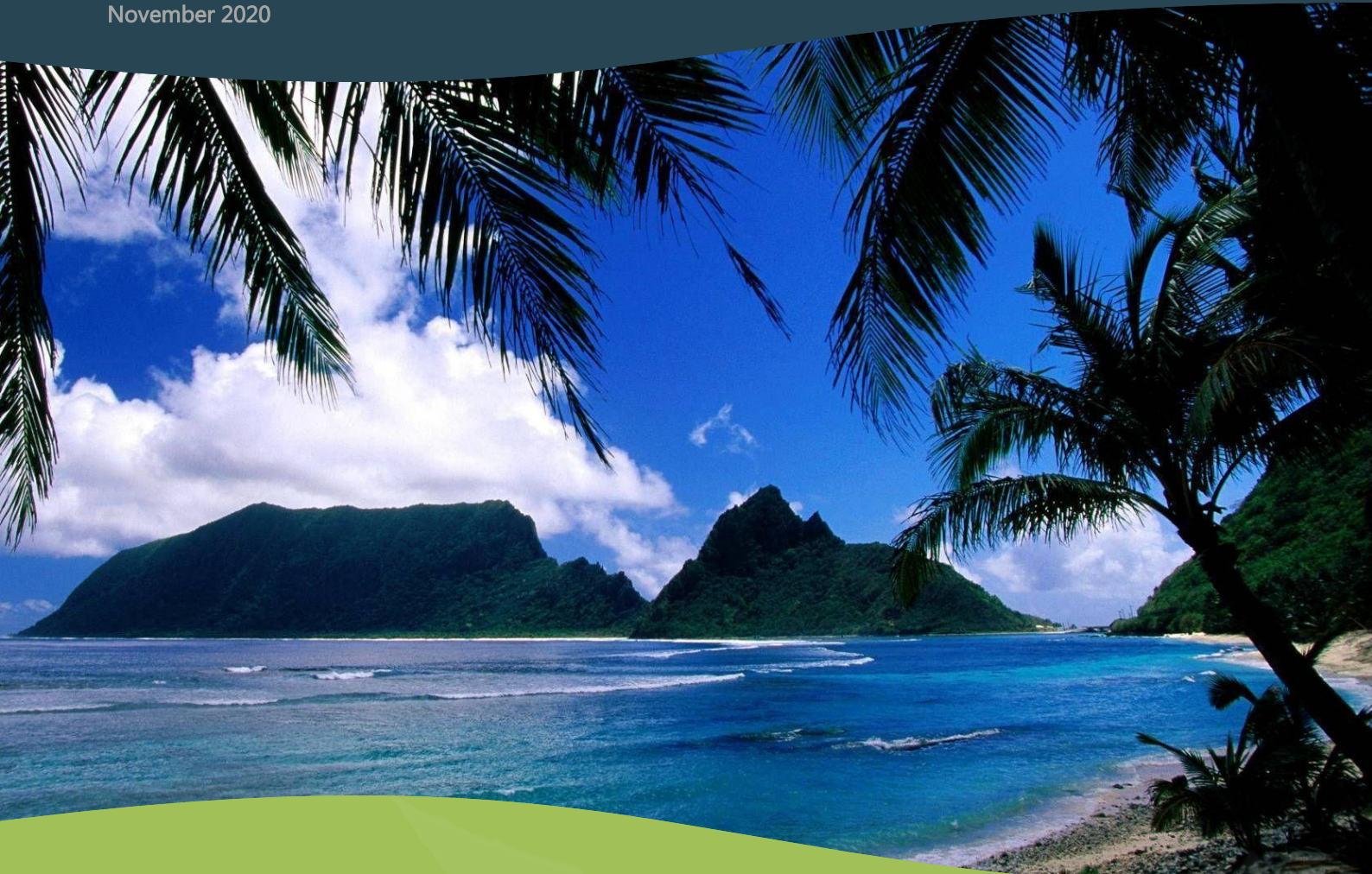




Assessment of Legislative Frameworks Governing Waste Management in Samoa



November 2020



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Secretariat of the Pacific Regional Environment Programme (SPREP)

PO Box 240

Apia, Samoa

www.sprep.org

sprep@sprep.org

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 Samoa, 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, 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 several 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 Samoa. It provides:

- A **stocktake of the existing legislative environment for waste management** in Samoa, 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 Samoa, 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 Samoa's government to enact the instruments included in the legislative framework
- **Options for strengthening the legislative framework** for the Government of Samoa 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 Samoa

Legislative Summary

Legislation impacting waste governance

Samoa has a well-developed system of waste management legislation compared to many other Pacific Island nations. It has a dedicated *Waste Management Act* introduced in 2010, which is administered by the Ministry for Natural Resources and the Environment (MNRE). This principal legislation on waste management is complemented by other environmental and planning laws.

An analysis of the national waste situation has been undertaken through the National Waste Management Strategy 2019-2023, with identified priorities and action plans. Administration of the *Waste Management Act* is centralised in the MNRE, although other agencies, such as the Planning and Urban Management Agency (PUMA), play important roles in administering laws relevant to waste management facilities. PUMA sits within the Ministry of Works, Transport, and Infrastructure.

The following tables provide a stocktake of the existing legislative environment for waste management and governance in Samoa. 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 Samoa.
- **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 Samoa

| LEGISLATION | REGULATIONS |
|---|---|
| <p>Waste Management Act 2010 (as at 2018)</p> <p>This Act is the most important legislation on waste management in Samoa. Part 2 details the regulation and management of wastes. Part 4 relates to waste management operations. Part 6 structures community involvement in waste management, including making of by-laws (s 40), and community programs and initiatives (s 41).</p> | <p>Waste Management (Importation of Waste for Electricity Generation) Regulations 2015 Regulation is not available online, but Waste Management Strategy 2019-2023 describes it as for regulation of waste-energy processes.</p> <p>Waste (Plastic Bag) Management Regulations 2018 Regulation is not available online, but a press release describes it as prohibiting the import, manufacture, export, sale, and distribution of plastic shopping bags, packing bags and straws from the 30 January 2019.</p> |
| <p>Forestry Management Act 2011 (version as at 2018)</p> <p>Contains powers relevant to regulating disposal of forestry waste</p> | <p>None identified.</p> |
| <p>Land, Surveys and Environment Act 1989 (as at 2018)</p> <p>Part 8 deals with Environment and Conservation. Functions of the MNRE include giving advice on EIA procedures, pollution control and control and management of hazardous substances. Division 4 of Part 8 establishes the CEO’s responsibility to draft management plans for the conservation, management, and control of (g) pollution and (h) waste and litter disposal. Division 8 of Part 8 relates to the control of litter. Section 126 allows the Minister to designate any Government land as an area for depositing litter and rubbish. Section 128 requires receptacles to be provided in public places. Section 146 allows regulations for the purposes of (t) regulating or prohibiting the pollution of air, water, or land, and the depositing or dumping of litter, rubbish, or any substance of a dangerous, noxious, or offensive nature; (x) providing for the regulating or prohibiting the import of environmental pollutants; and (y) providing for the undertaking of environmental impact assessment as a prerequisite for development proposals.</p> | <p><u>Plastic Bag Prohibition on Importation Regulations 2006</u> (repealed by Waste (Plastic Bag) Management Regulations 2018)</p> |
| <p>Agriculture and Fisheries Ordinance 1959 (as at 2018)</p> <p>The Head of State, on advice of Cabinet, may make regulations for any purpose contemplated by the Ordinance under s 15(1).</p> | <p><u>Pesticides Regulations 2011</u> Creates offence for a person to dispose of a pesticide or pesticide waste in a manner that might harm human or animal health or the environment.</p> |
| <p>National Parks and Reserves Act 1974 (as at 2018)</p> | <p>None identified.</p> |

| LEGISLATION | REGULATIONS |
|---|---|
| <p>Creates offence for throwing or depositing rubbish in a National Park</p> <p>Planning and Urban Management Act 2004 (as at 2018)</p> <p>Establishes Planning and Urban Management Agency (PUMA) with responsibility for issuing development consents for a variety of facilities. PUMA can require EIA and has powers with respect to monitoring and issue of stop orders.</p> | <p>None identified.</p> |
| <p>Police Offences Ordinance 1961 (as at 2018)</p> <p>Section 3 establishes an offence against public cleanliness. A comprehensive list of prohibited behaviours is in (a)–(z).</p> <p>Under s 20, a person is liable to maximum 6 months’ imprisonment or a fine of 2 penalty units who throws any offensive matter into or otherwise pollutes or contaminates any river, watercourse, well, cistern, or other place from which water for drinking purposes is obtained</p> | <p>None identified.</p> |
| <p>Samoa Water Authority Act 2003 (as at 2018)</p> <p>Created the Samoa Water Authority</p> | <p><u>Samoa Water Authority (Sewerage and Wastewater) Regulations 2009</u></p> <p>Outlines the Authority’s sewerage and wastewater functions, as made under s 29 of the Act.</p> <p>Part VII relates to the protection of sewerage and wastewater systems from trade wastes and other pollutants. Regulation 37 prohibits discharge of an extensive list of substances. Regulation 38 allows for pre-treatment, control, and disposal of such substances. Regulation 42 outlines a permit process required for discharge of trade and industrial wastewater. Under r 52(1), failure to comply with any requirement of the Regulations is an offence liable to maximum 20 penalty units.</p> |
| <p>Tourism Development Act 2012 (as at 2018)</p> <p>Guiding principles for the implementation of the Act under s 3(2) include (b) minimising environmental impacts from tourism developments and (c) addressing generation of wastes by effective control.</p> | <p>None identified.</p> |

