



Stocktake of Existing and Pipeline **Waste Legislation:** **REPUBLIC OF FIJI**



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About this Report

Introduction and Acknowledgements

1. This report was prepared by the University of Melbourne (UoM) consultancy team as part of the PacWastePlus Waste Legislative Review project. The UoM team reviewed laws on waste management in 14 Pacific region countries and Timor-Leste (the 'participating countries'). This research was commissioned by the Secretariat of the Pacific Regional Environment Programme (SPREP), with funding support from the European Union's Delegation to the Pacific.
2. The team acknowledges, with gratitude, the research assistance provided by Ms Rebekkah Markey-Towler and the extensive background legislative reviews undertaken by the MLS Academic Research Service under the stewardship of Ms Robin Gardner and with the assistance of Daniel Carlos Bennett-Spark, Ken Zhunwye Kiat and Luis Bogliolo.
3. The UoM team also gratefully acknowledges project assistance provided by Ms Astari Kusumwardini, as well as the assistance, guidance and contributions provided by the SPREP PacWastePlus team and in-country stakeholders in the participating countries, who generously shared their time and insights with the UoM team.

Methodology

4. The methodology used by the UoM team to prepare this report was primarily based on desktop research using publicly available online resources about waste management laws in the participating countries.
5. Particular databases drawn for the research included those maintained by 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.
6. 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.
7. 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 to date), as well as interviews with in-country contacts (in Vanuatu, the Solomon Islands, Federated States of Micronesia and Samoa only at the time of preparing this report). Further in-country trips and interviews are planned across the remainder of the project period.

Outline of Report

8. This report contains the UoM team's findings relating to:
 - A **stocktake of the existing legislative environment for waste management** in the participating countries, focusing on the PacWastePlus priority waste streams of healthcare waste, asbestos, e-waste, plastic waste, recyclables, organics, disaster waste, bulky waste and wastewater, and including implementing legislation for the following multilateral environmental agreements (MEAs): Waigani, Basel, Stockholm, Rotterdam, and Minamata.
 - A **stocktake of pipeline legislative initiatives** in the participating countries, including an assessment of their impact and approximate timeframe for development.

9. For the pipeline stocktake, the UoM team noted that additional information on pipeline legislative initiatives is likely to be gathered during later in-country visits and ongoing data collection through the survey and interviews with in-country stakeholders. The information in this report on pipeline initiatives is therefore preliminary, and any updated information will be incorporated in later deliverables for the project.
10. The following sections of the report contain the stocktakes for each participating country. Reviews for each participating country include;
 - A brief overview of the legal system and relevant sources of law;
 - A legislative summary providing details of laws, regulations, policies and government responsibilities relevant to waste management and governance; and
 - A summary of available information on pipeline legislative initiatives.
11. The final section of the report provides details of participating countries' membership and implementation of relevant multilateral environmental agreements (MEAs), focusing on the Waigani, Stockholm, Basel, Rotterdam and Minamata Conventions.

Legislative Summary

Overview of the legal system

1. The Republic of Fiji is an archipelago of 322 islands lying on the border between the Polynesian and Melanesian regions of the Pacific. The population is currently estimated at approximately 921,000 (2019 UN Population Statistics figures). The official languages are iTaukei (Fijian) and English. Hindi is also widely spoken.
2. In 1874, a convention of chiefs ceded Fiji unconditionally to the United Kingdom. It remained a British colony until 1970 when it gained independence. In 2013, a new Constitution came into force proclaiming The Republic of Fiji as a sovereign democratic State.
3. Fiji is a parliamentary democracy. The Head of State is the President and the Head of the Government is the Prime Minister. The legislative branch is unicameral with a 50-member elected parliament. The Constitution provides that judicial power and authority of the state is vested in the Supreme Court, the Court of Appeal, the High Court, the Magistrates Court and other courts and tribunals that may be created by law.
4. Fiji has a common law legal system. Sources of law are the Constitution (as the supreme law), common law made by the courts and written law.
5. Custom is recognised in relation to land and fishing only. Section 28 of the Constitution provides that ownership of all iTaukei land shall remain with the customary owners of that land. Section 3 of the iTaukei Lands Act 1905 (as amended to 2013) provides that 'iTaukei [formerly 'native'] lands shall be held according to iTaukei custom as evidenced by usage and tradition'. The Rotuma Lands Act 1959 (as amended to 2016) applies only to Rotuman lands. See also the Banaban Lands Act 1965.

Legislation impacting waste governance

6. Fiji, like many countries in the Pacific, does not have specific legislation dealing with waste management. Instead waste issues are dealt with under general environmental and public health legislation.
7. An analysis of the main national waste situation was undertaken through the Fiji National Solid Waste Management Strategy 2010-2014. This calls for establishment of an inter-sectoral coordination mechanism through the National Waste and Pollution Control Coordinating Committee. At present, a Working Group coordinated by the Department of Environmental Protection and Conservation (DEPC) oversees implementation of the strategy.
8. The following tables provide a stocktake of the existing legislative environment for waste management and governance in Fiji located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.
 - Table 1 details the legislation relevant for waste management and governance in Fiji found through the UoM's stocktake research.
 - Table 2 lists key policy instruments.
 - Table 3 notes the relevant departments with responsibilities for waste management.

