ul style="list-style-type: none"> <li>• Identification of hazard sources</li> <li>• Separation and diversion from landfill</li> <li>• Registering, tracking, and monitoring</li> <li>• Staff training and capacity building</li> </ul>	<ul style="list-style-type: none"> <li>• Effective / efficient waste management</li> <li>• Waste segregation</li> <li>• Safe handling, regulated storage, and out of country disposal, as necessary</li> <li>• Minimising pollution harm to environment and people</li> <li>• Utilisation of best practice technologies, with implementation guidelines, e.g., healthcare waste incineration</li> </ul>	<ul style="list-style-type: none"> <li>• Clear designations of responsibility</li> <li>• Inter-agency cooperative approach</li> <li>• Cooperation between different levels of government (local operational to national)</li> <li>• Supporting ‘soft’ law instruments</li> <li>• Staffing / resourcing for implementation, monitoring and enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• <i>Hazardous Wastes and Chemicals Act</i> in Tonga</li> <li>• <i>Solid Waste Management Regulations</i> in Palau and the RMI</li> <li>• Healthcare waste management plans in Samoa, PNG</li> <li>• Asbestos disposal guidelines - PNG</li> <li>• Regulations / guidelines under OHS legislation in Fiji, Samoa, and Niue.</li> </ul>

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> <li>Licencing/permitting (OHS, regulated handling and disposal)</li> <li>Targeted fee/ charges basis to reflect risk management requirements</li> <li>Compliance with MEA obligations</li> </ul>	<ul style="list-style-type: none"> <li>Building capacity to deal with disasters/ pandemics</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing access to information</li> <li>Support for secure storage, recovery, and environmentally sustainable disposal</li> </ul>	<ul style="list-style-type: none"> <li>Specific part in dedicated waste legislation in Tuvalu</li> <li><i>Ozone Layer Protection Act 2010</i> [2014] in Vanuatu</li> </ul>
<p><b>Sustainable waste-financing systems [Sus fin/CDL]</b></p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>Container deposit system; recycling /re-use deposit fees</li> <li>Levy on items at customs point e.g., beverage containers/cans, lead acid batteries, PET bottles</li> <li>Advance disposal fee at customs point</li> <li>Scaled landfill fees i.e., higher for recyclables</li> <li>Separate, dedicated fund with regulations. for management and distribution of funds; independent audit functions</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Re-use, Recycling, Recovery</li> <li>Effective / efficient waste management</li> <li>Supporting waste segregation</li> <li>Minimising waste pollution</li> <li>Sustainable financing (e.g., user-pays / polluter-pays; extended producer responsibility)</li> <li>Incentivising behavioural change e.g., through % of amount paid to consumers as refund after use; % paid to support recycling of items</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Inter-agency cooperative approach and cooperation b/n national and provincial/ local government</li> <li>Reservation of fund from consolidated revenue with transparency and independent oversight</li> <li>Staffing / resourcing for implementation at customs point; monitoring and compliance</li> <li>Ongoing access to information</li> <li>Support for storage, re-use, recovery, and disposal (e.g., export fees)</li> <li>Community / private sector consultation</li> <li>Public education - communications expertise and resources</li> </ul>	<ul style="list-style-type: none"> <li>Container deposit schemes in the FSM (except Chuuk), Fiji, Kiribati, Palau</li> <li>Waste levy and select refund scheme on wide range of products in Tuvalu, including but not limited to waste that can be recycled/ recovered</li> <li>Cook Islands – advance disposal fee</li> <li>RMI - Waste Fund</li> </ul>
<p><b>Prohibition on import of certain items [Ban]</b></p> <ul style="list-style-type: none"> <li>Most commonly in the context of plastics e.g., single-use plastic bags, Styrofoam containers, disposable straws/cutlery.</li> <li>May take form of levy rather than outright prohibition</li> <li>Applicable to other high risk, waste-generating products, or chemicals e.g., asbestos sheeting, POPs; biosecurity</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Effective / efficient waste management</li> <li>Minimising waste pollution, health, and environmental risks</li> <li>Meeting International waste management obligations</li> <li>Supporting in-country industries such as tourism and hospitality</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Clear designations of responsibility and authorisations</li> <li>Inter-agency cooperative approach</li> <li>Supporting 'soft' law instruments</li> <li>Staffing / resourcing for implementation at customs point; in-country monitoring and compliance</li> <li>Ongoing access to information</li> <li>Storage at customs point, as necessary, and disposal</li> <li>Community / private sector consultation/ education - communications expertise and resources</li> </ul>	<ul style="list-style-type: none"> <li>Various prohibitions enacted in the FSM, Fiji, Kiribati, Niue, Palau, PNG, RMI, Samoa, Tonga, Tuvalu, and Vanuatu.</li> <li>Proposed in the Cook Islands for single-use plastics.</li> <li>'Zero' plastic initiative in Timor-Leste.</li> </ul>