Table 2: Policies and reports impacting waste governance in Samoa

| POLICY | DESCRIPTION |
|--|---|
| National Waste Management Strategy 2019-2023 | Strategy includes analysis of current solid waste and chemical/hazardous waste management systems, identifies issues, and challenges and adopts priorities and action plans. |
| Apia Waterfront Development Plan 2017-2026 | Contains recommendations relevant to littering and provision of rubbish receptacles. |
| City Development Strategy 2015 | Discusses waste, effluent, pollution, and wastewater throughout the Strategy. |
| Ministry of Natural Resources & Environment: Corporate Plan 2017-2020 | Discusses the plan and structure of the MNRE, with objectives surrounding sanitation and waste management. |
| National Biodiversity Strategy and Action Plan 2015-2020 | Pollution and waste disposal are identified as risks to biodiversity. |
| National Chemicals and Hazardous Waste Management Policy 2012 | Not available online. |
| National Environment Sector Plan 2017-2021 | <p>Waste and environmental pollution are identified as putting pressure on Samoa’s environment.</p> <p>Ongoing improvement to solid waste management noted as a key achievement, followed by identification of some waste management priorities.</p> <p>Long Term Outcome 2 is a more sustainable and resilient built environment. This would be achieved through improvements to waste management highlighted at pp 19–20.</p> |
| National Implementation Plan for Persistent Organic Pollutants 2004 | Submitted in fulfilment of Samoa’s obligations as a party to the Stockholm POPs Convention. |
| National Infrastructure Strategic Plan 2011 | Waste discussed throughout plan. Priority themes of the plan include improved wastewater management and sustainable solid waste management. |
| Water and Sanitation Sector Capacity Building Plan 2013 (draft) | Discussion of various sectors within Samoa dealing with wastewater and waste management. Includes recommendations for improved capacity. |
| Water and Sanitation Sector Plan 2016-2020 | Waste discussed throughout document. End of Sector Plan Outcome 5 is increased access to basic sanitation, wastewater management systems and improved hygiene practices, through accessibility to all available sanitation information. |

| REPORTS | DESCRIPTION |
|---|--|
| Solid Waste Management in the Pacific: Samoa Country Snapshot 2014 | Asian Development Bank overview of solid waste management in Samoa as part of wider Pacific project. |
| National Inventory of E-wastes 2009 | Analysis of policy and legislative framework around e-waste, and information and recommendations surrounding its management in Samoa. |
| Review of Natural Resource and Environment-Related Legislation: Samoa 2018 | Overview of environment-related legislation in Samoa as of January 2018. Includes sections on waste, pollution, and MEAs. |
| Samoa Profile in the Solid Waste and Recycling Sector 2018 | Data on solid waste and recycling in Samoa. |
| State of Environment Report 2013 | Comprehensive technical document around the state of various areas of Samoan environment. Includes discussion of: Wastes and pollution, land-based pollution, and poor sanitation. |
| WASH Sector Brief, 2011 | Discussion of Samoa's wastewater management system. |
| Basel Convention National Report 2005 (submitted in 2007) | Submitted in fulfilment of Samoa's obligations as a party to the Basel Convention. |
| Basel Convention National Report 2016 (submitted in 2017) | Submitted in fulfilment of Samoa's obligations as a party to the Basel Convention. |
| Initial Assessment Report for Samoa 2018 | Submitted in fulfilment of Samoa's obligations as a party to the Minamata Convention. |

Table 3: Government departments with waste responsibilities in Samoa

| GOVERNMENT DEPARTMENTS | RESPONSIBILITIES |
|--|---|
| Ministry of Natural Resources and the Environment (MRNE) | Main responsible ministry for waste management. Administers the Waste Management Act and the Solid Waste Management sector. Also responsible for contract procurement and management of Samoa's six collection contracts. Administers other environmental legislation such as the Forestry Management Act 2011, Land Surveys and Environment Act 1989, National Parks and Reserves Act 1974, Planning and Urban Management Act, and Water Resources Act 2008. |
| Ministry of Police and Prisons | Administers Police Offences Ordinance 1961 together with the Samoa Police Service. |
| Samoa Police Service | As above. |
| Ministry of Works, Transport, and Infrastructure (MWTI) Planning and Urban Management Agency (PUMA) | Responsible Ministry for the Samoa Water Authority Act 2003. PUMA now sits within MWTI and has responsibility for the development consent process as well as various planning initiatives and land use plans. |
| Samoa Water Authority (SWA) | Established by the Samoa Water Authority Act 2003 and has functions relating to sewerage and wastewater. |
| Samoa Tourism Authority (STA) | Administers the Tourism Development Act 2012 |

Pipeline activities

The following sections provide details of identified pipeline legislative activities for waste management and governance in Samoa. Information on these activities was obtained from the desktop research, as well as information from in-country contacts provided through the online survey and during interviews.

There has recently been some organisational restructuring of responsibilities in Samoa on waste management, with staff moving from MNRE to staff PUMA, which now sits with the Ministry of Transport, Works, and Infrastructure. It appears some further coordination of functions across the two ministries is still needed, particularly about waste management infrastructure and planning. Both the PUMA Act and legislation administered by MNRE are also currently undergoing review.

Interviewees highlighted enforcement difficulties as a key limitation and suggested that support for a system of ‘on the spot’ fines might improve this situation.

To tackle the growing problem of plastic bottle waste, a container deposit return scheme is being considered in Samoa, where importers of plastic containers would pay a levy on these items, which would be passed onto consumers. Consumers would then receive a refund if they returned the container for recycling.

Similar schemes in other Pacific Island countries e.g., Palau and the Federated States of Micronesia appear to be working well. If such a scheme were introduced in Samoa this would generate a need for supporting regulations, most likely under the Waste Management Act.

A water treatment plant exists in Apia for commercial facilities only. There is a proposal to extend these facilities to residential properties using Green Climate Fund resources. PUMA has been tasked to do a feasibility study for this extension to residents, which is now in the pipeline.

Table 4: Pipeline activities for Samoa

| PIPELINE ACTIVITY | DESCRIPTION | TIMEFRAME |
|---|--|---|
| Review of MNRE legislation and PUMA Act | Review of legislation and associated organisational arrangements. | Ongoing with some complexities introduced by split of PUMA from MNRE. |
| Enforcement improvements | Recommendation for system of on-the-spot fines. | Appears to be legislative provision but needs political support. |
| Container deposit scheme | Proposed CDS for Samoa. Would require supporting regulations potentially under the Waste Management Act. | Under consideration since 2014. |
| Wastewater treatment residential extension | Feasibility study being undertaken by PUMA | Ongoing. |

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 Samoa to these MEAs.

Table 5: MEAs active in Samoa

| MEA | IN EFFECT FOR COUNTRY | DESIGNATED NATIONAL AUTHORITY OR NATIONAL FOCAL POINT | IMPLEMENTING LEGISLATION |
|-----------------------------|-----------------------|---|---|
| Basel Convention | 20 Jun 2002 | Mr. Taule'alo Tu'u'u Ietitaia Chief Executive Officer Ministry of Natural Resources and the Environment Apia, Samoa Phone : +685 23 701 Fax : +685 23 176 Courriel : info@mnre.gov.ws | Waste Management Act 2010 (as at 2018). See also Basel Convention National Report 2005 (submitted in 2007) and Basel Convention National Report 2016 (submitted in 2017). |
| Minamata Convention | 16 Aug 2017 | Not specified. | No specific implementing legislation but see Initial Assessment Report for Samoa 2018 . |
| Rotterdam Convention | 24 Feb 2004 | Chief Executive Officer (DNA for industrial chemicals) Ministry of Natural Resources and the Environment Apia, Samoa Phone : +685 23 701 Fax : +685 23 176 Email : info@mnre.gov.ws Pesticide Registrar (DNA for pesticides) Ministry of Agriculture and Fisheries P.O. Box 1874 Apia, Samoa | Waste Management Act 2010 (as at 2018). |

| | | | |
|-----------------------------|-------------|--|--|
| | | Phone: +685 20924 Fax: +685 20103 Email : aceo@samoaquarantine.gov.ws | |
| Stockholm Convention | 17 May 2004 | Ms. Peseta Noumea Simi Chief Executive Officer Ministry of Foreign Affairs and Trade P.O. Box L1859 Apia, Samoa Phone: +685 21 171 Fax : +685 215 04 Email : noumea@mfat.gov.ws | <u>Waste Management Act 2010</u> (as at 2018). See also <u>National Implementation Plan for Persistent Organic Pollutants 2004</u> . |
| Waigani Convention | 21 Oct 2001 | Chief Executive Officer Ministry of Natural Resources & Environment Private Mail Bag APIA, Samoa Tel: (685) 23701 Fax: (685) 23176 Email: amataga.penaia@mnre.gov.ws | <u>Waste Management Act 2010</u> (as at 2018). |

SECTION 2: LEGISLATIVE ASSESSMENT



This qualitative assessment of Samoa's legislative environment has classified Samoa'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 Samoa 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 Samoa'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 Samoa to develop and/or implement additional legislative instruments to in achieving waste management and environmental outcomes.

Overview of the legal system



Samoa consists of four inhabited islands and five uninhabited islands to the northeast of Fiji. The capital, Apia, is located on the most populous of the islands, Upolu. Upolu and Savai'i account for 99% of Samoa's 192,000 population. The Samoan islands (including Samoa and American Samoa) were named the Navigator Islands in 1768. Samoa became German Samoa in 1900 and Western Samoa in 1914.



Samoa was governed as a German protectorate from 1900-1919, as a League of Nations mandate under the trusteeship of New Zealand from 1919-1945 and as a United Nations trust territory of New Zealand from 1945-1962. Samoa gained independence on 1 January 1962 with the enactment of the Western Samoa Act 1961 (NZ) – the first Pacific nation to re-establish independence in the 20th century. In 1997, the nation was renamed the Independent State of Samoa. The official languages are English and Samoan.



Samoa is a unitary parliamentary democracy with eleven administrative districts. The Parliament of Samoa consists of the Head of State together with the unicameral Legislative Assembly.



Samoa has a mixed legal system of common law and customary law. The Constitution is the supreme source of law. Other sources of law are legislation (Samoan and unrepealed British and New Zealand statutes), common law and customary laws.



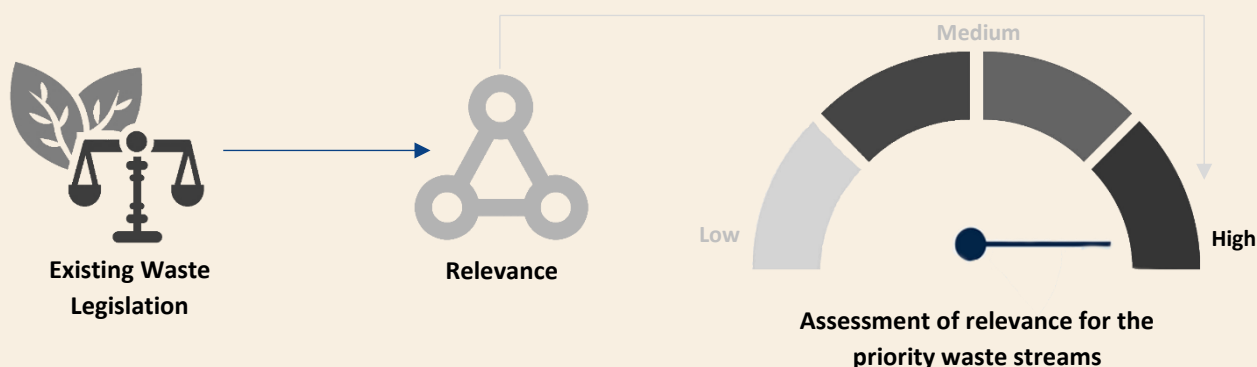
Fonos, or village councils, deal exclusively with village affairs such as culture, customs, and traditions, including all customary land matters. Decisions of the Fonos may be challenged in the Land and Titles Court, one of the second-tier courts under the superior courts.

Legislative Assessment

This section contains a qualitative legislative assessment for Samoa 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 Kiribati’s waste-related laws in their specific operating context.

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

Relevance



Samoa is one of the countries in the Pacific region with dedicated waste management legislation, introduced in 2010. This legislative change was driven by a proposal to bring in a waste management company to deliver waste management services in the country. From there, the *Waste Management Act 2010* was developed to define the roles and responsibilities of the MNRE and relevant stakeholders in Samoa. In addition, several other pieces of legislation support the management of wastes.

Samoa’s *National Waste Management Strategy (NWMS) 2019-2023*, developed under the *Waste Management Act*, distinguishes between solid waste, and chemical and hazardous waste. The NWMS defines solid waste as general waste from households and businesses (e.g., paper, cardboard, kitchen waste, green waste, aluminium and steel cans, plastic paper/bags, PET bottles, nappies/diapers, textiles, rubber, glass, bulky waste etc.) and defines chemical and hazardous waste as substances or matter that are toxic and poisonous, which may harm human health or the environment (e.g., e-waste, waste oil, batteries, healthcare waste, asbestos, persistent organic pollutants (POPs) etc).