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<ul style="list-style-type: none"> <li>Typically combined with in-country prohibition on manufacture, sale, and distribution</li> </ul> <p><b>Development control / impact assessment regimes / licences [EIA]</b></p> <ul style="list-style-type: none"> <li>Waste regulation as component of environmental legislation with regulations. for project EIA to inform development consents and pollution /discharge controls to minimise env. impacts.</li> <li>Broad powers to impose waste-relevant conditions on project and operational (pollution control) licences/permits</li> <li>Supporting regulations - specific regulations for identified wastes/ risk contexts</li> <li>Testing, monitoring &amp; reporting requirements, offence provisions</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Effective / efficient waste management</li> <li>Safe handling, storage, and disposal</li> <li>Minimising waste pollution, health and environmental risks including siting of landfills</li> <li>Implement strategic planning objectives e.g., spatial controls to divert wastewater from environmentally sensitive areas</li> <li>Polluter-pays and targeted discharge licences/fees</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Clear designations of responsibility and authorisations</li> <li>Inter-agency and intergovernmental cooperative approach</li> <li>Technical expertise to set standards, and evaluation of EIAs and pollution controls</li> <li>Staffing / resourcing for implementation, testing/monitoring, and enforcement</li> <li>Capacity building/OHS for operational staff e.g., at landfills to control pollution</li> <li>Ongoing access to information including technical and scientific standards and BAT</li> <li>Community / private sector consultation/ joint development of codes of practice</li> </ul>	<ul style="list-style-type: none"> <li>Environmental and / or planning legislation in Fiji, Kiribati, Niue, Samoa, PNG, Solomon Islands, RMI</li> <li>Coverage of major developments in Tuvalu <i>Waste Management Act</i></li> <li>Solomon Islands Water Authority (Catchment Areas) Regulation restricts introduction of pollutant or wastes into catchment areas.</li> </ul>
<p><b>Compliance and enforcement/ changing behaviour [Comp/enforce]</b></p> <ul style="list-style-type: none"> <li>Civil and criminal offences, and administrative penalties</li> <li>Compliance tools e.g., littering spot fines, clean up notices, reputational penalties e.g., non-compliance notices</li> <li>Offence hierarchy and graded penalties (individuals vs corporations; single vs recurring offences); negotiated penalties</li> <li>Identified role for courts/tribunals and case reporting</li> <li>Community awareness programs</li> </ul>	<ul style="list-style-type: none"> <li>Waste reduction / prevention</li> <li>Effective / efficient waste management</li> <li>Minimising pollution, health, and environmental risks</li> <li>Waste Financing (e.g., user-pays / polluter-pays) where e.g., fines revert to waste management</li> <li>Incentivising behavioural change in industry and community</li> <li>Supporting new regulatory models e.g., prohibitions on single use plastics</li> <li>Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>Clear designations of responsibility for enforcement, and delegations of powers as necessary e.g., to police, municipal officers</li> <li>Inter-agency and intergovernmental cooperative approach, including with legal officials for prosecutions/ civil actions.</li> <li>Enhanced staffing/resourcing for monitoring, compliance and enforcement</li> <li>Interagency training and capacity building programs</li> <li>Ongoing access to information</li> </ul>	<p>All participating countries, e.g.</p> <ul style="list-style-type: none"> <li>RMI - EPA cease and desist orders; imposition of civil penalties; institution of civil proceedings; and any other action authorised under 'any other law'.</li> <li>Littering offences and offences under related legislation e.g., Nauru, Vanuatu</li> <li>Kiribati - Duty to clean-up environment</li> <li>PNG - Duty to prevent significant environmental harm and offences</li> <li>Samoa - community involvement in waste management, including</li> </ul>