Samoa has identified opportunities to strengthen the country’s existing waste legislative framework and its enforcement. These opportunities, and proposed timeframes for their implementation, include:

- Formulating a regulation for recyclables (2019/2020);
- Developing regulations for the enforcement of littering and illegal dumping prohibitions (2019-2024);
- Enforcing code of practices for contractors and staff (2020-2024);
- Enforcing a waste disposal fee by weight at the Tafaigata Landfill (2019-2024);
- Enforcing regulations on plastic ban (2019-2024); and
- Revising the *Waste Management Policy 2011* (2022-2024).

To determine relevance, consideration of the various legislative definitions has been assessed.

Table 6: Definitions of waste in Samoa’s legislation

| Legislation | Definitions |
|---------------------------|--|
| Waste Management Act 2010 | <p>Waste includes:</p> <ul style="list-style-type: none"> • garbage, household refuse, rubbish, scraps and trade and industrial wastes, in solid, liquid, or gaseous form • any other matter or thing determined under section 6 to be waste for the purposes of this Act, – but does not include human wastes except in the form of sludge or any other form intended for final disposal as a waste product’. <p>The definition of ‘waste’ in the WMA is reasonably comprehensive, extending to solid, liquid, and gaseous wastes. The priority waste streams of organic waste, plastic waste and bulky waste fit comfortably within this definition of waste and are considered further below. Importantly, this definition also provides Samoa with flexibility to define other types of waste via regulations or by written determination should new categories arise (e.g. disaster waste).</p> <p>Hazardous waste includes:</p> <p>the wastes and substances specified in Schedule 2 if they are prohibited in Samoa under the applicable international conventions, or have been imported or used in Samoa in a manner which breaches the relevant conventions, and:</p> <ul style="list-style-type: none"> • any wastes which are, or which have the potential to be, toxic or poisonous, or which may cause injury or damage to human health or the environment • any specific substance, object or thing determined under section 6 to be a hazardous waste • any other matter or thing deemed under international conventions to be hazardous wastes or to have the characteristics of hazardous wastes’. In the area of hazardous chemicals and waste management, Samoa is party to the Basel, Stockholm, Rotterdam, Minamata and Waigani Conventions. <p>The WMA also contains a separate definition for hazardous waste which allows for a targeted control regime for these types of wastes. This would cover the priority wastes of healthcare waste, e-waste and asbestos, although noting that the hazardous waste definition has a particular focus on the implementation of Samoa’s obligations under international conventions which focus on chemicals and wastes that are traded. Even so, this definition provides Samoa with the flexibility to define other things as hazardous wastes via regulations or written determination (e.g. certain types of recyclable hazardous wastes, disaster wastes containing hazardous substances etc).</p> <p>A discharge includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping</p> <p>An Environment pollutant is a substance whether liquid, solid, gaseous, or radio-active, or a form of electro-magnetic or thermal energy which, when discharged, emitted or deposited into the environment, causes or may cause, by reason of its properties, characteristics, the volume, amount and weight, and point of its discharge or other circumstances, a present or future alteration of the environment so as to affect adversely its beneficial use a substance, material or matter prescribed to be an environment pollutant or a hazardous environment pollutant</p> <p>Litter Includes a bottle, tin, carton, package, paper, glass, or other refuse, rubbish or unwanted thing or an abandoned vehicle or part’.</p> |

| Legislation | Definitions |
|-------------|--|
| | <p>Litter is further defined in section 125 (LSE Act), for the purposes of that division, to include ‘refuse, rubbish, animal remains, glass, rubble, ballast, stones, earth or waste matter, or any other thing of a like nature’.</p> <p>Pollutant means ‘any liquid, gaseous or solid substance that contaminates the water so as to change the physical or chemical condition of it in such a manner as to make the water unclean, noxious, offensive or impure, or so as to be detrimental to the health, safety or welfare of persons using, consuming or residing in the vicinity of the water.’</p> |

To date, three specific regulations have been created under the WMA:

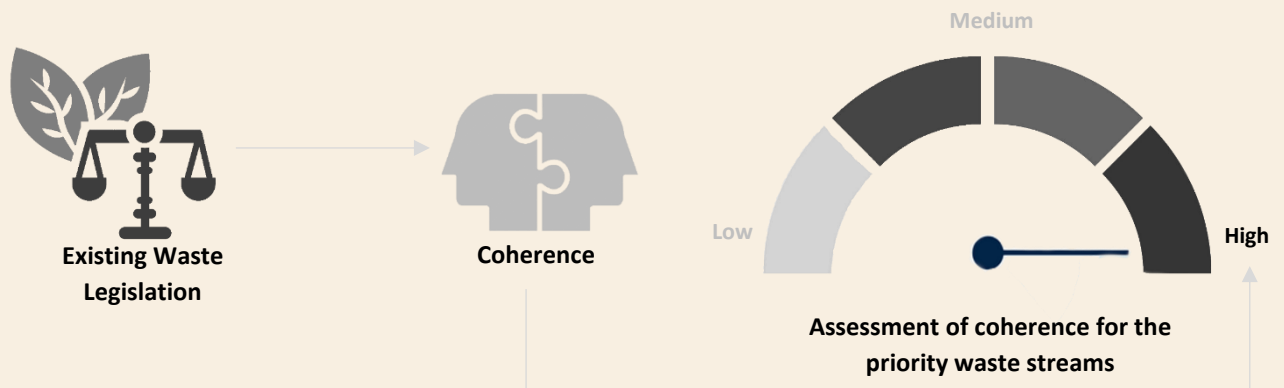
- The Waste Management (Importation of Waste for Electricity Generation) Regulations 2015 prohibit the importation of waste tyres or any hazardous waste into the country. This is controlled by issuing a permit to any company/person applying to import such wastes.
- The Waste (Plastic Bag) Management Regulations 2018 ban the import, manufacture, export, sale, and distribution of certain single-use plastics (i.e., shopping bags, packaging bags and plastic straws) from 30 January 2019 and Styrofoam plastic (i.e., cups, plates, and food containers) from 30 January 2020.
- The Waste (Plastic Bag) Management Regulations 2020 amend the 2018 regulations to delay the commencement of the Styrofoam plastic ban to 30 June 2020.

The WMA provides a framework to develop specific regulations in relation to categories of recyclables. For example, under section 10 of the Act, regulations can be made imposing special levies on goods that have adverse effects on the environment. Further, under section 12, regulations may be made to impose requirements in relation to certain wastes by ‘requiring the lodging of a deposit in relation to certain objects, substances or things which may become wastes to ensure their appropriate disposal by recycling or otherwise’. Moreover, the general power to enact regulations under section 43 of the WMA enables the making of regulations to, amongst other things, prescribe litter and waste control measures.

To date, the only regulations promulgated under the WMA relating to recyclables are the Waste Management (Importation of Waste for Electricity Generation) Regulations 2015. These prohibit the importation of tyres in shredded form or any other (hazardous) waste for use in energy recovery. This is defined as generating electricity through a pyrolysis process or combustion of waste, the controlled extraction of material or retrieval of energy from waste, or operation of energy recovery specified in the Basel and Waigani Conventions in the absence of a permit.

The WMA provides the necessary legislative scope to develop further regulations to support recycling initiatives and control illegal dumping of products and materials that could otherwise be recycled.

Coherence



Samoa has dedicated waste management legislation, with specific solid, chemical, and hazardous waste sections. The Environment and Conservation division of the MNRE takes the lead role in coordinating its administration. The administrative and policy framework provides the basis for a holistic approach to waste management issues in Samoa. It is unclear, however, what impact the recent split from MNRE of PUMA, handling the development approvals process, to a different ministry will have in practice. An ongoing review of PUMA legislation and the MNRE legislation will likely include designation of the respective division of roles and functions between these departments.

On the ground, and with coordination from the MNRE, responsibilities for managing waste are shared between private contractors and other relevant ministries for waste streams (such as healthcare waste). In this regard, private companies operate household solid waste collection services under contracts managed by the MNRE. While all landfill sites and waste dumps must be licenced, there is not a similar requirement for other waste management facilities and operators. There is the power to develop such a system of registration and licencing under the Waste Management Act.

To ensure effective coordination, the National Waste Management System notes that enforcing a code of practices on contractors and staff is part of the plan to strengthen the legal framework.

Effectiveness



The legislative objectives of the waste management framework in Samoa can be understood by reference to several of the overarching provisions of the Act. The long title to the Waste Management Act describes its purpose as being ‘to provide for the collection and disposal of solid wastes and the management of all wastes in Samoa and for related purposes’. However, the centrality and intended breadth of the legislation with respect to waste management in Samoa is perhaps better indicated by the expansive responsibilities given to the MNRE under section 4.

These are:

- forming and implementing a waste management strategy and other related strategies;
- making arrangements for commercial, industrial, and residential waste collection services.
- ensuring adequate provision for waste management facilities including identifying, developing, and managing landfill areas;
- requiring sound management of landfill areas and approved dumping and waste storage sites incorporating comprehensive environmental management systems (including leachate containment and management measures);
- imposing requirements and making arrangements for site management of ex-landfill areas and dumping sites;
- regulating operation of waste treatment, storage, and disposal facilities;
- ensuring adequate waste management services to aircraft and ships and imposing requirements relating to this;
- promoting recycling and implementing measures to minimise wastes that have adverse effects on human and environmental health;
- monitoring the effects of wastes on human and environmental health, and enhancing cooperation with officers in carrying out responsibilities relating to regulating and monitoring wastes and monitoring waste management processes and facilities;
- regulating persons involved in the transportation, storage, and disposal of wastes;
- preparing, adopting, and enforcing rules, operating manuals, codes of practice and standards regulating activities associated with waste management;
- implementing litter and waste control measures;
- preparing reports and statistics and regular reporting;
- enhancing public awareness regarding minimising waste generation and effective waste management;
- forming, implementing, and enforcing policies, programs, initiatives, standards, and requirements to reduce the generation of wastes;
- forming arrangements and procedures for managing landfills and waste management facilities in the event of natural disasters, fires, and other emergencies; and
- performing any other functions required by law or Cabinet.

To support the achievement of these ambitious responsibilities, the Waste Management Act contains the mechanisms, requiring the licencing of landfills, the imposition of special waste-related levies, enabling the making of environmental and public health standards, defining information and audit requirements, and various other powers to regulate wastes in particular ways. Additionally, the Act empowers MNRE to delegate responsibility for waste collection services to private operators, these mechanisms appear well designed to meet waste management objectives.

The National Waste Management Strategy summarises the guiding principles for effective waste management in Samoa, which are:

- reduce, reuse, recycle, return
- the polluter pays principle
- public consultation and participation
- sound decision making
- selection of appropriate and affordable technology
- public-private partnership

These principles, in tandem with the expansive mandated functions of the MNRE, incorporate key elements of best practice waste management. The emphasis on reuse, recycling, and recovery (including new container deposit legislation in the pipeline) and innovative mechanisms for the disposal of wastes (e.g. public-private partnerships) are essential elements of an effective waste management system.