LEGISLATIVE MODEL	RELATED POLICY GOAL(S)	INSTITUTIONAL REQUIREMENTS	EXAMPLES
<p><b>Recovery of waste costs from private sector/polluter [Private/polluter]</b></p> <ul style="list-style-type: none"> <li>• Packages of measures under legislation and ‘soft law’</li> <li>• Tourism: Information and education; re-useable items; ‘green fee’ as arrival or departure tax; industry responsibility to reduce waste</li> <li>• Extended producer responsibility requirements / standards in legislation and ‘soft law’</li> <li>• Consumer awareness programs e.g., packaging</li> </ul>	<ul style="list-style-type: none"> <li>• Waste reduction / prevention</li> <li>• Effective / efficient waste management</li> <li>• Minimising waste pollution and reducing environmental and health risks</li> <li>• Sustainable financing (e.g., user-pays / polluter-pays)</li> <li>• Incentivising behavioural change in industry, consumers, and community</li> <li>• Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>• Integration with traditional/ community-based authorities, esp. in rural areas</li> <li>• Community / private sector consultation and compliance partnerships (soft law)</li> <li>• Clear designations of responsibility and cooperation between public and private sector</li> <li>• Monitoring and facilitation of compliance directed at ‘consumers’</li> <li>• Government procurement regulations/ guidelines</li> <li>• Management and distribution of funds, with transparency and audit regulations.</li> <li>• Community / private sector consultation and partnerships</li> <li>• Public education - communications expertise and resources</li> </ul>	<p>making of by-laws and community programs and initiatives</p> <ul style="list-style-type: none"> <li>• Palau – responsible tourism measures</li> <li>• PNG – mining contractor responsibility to take back their waste</li> <li>• RMI - Majuro Atoll Waste Company (re tourist input)</li> <li>• Nauru – natural disaster assistance</li> <li>• Samoa -<i>Tourism Development Act</i> 2012 (minimise waste)</li> <li>• Tuvalu - Tourism departure fee</li> <li>• Cook Islands – advance disposal fee</li> </ul>
<p><b>Information provision, planning and reporting on waste issues [Planning/reporting]</b></p> <ul style="list-style-type: none"> <li>• Provisions in legislation for publicly available waste management information</li> <li>• Strategic/priority and target-setting in legislation or regulation</li> <li>• Mandatory reporting by government agencies and waste industry on key targets and operations</li> <li>• Waste audits and reporting</li> <li>• Requirements for public consultation/ education</li> </ul>	<ul style="list-style-type: none"> <li>• Waste reduction / prevention</li> <li>• Efficient and effective waste management</li> <li>• Incentivising behavioural change in industry, consumers, and community</li> <li>• Supporting cultural values in terrestrial and marine environments</li> </ul>	<ul style="list-style-type: none"> <li>• Designations of responsibility for planning and reporting</li> <li>• Inter-agency and intergovernmental cooperative approach</li> <li>• Staffing/resourcing/training for community and industry programs</li> <li>• Ongoing access to information</li> <li>• Community and industry consultation</li> </ul>	<ul style="list-style-type: none"> <li>• Examples of State of the Environment reports in FSM and Palau</li> <li>• Vanuatu – National Statistics Office waste reporting</li> <li>• Tuvalu waste audits</li> </ul>

**Table 13: Legislative models in participating countries' waste laws**

MODEL	COOK ISLANDS	FSM	FIJI	KIRIBATI	NAURU	NIUE	PALAU	PNG	RMI	SAMOA	SOLOMON ISLANDS	TIMOR-LESTE	TONGA	TUVALU	VANUATU
DEDICATED WASTE MANAGEMENT LEGISLATION															
REGULATION OF SPECIFIC WASTE STREAMS UNDER ENVIRONMENT PROTECTION LEGISLATION.															
REGULATION OF HAZARDOUS															
SUSTAINABLE WASTE-FINANCING SYSTEMS															
PROHIBITION/LEVY ON IMPORT OF CERTAIN ITEMS															
DEVELOPMENT CONTROL / IMPACT ASSESSMENT REGIMES / LICENCES															
COMPLIANCE AND ENFORCEMENT/ CHANGING BEHAVIOUR															
RECOVERY OF WASTE COSTS FROM PRIVATE SECTOR/POLLUTER															
INFORMATION PROVISION, PLANNING AND REPORTING ON WASTE ISSUES															



*Not present in existing legislation*



*Present in existing legislation*



*Present in pipeline legislation*



**SPREP**  
Secretariat of the Pacific Regional  
Environment Programme



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