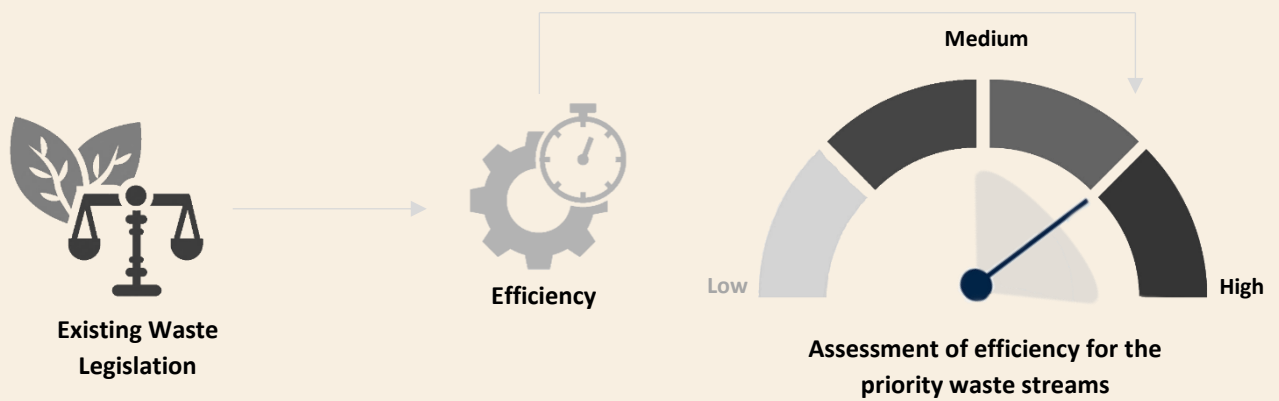
Continuing emphasis on waste prevention mechanisms is also an important part of best practice waste management.

These waste prevention mechanisms includes:

- prohibiting products from entering the country which might add to waste streams (e.g., exemplified through the recent single use plastics ban)
- 'green consumerism' (e.g., through public awareness campaigns continuing to be led by the MNRE)
- pricing mechanisms (e.g., the user pay waste collection system currently under consideration)
- extended producer responsibility mechanisms (e.g., through public-private partnerships applying to some e-wastes).

The effectiveness of Samoan legislation will also likely be enhanced through a planned review of the Waste Management Act. This review is intended to cover the scope of the laws, inclusions of chemical and hazardous wastes and updating international conventions covered by the legislation.

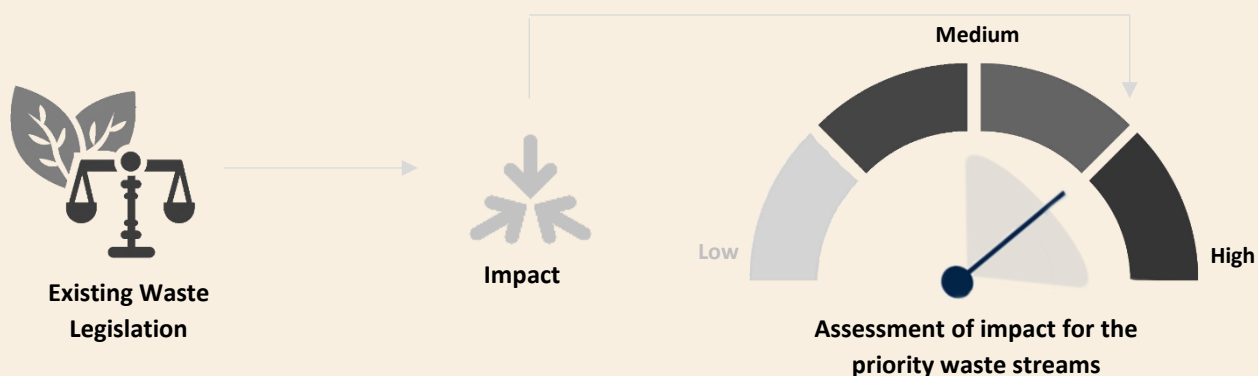
Efficiency



MNRE has an ambitious and large portfolio with 17 mandated functions under the Waste Management Act. The National Waste Management Strategy noted MNRE *'is willing to fulfil those functions as the main responsible ministry for waste management. However, the insufficient capacity of MNRE limits its ability to fulfil its obligations'*.

It is noted that ineffective enforcement and monitoring due to insufficient financial resources poses challenges for implementing waste management laws in Samoa. Considering these challenges with resourcing levels, the approach taken by MNRE is to engage with waste issues as they arise over time and to add more regulations incrementally. Transparency regarding MNRE's operations are achieved through yearly Annual Reports published to their website, and ongoing public consultations.

Impact



Through its dedicated Waste Management Act and ongoing efforts for legislative reform, Samoa's framework is well-placed to contribute to successful waste management and broader environmental protection from the effects of waste pollution. Impact may be further enhanced by measures targeting areas such as those identified in the National Waste Management Strategy as a top priority.

This includes measures to:

- enhance public environmental awareness regarding waste-related issues;
- strengthen operational planning;
- improve data collection and monitoring processes;
- strengthen enforcement of the legal framework;
- improve the capacity of solid waste management officials; and
- improve management of toxic chemicals and hazardous wastes.

To support these actions, the National Waste Management Strategy identified the several high priority activities in the context of solid waste management for:

- promoting the 3Rs;
- improving environmental awareness in schools;
- implementing landfill surveys and operation plans;
- undertaking feasibility studies for financial incentive mechanisms such as user-pay systems and container deposit legislation;
- establishing a rubbish collection monitoring system; and
- enforcing new regulations on banning plastics.

For chemical and hazardous waste management, priority actions include:

- strengthening national governance of chemicals;
- increasing awareness of chemical hazards;
- improving legislation on chemicals; and
- ensuring sustainable lifecycle management of chemicals.

SECTION 3: CAPACITY ASSESSMENT



This qualitative assessment of Samoa'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 Samoa'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 Samoa'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



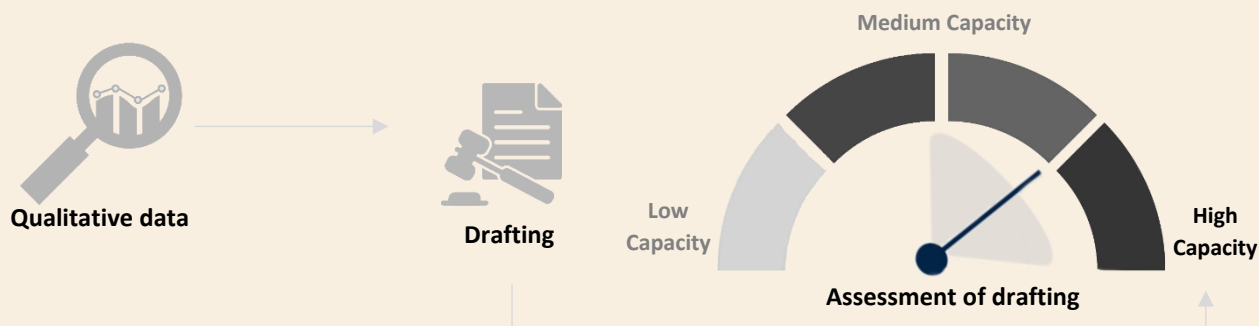
Reporting under relevant MEAs

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 Samoa’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



The process for legislative drafting in Samoa is described below.



According to the **Cabinet Handbook 2011**, a Ministry wishing to develop legislation should discuss this proposal with the Office of the Attorney General at first instance.



With the Attorney General’s support, the Ministry then makes a **submission to Cabinet for approval to draft the legislation**. This proposal must explain:

- the policies behind the legislation,
- the options to achieve policy objectives and
- why the proposed legislative action is the best way forward.



If approval is given, the responsible Minister, CEO and Attorney General will proceed with preparation of the legislation. Once the drafting process is complete, the Attorney General must certify a Bill or Regulation before it is submitted to Cabinet.



Once a **Bill is drafted, tabled for approval, and approved by Cabinet**, the Bill is presented to the **Legislative Assembly**.

The Legislative Assembly will then receive a **report from the Select Committee**, consider the report and make any required amendments before proceeding to a Third Reading.



The First and Second Reading speeches are followed by an in-principle debate before the **Bill is referred to the Select Committee for inquiry**.



Finally, the **Bill receives assent from the Head of State** in order formally to become law. The Practice and Procedure Manual for the Legislative Assembly of Samoa provides an overview of the legislative process.

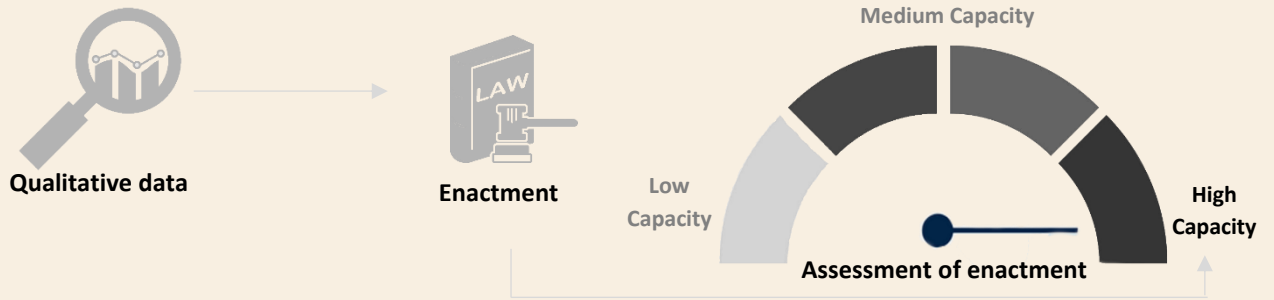


Specifically, in the context of reviewing the current *Waste Management Act 2010*, the options for MNRE are to either undertake the review through their dedicated Legal Services Division or to engage a consultant. MNRE typically utilises consultants to conduct the review to expedite the process. More generally, MNRE's Legal Services Division provides legal and policy advice to all 14 Divisions of the Ministry, the CEO, and the Minister. According to the 2017-2018 Annual Report, the Legal Services Division of the MNRE had 5 members.

In recent years, Samoa has progressed several waste management-related laws and regulations, focused particularly on issues such as plastic wastes and recyclables. Although the country already has in place dedicated waste management legislation, it continues to have an ambitious agenda for review of this law and reform in other areas, such as litter control and container deposit legislation, which attest to a high capacity to take forward policy developments into new legal requirements.

The proposed review of the *Waste Management Act* would examine the scope of laws, inclusion of chemical and hazardous wastes, and updating international conventions, and is anticipated to involve consultation processes with relevant stakeholders. There are constraints operating within provincial governments in terms of available information flows on environmental protection and technical waste management requirements that limit drafting capacity at this level. Environmental protection and waste management have only recently gained prominence as areas for policy attention and there appear to be many competing demands on provincial government capacity that limit the ability to adopt laws on waste management. There also appears to be limited technical and scientific expertise available to assist in drafting or revising laws at this level.

Enactment



Samoa has already undertaken significant legislative reform in this area.



Samoa is an independent state based on Christian principles and Samoan custom and tradition (preamble to the Constitution)



The Parliament of Samoa consists of the Head of State and the Legislative Assembly

- A **parliamentary democracy** with a unicameral legislature (the Legislative Assembly)
- **Prime Minister** supported by Cabinet
- **Head of State** appointed by the Legislative Assembly

The **Constitution of the Independent State of Samoa 1960** is the **supreme law** of Samoa.



Pursuant to **section 43 of the Constitution**, the Parliament has broad powers to **make laws for the whole or any part of Samoa**, subject to other provisions of the Constitution.

Any law passed after the date of coming into force of the Constitution that is inconsistent with the Constitution is void to the extent of the inconsistency (s 2).

- Section 114 preserves any existing law prior to Independence Day until it is repealed by a subsequent Act.
- The Constitution contains a number of fundamental rights in Part II.



Under the WMA, several provisions **empower the MNRE or the Head of State to make regulations to implement the Act**, including the general power under **section 43**

For instance, several provisions seek to **preserve the role of customary law** such as **section 100 on matai titles and section 101 stipulating that all land in Samoa is customary land, freehold land, or public land.**



The Village Fono Act preserves the customary powers village fonos to make faiga fa'avae (policies) or i'ugafono (decisions) in relation to a wide range of village matters necessary to give effect to:

Harmony

Well-being

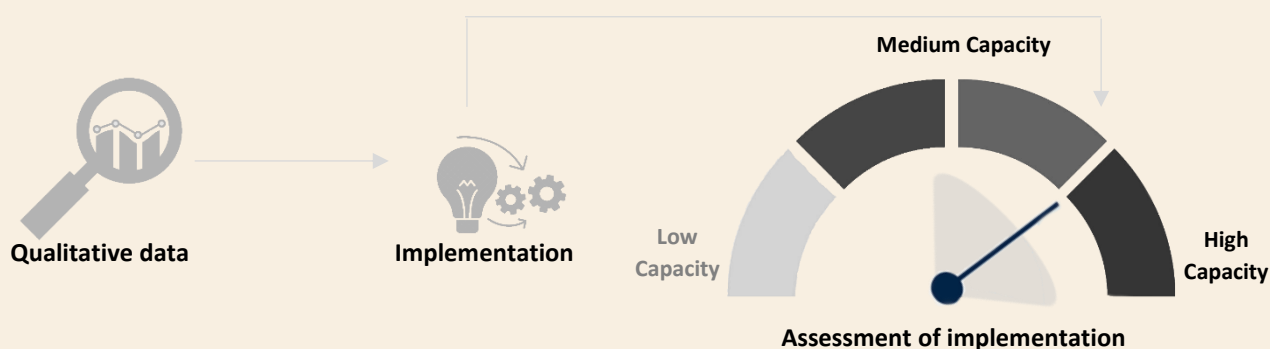
Good order

As a common law country following the British legal tradition, Samoa adopts a dualist approach with respect to international law. Accordingly, where Samoa has ratified and is a party to treaties, such as the waste management related MEAs discussed further below, these only become effective in Samoa when they are incorporated into domestic laws.

Although Samoa has a parliamentary model of governance at the national level, customary law, and governance structures still play an important role at the local level. Fono (village councils) deal with customary and traditional matters within their villages under the guidance of local matai (chiefs). They have the powers to manage matters of sanitation and hygiene within the village, in addition to protecting Samoan customs and traditions, protecting natural resources and the environment and 'any other matter to give effect to or to promote wellbeing, development and maintenance of harmony and good order of the village and its inhabitants' (s 5).

Overall, the broad powers of the Samoan Parliament provided for in the Constitution mean that the country has significant scope to enact laws on a wide range of matters relevant to waste management. Its capacity for enactment of new legislation in this regard is indicated by its track record to date, which has included enactment of the *Waste Management Act* in 2010 and, more recently, a range of supporting regulations under that law.

Implementation



Samoa has a well-developed waste management framework to support the implementation of its legislation, although constraints on financial resources and personnel numbers pose continuing challenges.

MNRE is the lead agency for waste management in Samoa, administering the *Waste Management Act 2010*. According to its 2018-2019 Annual Report, MNRE had a total of 421 staff positions (with 368 staff in place), with the Division of Environment and Conservation (DEC) having 51 staff members occupying roles (noting this was prior to PUMA (listed as having 20 staff) moving to the Ministry of Works, Transport and Infrastructure). DEC's website indicates that its current structure consists of five sections, including the Waste Section and the Chemical and Hazardous Waste Section. The DEC presently has just over 30 staff members. While limited financial resources to cover operational costs restricts the ability of the MNRE to carry out its work, the base legislative framework to support any future initiatives is sound.

MNRE also has a good online presence with a website that appears to be updated regularly. MNRE website provides publicly accessible information about the Ministry and its operations, including annual reports, community announcements and the laws administered. Such transparency is important for building public awareness and enhancing community for legislative governance of waste issues. Notably, the most recent version of the National Waste Management Strategy, covering the period 2019-2023, is also available online.

The waste management sections in MNRE have undertaken regulatory reforms, as well as awareness raising and monitoring/enforcement activities (discussed further below) to support effective implementation of waste management legislation.

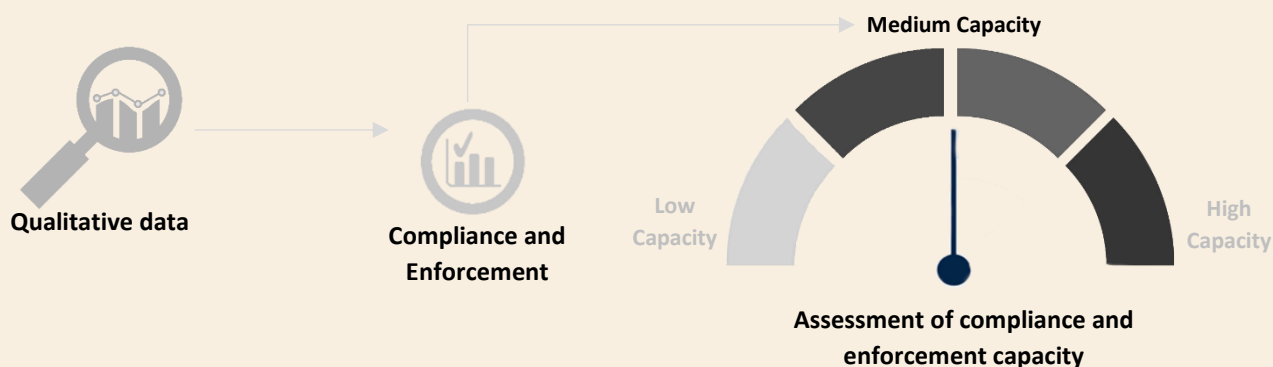
The *Waste Management Act* includes several provisions that enable the MNRE or the Head of State, with the support of Cabinet, to develop specific regulations to regulate waste streams. These include powers to make regulations with respect to the following matters:

- An object, substance or thing may be determined to be a waste or hazardous waste for the purpose of the WMA by regulations made under the Act or by the CEO making a written determination (s 6).
- Registration and licensing of additional waste management facilities and operators may be required in accordance with regulations made under the Act (s 9(2)).
- The Head of State, acting on the advice of Cabinet, may make regulations which impose special levies on particular goods, impose additional charges on premises in commercial areas where services are provided to maintain the cleanliness of streets, footpaths or public areas, impose any other type of levy relating to waste management services, or for the purpose of raising revenues for the effective management of wastes, and provide for the payment or collection and use of special levies and additional charges (s 10).
- Imposing prohibitions or regulations regarding the import, export, manufacture, use, storage, or transportation of certain things that may become wastes (including lodging deposits) (s 12).
- Determining certain substances to be prescribed wastes through regulations for the purposes of s 19 (e.g., hazardous wastes) (s 19).
- Section 43 contains a more general power to make regulations.

Infrastructure supporting the legislative framework, such as waste collection services provided through contractors for all households and small businesses located in collection zones, are monitored by the MNRE. According to the National Waste Management Strategy 2019-2023, most premises located in the collection zones have raised waste collection platforms made of concrete or other local materials that are placed along the roadside. The collection vehicles stop at these points and collect the waste discharged. Some wastes are not collected and so MRNE has plans to implement regular monitoring of contractors' performance as well as to develop a user database to identify the location of potential problem areas. One possible avenue for improving capacity in terms of managing waste collection services could be to introduce a specific licence under the *Waste Management Act* for waste collectors and those handling hazardous wastes.

Another challenge relating to infrastructure that effects the implementation of waste management laws is that there are presently no storage facilities and disposal measures for chemical and hazardous wastes (including mercury wastes). The only advice that MNRE can give at this stage is to store these chemicals while they are seeking support for their long-term disposal. Given that the legislative framework allows for the development of a targeted regime relating to the management of such hazardous substances (i.e. by the provision of a specific legislative definition of hazardous waste and the ability to prescribe regulations), there is legislative scope to develop regulations to manage their disposal if supporting infrastructure becomes available.

Compliance and enforcement capacity



Samoa has much of the necessary institutional infrastructure either in place, or able to be developed, under its legislation to facilitate compliance with, and enforcement, of its laws related to waste. This includes:

- Legislative requirements for environment management plans and monitoring programs for development projects;
- Capacity to undertake development assessments (including providing for conditions and requiring Environment Impact Assessments);
- Powers to refuse consent to developments and to issue stop orders;
- Offences including prohibitions on illegal dumping and relating to hazardous wastes;
- Ability to develop regulations for litter and waste control measures; and
- An established Planning Tribunal to hear cases such as those involving contraventions of development consents.

MNRE publishes online its annual reports, which contain details of the compliance and enforcement activities undertaken for the past year.

The 2018-2019 Annual Report noted:

- The Chemical and Hazardous Waste Management Section:
 - completed 12 monitoring activities of solid waste contracts to verify adherence to the terms and conditions of contracts and monthly payments;
 - conducted 12 monitoring visits to Tafaigata Sludge Facility;
 - conducted 3 monitoring visits to Public Toilet Facilities at Mulinuu, Sogi and Eleele-fou; and
 - 3 monitoring visits to Vaiaata Sludge facility in Savaii.
- The Planning and Urban Management Agency (PUMA):
 - processed 1002 Development Applications;
 - granted 963 Development Consents, including reviewing 29 EIA reports;
 - issued 70 Enforcement Orders to certain individuals or entities that had breached provisions of its governing legislation; and
 - processed 168 Public Complaints received in relation to impacts on amenity values (e.g., odour and wastewater affecting nearby neighbours), with 141 cases resolved.

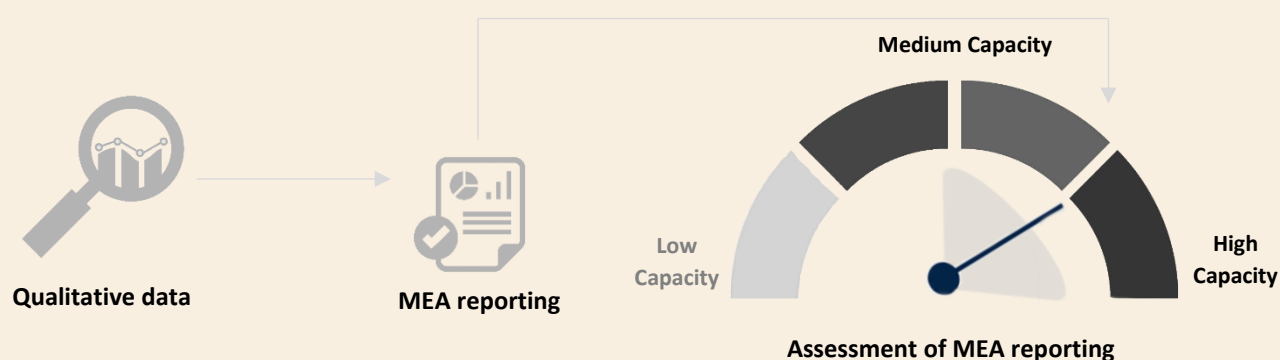
- The Legal Services Division, which serves the whole of the MNRE and not just the waste sections, reported:
 - 56 incidences of monitoring or inspections;
 - 13 investigations, with 2 cases submitted to the Attorney-General's office for prosecution;
 - 10 environmental matters resolved without going to court; and
 - 10 civil matters were dealt with. Of these, 3 were resolved without going to court, 5 were pending before the Supreme Court, and 2 were before the Attorney General's Office (one pending mediation and the other waiting the Legal Services Division's review).

The report further notes that usually mediation meetings between different parties are undertaken to help resolve various issues or matters reported to PUMA.

While Samoa does appear to have good structures in place to support ongoing compliance and enforcement activities. Ineffective enforcement and monitoring programs for waste management laws, as well as insufficient financial mechanisms to conduct effective monitoring and enforcement are ongoing challenges. Lack of human resources continues to be an issue.

Under proposed littering regulations MNRE is seeking to develop the capacity to fine offenders on the spot. Such provisions avoid the need for lengthy legal and court proceedings, which are often subject to backlogs due to limited legal staff to support cases going forward from different the different divisions.

MEA reporting



Samoa is party to the Basel, Stockholm, Rotterdam, Minamata and Waigani Conventions.

Samoa's level of compliance with notification, information sharing and reporting requirements under the MEAs to which it is party is amongst the highest of any of the PacWastePlus participating countries. Samoa has submitted two national reports under the Basel Convention (in 2005 and 2016) and has submitted two national reports under the related Waigani Convention (for 2015 and 2016). In addition, Samoa developed an initial National Implementation Plan (NIP) under the Stockholm Convention (submitted in 2004, with an updated NIP finalised and validated by UNEP, although not yet submitted to the Stockholm Convention Secretariat), has provided the majority of the import responses required under the Rotterdam Convention, and was the first Pacific Island party to complete an Initial Assessment under the Minamata Convention (finalised in 2018).

A significant factor underpinning Samoa's relatively high level of compliance with reporting obligations under relevant MEAs is its specific *Waste Management Act*. Section 15 of the *Waste Management Act* makes MNRE responsible for 'the effective implementation in Samoa of any international convention, agreement or arrangement applying in Samoa and relating to the management of wastes, and for ensuring that Samoa observes its obligations and fully enjoys its rights'.

Relevant conventions are listed in a schedule to the *Waste Management Act* and include the Basel, Stockholm, Rotterdam, and Waigani Conventions.

Particular roles of MNRE in relation to the implementation of international conventions include several relevant to reporting and information exchange such as:

- Liaising with relevant regional and international bodies to ensure that Samoa meets its obligations under those conventions,
- Preparing any necessary report, and reporting on a regular basis to the Minister and Cabinet in relation to implementation. and
- sharing information and otherwise providing such cooperation as is required by [those conventions].

Where other ministries or government agencies have legal responsibilities for implementation of elements of a relevant international convention, the *Waste Management Act* directs MNRE to 'perform its functions and exercise any related power in conjunction with the other ministry or agency.'

The *Waste Management Act* does not currently make any specific provision relating to implementation or reporting under the Minamata Convention.

In its initial assessment prepared for the Minamata Convention in 2018, Samoa identified this gap and the need for amending regulations to allow coverage of hazardous mercury chemicals and mercury wastes.

Other legislative reforms were also proposed under related legislation, including:

- the Land, Surveys and *Environment Act* (to impose import bans and phase out requirements);
- the *Planning and Urban Management Act* (to institute a code of practice for sites storing hazardous mercury wastes);
- the *Village Fono Act 1990* (to require the separation and separate collection and treatment of mercury wastes); and
- the *Water Resources Management Act 2008* (to prohibit the discharge of mercury-containing dental amalgam wastes to wastewater systems).

Under the Rotterdam Convention, Samoa has 15 outstanding cases where it has failed to transmit an import response. These cases mostly relate to toxic industrial chemicals, including asbestos, whereas many more responses have been submitted for restricted pesticides. The Rotterdam Designated National Authority for pesticides sits in the Ministry of Agriculture and Fisheries, which administers the Pesticides Regulations 2011. The latter contain provision for record keeping and maintenance of a National Pesticides Database that may facilitate the provision of import responses under the Convention. By contrast, MNRE is the Rotterdam Designated National Authority for industrial chemicals. The Waste management Act does not have record-keeping requirements that apply to imports and exports of chemical and hazardous wastes and interviewees noted a lack of information on these substances, as well as problems of illegal dumping.

Table 7: Compliance with MEA reporting requirements

| Relevant MEAs party to | Comments |
|-------------------------------|--|
| <i>Basel</i> | Competent authorities and focal point designated. Notification provided of 2010 waste management legislation. National reports provided for 2005 and 2016. |
| <i>Stockholm</i> | Official contact point/National focal point designated. National Implementation Plan (NIP) finalised December 2004 (submitted 2007). Samoa is reported to have finalised an updated NIP that has been verified by UNEP but has not yet been transmitted to the Stockholm Convention Secretariat. No national reports submitted in first four reporting cycles. |
| <i>Rotterdam</i> | DNAs notified. 37 import responses provided, mostly for pesticides. 15 import responses outstanding, mostly for industrial chemicals including asbestos. |
| <i>Minimata</i> | Focal point not specified. No further notifications provided. Completed comprehensive Minamata Initial Assessment in 2018. First short form report due 31 Dec 2019 not submitted. |
| <i>Waigani</i> | Competent authority and focal point designated (updated 5 Jun 2014). Report of the 9 th COP (2017) notes information from Samoa that its 2015 report had been submitted and its 2016 report was in preparation. Has put requests to COP at previous meetings for simplified reporting forms to assist parties to fulfil reporting obligations. |

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 Samoa 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 Samoa for waste governance was assessed as performing at a medium-to-high to high level. The capacity of Samoa with respect to various aspects of the administration of its waste legislative framework was assessed overall as medium-to-high, with the greatest needs arising in respect of support for implementation, compliance, and enforcement of laws.

Samoa has both a specific *Waste Management Act* and a centralised section within MNRE for administering and enforcing waste-related legislation and coordinating institutional responsibilities across departments and agencies. In this respect, opportunities to develop or implement additional instruments, relates to enhancing the existing legislative framework rather than to pursue significant reforms.

Opportunities for improving legislative instruments to support improved waste management

As Samoa already has a relatively strong legislative waste governance system in place, recommendations are targeted to optimising the existing legislative framework and addressing key capacity needs. With the *Waste Management Act* having been in place for a decade there is also an opportunity to conduct a review to identify lessons, gaps and priorities for reform to inform both ongoing waste legislative development in Samoa and in other countries considering introducing or amending consolidated waste management legislation. Supporting regulations have been drafted under the legislation for a single-use plastics ban and to regulate the import of waste for electricity generation. Other laws relevant to waste management include the *Land, Surveys and Environment Act* and the *Planning and Urban Management Act 2004*. Further legislative steps, such as the introduction of a container deposit scheme and littering regulations, are in the pipeline.

Several opportunities to develop or implement additional instruments are already under consideration and include:

- Review of the *Waste Management Act* to assess experience with implementation, gaps, and opportunities for enhancement, including implementation of Samoa's new international commitments under the Minamata Convention.
- Developing a container deposit scheme (e.g., for PET bottles and other recyclables) with a special fund administered by the Ministry of Finance, based on the apparent success of similar schemes in other Pacific region countries;
- Developing littering regulations under the WMA, including creating the power to issue on-the-spot fines;
- Establishing further extended producer responsibility schemes for chemicals (e.g., expired chemicals from schools, colleges, and laboratories), and some hazardous wastes (e.g., e-wastes);
- Introducing a licencing system for waste and recycling operators and ongoing monitoring of these operations; and
- Introducing a user-paid waste collection scheme to incentivise waste minimisation and reuse.
- Introduction of legislative provisions for review and audit of the *Waste Management Act* to assess experience with implementation, gaps, and opportunities for enhancement, with reporting on outcomes against identified criteria.

Recommendations to address legislative capacity needs

- **Governance**
 - a. Increased staff capacity and resourcing, including a specific unit in the waste management section to deal with enforcement.
- **Capacity building**
 - a. Support for developing storage facilities and disposal measures for chemical and hazardous wastes.
 - b. Ongoing training support, for example, on technical aspects and development of standards and record-keeping requirements to support in-country compliance activities and fulfilment of MEA reporting obligations.
- **Transparency**
 - a. Continuing support for community awareness and engagement programs which have achieved important gains to date but require further resourcing.
 - b. Support to institute a study and regular monitoring of waste contractors' performance and discharge manner to ensure the safe collection of wastes and to develop a user database to identify the location of potential problem areas with waste collection services.
- **Enforcement**
 - a. Review of penalties and compliance orders under relevant laws to consider options for on-the-spot fines (with appropriate cross-referral to litter regulations under development) and other alternatives to prosecutions and court actions. Legislative measures will need to be supported by increased staff capacity and resourcing, including a specific unit in the waste management section to deal with enforcement.

Annex 1: Glossary of legal terms

Table 8: Glossary of legal terms

| Term | Definition |
|--------------------------|--|
| <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. Environment Management Act, Chapter 47.02, 2016 Revised Edition. The Act as made was the Environment Management Act, Act 27 of 2010. '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 Littering Act 1982. 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. |
| <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. |

| Term | Definition |
|----------------------------------|---|
| <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"> • Articles in Constitutions – abbreviated to Art. or art. • Sections in Acts – abbreviated to s (or § in the case of Codes) • Regulations within a Regulation - abbreviated to r • Clauses in Schedules at the end of Acts or subordinate legislation |
| <i>Ratification</i> | Ratification is the act by which a country indicates its consent to be bound to a convention. |
| <i>Subordinate legislation</i> | 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: <ul style="list-style-type: none"> • Rules • Ordinances • By-laws • Orders-in-council • Executive orders • Decrees • Decree-Laws (this terminology is used in Timor-Leste) <p>Acts (principal legislation) expressly authorise the making of subordinate legislation.</p> <p>Example: Section 121 of the Marshall Islands National Environmental Protection Act 1984 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 9: 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 10: PacWastePlus programme definitions

| Priority waste | Definition/understanding |
|-------------------------|--|
| <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 11.

Table 11: Legislation impacting waste governance in Samoa

| <i>Legislation</i> | <i>Regulations</i> | <i>Description</i> |
|---|--|--|
| <u>Waste Management Act 2010</u> (as at 2018) | <p>Copies available on file of:</p> <p>Waste Management (Importation of Waste for Electricity Generation) Regulations 2015</p> <p>Waste (Plastic Bag) Management Regulations 2018</p> <p>Waste (Plastic Bag) Management Regulations 2020</p> | <p>One of the specific functions of the MNRE under the WMA is to promote recycling and to implement measures to minimise wastes with harmful effects on human and environmental health (s 4(h)). Recycling is referenced multiple times in the WMA, underscoring its importance</p> <p>The WMA contains a number of provisions relating to waste management operations and operators:</p> <ul style="list-style-type: none"> • Section 4, MNRE has responsibility to make arrangements for the provision of commercial, industrial, and residential waste collection services and for the sound management of landfills and approved dump and waste storage sites. • Under section 6, an object, substance, or thing may be determined to be a waste or hazardous waste by regulations or by the MNRE CEO making a written determination to that effect. • Section 8, MNRE can determine any appropriate entity to be a waste management operator for any designated waste management service area. Waste management operators may undertake a number of responsibilities, including: <ul style="list-style-type: none"> ○ waste collection services ○ managing and operating waste disposal facilities and landfill areas ○ providing waste treatment, storage, and disposal facilities (s 24). • Section 9 of the WMA: <ul style="list-style-type: none"> ○ Requires landfill sites and waste dumps in Samoa to be licenced by the MNRE, which may impose any conditions in relation to their operation (s 9(1)). ○ Enables MNRE to require registration and licensing of other waste management facilities and operators in accordance with regulations made under the WMA (s 9(2)). However, at present such regulations have not been developed and there is not a specific licence required for waste collectors in Samoa. • section 10 which empowers the Head of State, acting on the advice of Cabinet, to impose special waste-related levies • section 11 enabling the making of environmental standards and public health standards |

| Legislation | Regulations | Description |
|-------------|-------------|---|
| | | <ul style="list-style-type: none"> • section 12 giving a specific power for regulations to create obligations to deal with certain wastes, including imposing requirements in respect of the importation of substances that may become wastes • sections 13 and 14 dealing with information and audit requirements • section 15 on implementing international conventions • Section 24 allows MNRE to contract out waste collection services to waste management operators • Section 29 enables fees and charges may be prescribed for waste management services. • Section 35, approved waste management operators are to prepare reports at the request of the CEO of MNRE, but the legislation does not contain ongoing reporting requirements. • section 43 containing a general power to make regulations <p>Part II of the WMA creates a number of offences relating to wastes:</p> <ul style="list-style-type: none"> • Section 17 enables the CEO of MNRE or an approved waste management operator to serve written notices that wastes owned, possessed or controlled by a person must be (or must not be) stored, transported or disposed of in a required way, be removed and properly disposed of, or be made available for recycling. • Section 18 provides that it is an offence intentionally to burn wastes that contain plastics or other hazardous substances, to cause a nuisance to any person, to cause the spread of fire, or to create a POP as provided for in the Stockholm Convention. • Section 19 makes it an offence to dump, or fail to properly store, transport, or dispose of, a prescribed substance (which includes all ozone depleting substances and those listed in Schedule 2). • Section 20 creates more general offences, such as prohibiting illegal dumping and prohibiting the throwing, depositing, or discharging of waste on roads, vacant lands, into water streams etc. • Section 21 makes it an offence to import or export toxic or hazardous wastes, except in accordance with Samoa’s international obligations. • Schedule 2 of the WMA lists hazardous chemicals subject to the Rotterdam Convention’s prior informed consent procedure, including chrysotile (‘white asbestos’, commonly used for insulation and in building materials) and crocidolite (‘blue asbestos’, used to insulate steam engines, in some spray-on coatings, pipe insulation, plastics and cement products). <p>MNRE has the power to consult with village and community representatives and to make by-laws for the proper management of wastes in particular areas (s 40, the <i>Waste Management Act 2010</i>).</p> <p>Ministry of Health (MoH) a role with respect to the public health implications of waste management. In particular:</p> |

| Legislation | Regulations | Description |
|---|---|---|
| | | <ul style="list-style-type: none"> • section 11 of the WMA enables the MoH to prescribe public health standards relating to waste management practices and facilities and gives it responsibility for monitoring and enforcing those standards. Further, the prescribed standards may be applied to approved waste management operators and their contractors. • on the approved functions of waste management operators, includes responsibilities ‘for monitoring and reporting on the effects of wastes on human health and the environment, and cooperating with public health and environment officers in the discharge of their responsibilities relating to regulating and monitoring wastes and monitoring waste management processes and facilities’ • Section 35 requires approved waste management operators to prepare and submit reports relating to any aspect of waste management under their responsibility at the request of the CEO or the MoH and to ensure that the MoH are notified of any matter related to waste management which may adversely affect human health • Section 43 contains a general power for making regulations that may extend to specifying hazardous wastes and regulating the way they may be stored, transported, and disposed of. No such regulations have been developed but could be an avenue for creating a specific licensing and tracking regime for managing healthcare wastes <p>The Waste (Plastic Bag) Management Regulations 2018, made under WMA, ban the import, manufacture, export, sale and distribution of plastic shopping and packaging bags and plastic straws from 30 January 2019.</p> <p>In respect of Styrofoam plastic cups, plates and food containers, the Waste (Plastic Bag) Management Regulations 2020 ban these products from 30 June 2020.</p> |
| <p><u>Forestry Management Act 2011</u> (version as at 2018)</p> | <p>None identified.</p> | <p>The Forestry Management Act is relevant to the management of organic wastes, as it regulates the disposal of forestry waste.</p> |
| <p><u>Land, Surveys and Environment Act 1989</u> (as at 2018)</p> | <p><u>Plastic Bag Prohibition on Importation Regulations 2006</u> (repealed by Waste (Plastic Bag) Management Regulations 2018)</p> | <p>The <i>Land, Surveys and Environment Act 1989</i> (current as at 2018) contains provisions relating to MNRE’s responsibilities for the conservation and protection of the environment.</p> <ul style="list-style-type: none"> • Section 104 provides the Minister broad powers to: <ul style="list-style-type: none"> ○ establish land use and environment management guidelines for government, villages or developers ○ assess the environmental implications of a development project or proposal ○ carry out any monitoring and follow-up work on development projects ○ undertake community education projects; to enter into agreements ○ exercise any powers in relation to the protection of the environment relating to the introduction of plants, animals, chemicals, or hazardous substances suspected to be harmful to the environment. |

| Legislation | Regulations | Description |
|--|------------------------------------|--|
| <u>Agriculture and Fisheries Ordinance 1959 (as at 2018)</u> | <u>Pesticides Regulations 2011</u> | <ul style="list-style-type: none"> Section 116 confers the responsibility of drafting management plans for conservation, management, and control of, among other things, pollution and waste, and litter disposal. In relation to the control of litter to the MNRE CEO. Section 126 the Minister can designate government land as an area for disposing of litter and rubbish. Noting that depositing litter in a public place or on private land without consent is an offence (s 130). <p>The Planning and Urban Management Agency (PUMA) has numerous responsibilities, key ones relating to waste management include:</p> <ul style="list-style-type: none"> Section 37 where application for development consents are required: Section 42 PUMA may require an applicant to provide an environmental impact assessment (EIA) in relation to the proposed development <p>In determining a development application, the PUMA must consider various matters, including:</p> <ul style="list-style-type: none"> Section 46 - the potential environmental effects of a development proposal (including an EIA) and the adequacy of arrangements for wastewater, sanitation, and access. Section 48 - may impose conditions on development consents. <p>The <i>Planning and Urban Management (Environmental Impact Assessment) Regulations 2007</i> contain guidelines on what is required in an EIA. Waste impacts are not specifically stipulated but would likely need consideration under the requirement to consider environmental consequences of the proposed development.</p> <p>As previously mentioned, Section 16 provides for the ability to develop management plans for waste disposal and any other matter relating to the environment. Based on this provision, a Health Care Waste Management Plan was developed in 2008 and appears to have been updated in 2011. A September 2019 report from the World Bank, entitled 'Samoa Health System Strengthening Program: Environmental and Social Systems Assessment', indicates that the 2011 Health Care Waste Management Plan includes a national strategy on healthcare waste management.</p> <p>The 2008 Health Care Waste Management Plan requires all healthcare wastes to be colour coded and segregated into separate bins. Samoa's National Waste Management Strategy 2019-2023 specifies that healthcare waste is incinerated at incineration facilities at the Tafaigata landfill on Upolu and Vaiaata landfill on Savai'i.</p> <p>The Agriculture and Fisheries Ordinance 1959 is "[a]n Ordinance to constitute and establish the Ministry of Agriculture and to make certain provisions in regard to agriculture and fisheries". The Department has the following functions:</p> <ul style="list-style-type: none"> to promote and encourage the development of all phases of the planting, agriculture, pastoral, and horticultural industries in Samoa including the banana, coconut, cocoa, coffee and other fruit and vegetable production |

| Legislation | Regulations | Description |
|---|---|---|
| <u>National Parks and Reserves Act 1974</u> (as at 2018) | None identified. | <p>industries with a view to maintaining and improving the quality and quantity of the products derived from those industries;</p> <ul style="list-style-type: none"> • to promote in conjunction with the department of Lands, Surveys and Environment the conservation, production and development of the natural resources of Samoa, especially soil and water, and the following principles and objectives - to maintain, and establish where necessary, areas to protect the climate, soil and water resources of the country; • to regulate fishing in Samoa and the territorial waters belonging to Samoa or any part thereof, or in the exclusive economic zone of Samoa (as defined in the <i>Maritime Zones Act 1999</i>) and • to promote the economical and orderly taking and conservation of fish and the control of any industry engaged in the processing of fish and fish products; and <p>to regulate, control and supervise the manufacture, importation, storage and use of [pesticides].</p> <p>An Act to provide for the establishment, preservation, and administration of national parks and reserves for the benefit of the people of Samoa.</p> <p>Under General Provisions, Section 12. Sub-paragraph e, it lists offences that would lead to enforcement actions in these reserves and among them is an anti-litter/waste regulation, i.e., “deposits or throws any rubbish, or any article or substance of a dangerous or offensive nature, in a national park or reserve”.</p> |
| <u>Planning and Urban Management Act 2004</u> (as at 2018) | <u>Planning and Urban Management (Environment Impact Assessment) Regulations 2007</u> | <p>The <i>Planning and Urban Management Act 2004</i> establishes a Planning and Urban Management Agency and implement a framework for planning the use, development, management, and protection of land in Samoa in the present and long-term interests of all Samoans. The objectives of the Act are:</p> <ul style="list-style-type: none"> • to provide for the fair, orderly, economic, and sustainable use, development, and management of land including the protection of natural and man-made resources and the maintenance of ecological processes and genetic diversity; • to enable land use and development planning and policy to be integrated with environmental, social, economic, conservation and resource management policies at national, regional, district, village, and site specific levels; • to create an appropriate urban structure and form for the development of Apia and other centres to provide equitable and orderly access to transportation, recreational, employment and other opportunities; • to secure a pleasant, efficient, and safe working, living and recreational environment for all Samoans and visitors to Samoa |

| Legislation | Regulations | Description |
|---|--|---|
| | | <ul style="list-style-type: none"> to protect public utilities and other assets and enable the orderly provision and co-ordination of public utilities and other facilities for the benefit of the community; and to balance the present and future interests of all Samoans. <p>Key parts of the Act addressing waste management is Part 4 “The Board may make sustainable management plans setting out how land is to be developed or conserved to achieve the objectives of the Act.”</p> |
| <u><i>Village Fono Act 1990</i></u> | None identified. | Fono (village councils), of which there are reportedly some 286 in rural areas, deal with customary and traditional matters within their villages under the guidance of local matai (chiefs). Such matters are governed by individual village protocols based on Samoan custom and tradition, as well as the <i>Village Fono Act 1990</i> (Parliament of Samoa, 2014). For instance, the <i>Village Fono Act</i> recognises that the powers of a village fono extend to matters of sanitation and hygiene within the village, in addition to protecting Samoan customs and traditions, protecting natural resources and the environment and ‘any other matter to give effect to or to promote wellbeing, development and maintenance of harmony and good order of the village and its inhabitants’ (s 5) |
| <u><i>Police Offences Ordinance 1961 (as at 2018)</i></u> | None identified. | <p>An ordinance to consolidate certain enactments of the Legislative Assembly relating to the suppression of various offences and for related purposes.</p> <p>Section 3 establishes an offence against public cleanliness. A comprehensive list of prohibited behaviours is in (a)–(z).</p> <p>Under Section 20, a person is liable to maximum 6 months’ imprisonment or a fine of 2 penalty units who throws any offensive matter into or otherwise pollutes or contaminates any river, watercourse, well, cistern, or other place from which water for drinking purposes is obtained.</p> |
| <u><i>Samoa Water Authority Act 2003 (as at 2018)</i></u> | <u><i>Samoa Water Authority (Sewerage and Wastewater) Regulations 2009</i></u> | <p>The Samoa Water Authority (Authority) is regulated by the <i>Samoa Water Authority Act 2003</i>. The Authority has many functions including:</p> <ul style="list-style-type: none"> to harvest, treat and reticulate water for supply to the people of Samoa to encourage and require the responsible use of Samoa’s water resources to assist in protecting, managing, and conserving Samoa’s water resources. <p>The <i>Samoa Water Authority (Sewerage and Wastewater) Regulations 2009</i> outlines the Authority’s sewerage and wastewater functions, as made under s 29 of the Act.</p> <ul style="list-style-type: none"> Part VII relates to the protection of sewerage and wastewater systems from trade wastes and other pollutants. Regulation 37 prohibits discharge of an extensive list of substances. Regulation 38 allows for pre-treatment, control, and disposal of such substances. |

| Legislation | Regulations | Description |
|---|--------------------|--|
| | | <ul style="list-style-type: none"> Regulation 42 outlines a permit process required for discharge of trade and industrial wastewater. <p>Under r 52(1), failure to comply with any requirement of the Regulations is an offence liable to maximum 20 penalty units.</p> |
| <u>Tourism Development Act 2012 (as at 2018)</u> | None identified. | <p>An Act to provide for the sustainable development, promotion, and management of the tourism sector in Samoa through effective planning, administration, regulation, and for related purposes.</p> <p>Guiding principles for the implementation of the Act under s 3(2) include: minimising environmental impacts from tourism developments and addressing generation of wastes by effective control.</p> |
| <u>Water Resources Management Act 2008 (as at 2018)</u> | None identified. | <p>The <i>Water Resources Management Act (WRMA) 2008</i> also particular relevance for managing the downstream impacts of waste on waterways.</p> <ul style="list-style-type: none"> Section 9(c)(iv), an objective of the Act is the improvement of the chemical, physical and biological integrity of the 'water resource' (i.e. surface and ground waters in aquifers, lakes, falls, rivers, streams, springs and watershed or water catchment areas) by the control of pollutant discharges. section 14(1)(b) of the WRMA, the Minister for MNRE is able to prescribe, monitor and enforce environmental standards relating to any activity that may affect water quality or the integrity of a water source, including waste management operations. Part 7 of the legislation establishes a Samoa Water Resource Management Plan. In the preparation and approval of the Plan, there is a principle that the water resource must be safeguarded from all types of pollutants (s 18(2)(f)). Section 23(2)(d), the CEO of MNRE, on direction of the Minister, must prepare a watershed management plan, with a view to the retreatment and proper disposal of waste in the watershed. Acting in breach of a restriction of a watershed management plan is an offence liable to a maximum 20 penalty units (s 30(a)). The Ministry may also consult with village and community representatives to make by-laws related to the removal and disposal of wastes from areas near a water source (s 33(1)(f)). <p>A series of offences are established by the WMRA to control pollution of waterways:</p> <ul style="list-style-type: none"> Section 37(1) of the WMRA allows an authorised officer of MNRE to issue a precautionary notice if an activity may be in breach of a requirement under the Act, any environmental control, or be adversely impacting upon water resources in any way. Section 39(1), failure to comply with a section 37 notice constitutes an offence liable to a maximum fine of 100 penalty units or maximum 1-year imprisonment term, or both. |

| Legislation | Regulations | Description |
|--|--|---|
| | | Section 42 makes it an offence to discharge a pollutant into a water resource, with a maximum 250 penalty unit fine for an individual or 500 penalty units for a corporation or repeat offender. |
| <u>Ministry of Works Act 2002</u> | <u>National Building Code of Samoa 2017</u> | <p>Samoa legislation provides a comprehensive regime for the use in construction, safe handling and disposal of asbestos and asbestos containing wastes. Samoa also is party to several international conventions that cover the import of hazardous asbestos chemicals (Rotterdam Convention) and transboundary movements of hazardous wastes, including asbestos wastes (Basel and Waigani Conventions).</p> <p>Under section 29, Samoa has adopted a National Building Code, with the Building Division in the Ministry of Works issuing building permits. The Building Code, revised in 2017, contains several provisions relevant to asbestos. In particular, the method and sequence of demolition of buildings must be planned in detail with due allowance for, among other things, the presence of hazardous substances such as asbestos (s B3, 4).</p> <p>Further, asbestos is not permitted as a building material, or component in a building material, unless it can be shown that there is no alternative option to its use. In a situation where asbestos is permitted, health and safety standards for its installation, use and extraction during demolition must meet those specified in the National Building Code for hazardous substances. These standards are contained in Section E 'Hazardous Substances' (Section B4 'Building Materials', 3). The Building Code also refers to the New Zealand Guidelines for the Management and Removal of Asbestos.</p> |
| <u>Occupational Safety and Health Act 2002</u> | <u>Occupational Safety and Health Regulations 2017</u> | <p>The National Building Code is supplemented by the <i>Occupational Safety and Health Act 2002</i> and <i>Occupational Safety and Health Regulations 2017</i>.</p> <ul style="list-style-type: none"> • Part 11 of the Regulations deals with hazardous substances and regulations 65-68 cover asbestos work. • Regulation 65 provides that a person must not commence asbestos removal work unless they are a holder of a current asbestos removal licence issued by the Commissioner. • Regulation 66 prohibits certain uses of asbestos. • Regulation 67 prescribes a general duty on employers, self-employed persons, owners of buildings and people in possession of a plant with asbestos to ensure that the risk to health that exists from asbestos is assessed, to ensure that someone who may come into contact with asbestos during the course of any work is warned and, so far as is reasonably practicable, ensure the health of any person required to carry on asbestos work is not endangered. Reasonable steps must also be taken to minimise the release of asbestos fibres into the air. <p>Regulation 68 covers duties of employers before an employee commences work, during the performance of the work and record keeping requirements.</p> |

| Legislation | Regulations | Description |
|--|------------------------------|--|
| <u><i>Ministry of Health Act 2006</i></u> | <u>Health Ordinance 1959</u> | <p>Legislation relating to public health and the powers of the MoH includes the <i>Ministry of Health Act 2006</i> and the Health Ordinance 1959 (current as of 2018). The latter piece of legislation refers to public health nuisances (s 22) and related penalties (s 23) but does not specifically mention issues relating to the management or disposal of healthcare waste.</p> <p>Reflecting these legislative arrangements, at the operational level MoH has responsibility for healthcare waste management in Samoa. The National Health Service operates a system for the collection, storage, transport, and disposal of medical waste. A September 2019 report from the World Bank, entitled ‘Samoa Health System Strengthening Program: Environmental and Social Systems Assessment’, indicated that there are stockpiles of healthcare waste, including expired pharmaceutical waste, at the major hospitals.</p> |
| <u><i>Disaster and Emergency Management Act 2007</i></u> | None identified. | <p>The <i>Disaster and Emergency Management Act 2007</i> does not specifically cover disaster waste, but it does contain provisions on planning for, and coordinating responses to disasters. Under this legislation, Samoa has developed its <i>National Action Plan for Disaster Risk Management 2017-2021</i> and the National Disaster Management Plan 2017-2020. The Management Plan notes that the environment sector, led by the MNRE, has a role to coordinate the response to removal of waste and debris from affected areas and disposal to landfills, and to ensure continuity of waste disposal and landfill services. It appears there is an overall coordinating framework in place for the management of disaster waste in Samoa, led by the Disaster Management Office.</p> <p>The National Waste Management Strategy noted the objective of managing landfills and waste management facilities in the event of emergency. It is also planned to use the Regional Disaster Waste Management Guidelines being jointly developed by JPRISM II and SPREP to formulate appropriate arrangements and procedures.</p> <p>The expansive definition of waste under the <i>Waste Management Act</i> is sufficiently broad to encompass disaster waste, although there is also capacity to designate it as a specific category of waste through regulations or written determination. Any future policy or legislative developments on disaster waste will likely be led by the development of the regional guidelines and may cover issues such as action plan for the collection, segregation and disposal of wastes following disasters.</p> |
| <u><i>Quarantine Biosecurity Act 2005</i></u> | None identified. | <p>The <i>Quarantine Biosecurity Act 2005</i> is relevant to the management of organic wastes, as it relates to ‘regulated articles’, including soil, garbage, litter, fodder, animals, animal products, plant and plant materials etc.</p> |

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 12** 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 particular 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 12: Notification, information sharing and reporting requirements of MEAs

| MEA | OBJECTIVE | NOTIFICATION REQUIREMENTS | INFORMATION SHARING | REPORTING |
|-----------------------------|---|---|---|--|
| Basel Convention | <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> |
| Stockholm Convention | <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 1st 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 |
|-----------------------------|--|--|---|--|
| Rotterdam Convention | 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. 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. |
| Minamata Convention | 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). | 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. |

| MEA | OBJECTIVE | NOTIFICATION REQUIREMENTS | INFORMATION SHARING | REPORTING |
|----------------------------------|---|--|--|--|
| <p>Waigani Convention</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>Deadline for 1st biennial short report 31 Dec 2019, 1st 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 13 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 14 describes how the existing and pipeline waste management legislation of participating countries maps against these general models.

Table 13: Legislative models and institutional requirements

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

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

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

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

Table 14: 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
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This initiative is supported by **PacWastePlus**-a 64-month project funded by the European Union (EU) and implemented by the Secretariat of the Pacific Regional Environment Programme (SPREP) to **sustainably and cost effectively improve regional management of waste and pollution.**

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