Table 1: Legislation impacting waste governance in Fiji

Legislation	Regulations	Orders / By-Laws
<p>Environment Management Act 2005 (as at 1 January 2020)</p> <p>General environmental management and pollution control legislation that extends to pollution caused by a variety of hazardous and other wastes.</p> <p>Establishes a unit within the Department of Environment with responsibility for waste management and pollution control.</p> <p>Part 5 contains provisions relating to waste management and pollution control. Permits to discharge waste or pollution are addressed.</p> <p>Section 45A inserted in January 2020 makes it an offence to manufacture a plastic bag.</p>	<p><u>Environment Management (Waste Disposal and Recycling) Regulations 2007 (as at 1 August 2018)</u></p> <p>Provides definition of different waste categories and requirements for permits.</p> <p><u>Environment Management (Container Deposit) Regulations 2011</u></p> <p>Provides legal framework for Container Deposit and Refund Recycling system in Fiji.</p>	<p>None identified.</p>
<p>Environment and Climate Adaptation Levy Act 2015 (as at 5 August 2019)</p> <p>Includes plastic bag levy.</p>	<p><u>Environment & Climate Adaptation Levy (Plastic Bags) Regulations 2017</u></p> <p>Provisions for collection of levy.</p>	<p>None identified.</p>
<p>Customs Act 1986 (as at 1 August 2019)</p> <p>Specifies conditions for import of certain goods including biodegradable plastic bags and radioactive substances.</p>	<p><u>Customs (Prohibited Imports and Exports) Regulations 1986 (as at 8 June 2019)</u></p> <p>Specifies conditions for import of certain goods including biodegradable plastic bags and radioactive substances.</p>	<p>None identified.</p>
<p>Ozone Depleting Substances Act 1998 (as at 1 December 2016)</p> <p>Regulates ozone depleting substances to give effect to Fiji's obligations under the Montreal Ozone Protocol</p>	<p><u>Ozone Depleting Substances Regulations 2010 (as at 1 August 2017)</u></p>	<p>None identified.</p>
<p>Litter Act 2008 (as at 1 August 2018)</p> <p>'Litter' defined in s 2 to mean 'any matter or thing whether solid ... or partly solid, the possession of which</p>	<p>None identified.</p>	<p>None identified.</p>

<p>has been abandoned by any person having control of the same in any street or land or public place ...'. It includes building, household, shop, garden and trade refuse or waste; human, animal, fish and vegetable refuse or waste; containers and packaging of any description.</p> <p>'Dangerous litter' is defined in s 2 to mean 'litter that is dangerous, or liable to become dangerous', including litter which, if deposited in a public place, is likely to endanger any person or to cause physical injury, disease or infection of any kind to any person coming into contact with it; any bottle, glass, sharp metal or trap, any substance of a toxic or poisonous nature, any oil, diesel, fuel grease spill or similar discharge and any derelict abandoned vehicle.'</p> <p>Penalties and offences for littering are outlined in Part IV of the Act.</p>		
<p>Public Health Act 1935 (as at 1 August 2018)</p> <p>Establishes an authority called the 'Central Board of Health' which can make regulations.</p> <p>Section 52 authorises the Board, with the Minister's approval, to make regulations for '(a) the storage, collection and disposal of nightsoil and garbage or other offensive matter; (b) preventing the accumulation of dust filth, ashes and refuse on premises and public places ...'.</p> <p>Section 55 provides a penalty for certain nuisances about premises. Notably, the occupier of any premises is deemed to have committed a nuisance and is liable to a fine of up to \$20 for creating a nuisance where 'any waste, stagnant or slop water, or any accumulation or deposit or filth or other offensive matter is allowed to remain in, under or near a dwelling-house or building for twelve hours after a medical officer of health or sanitary inspector has required the occupier to remove the same'.</p>	<p><u>Public Health Regulations 1937 (as at 15 November 2005)</u></p> <p><u>Towns (Building) Regulations 1935 (as at 17 December 2004)</u></p> <p><u>Public Health (Sanitary Services) Regulations 1941 (as at 2 March 1979)</u></p> <p><u>Public Health (Hotels, Restaurants and Refreshment Bars) Regulations 1960 (as at 1 December 2016)</u></p>	<p><u>Lautoka (Garbage Disposal) By-Laws 1944 (as at 30 December 1977)</u></p> <p><u>Nasinu (Garbage Removal and Disposal) By-Laws 2000 (as at 26 February 2010)</u></p> <p><u>Lami (Garbage Removal and Disposal) By-Laws 2008</u></p> <p><u>Nausori (Garbage Removal and Disposal) By-Laws 2012</u></p> <p><u>Suva (Garbage Disposal By-Laws 2009)</u></p> <p><u>Navua Rural Local Authority (Garbage Removal and Disposal) By-Laws 2012</u></p>

<p>'Nuisance' is defined to mean, inter alia, 'any accumulation or deposit of any material wherever situated which is offensive to the public or injurious to health'.</p>		
<p>iTaukei Affairs Act 1944 (as at 9 March 2012)</p> <p>Section 7(2) allows a Provincial Council to make by-laws for the 'health, welfare and good government'.</p>	<p><u>iTaukei Affairs (Provincial Councils) Regulations 1996 (as at 1 December 2016)</u></p> <p>Regulation 25(1) gives councils the power to 'formulate and implement policies for promoting the health, peace, order, welfare and good government of iTaukei residences'. To this end, the Council may make by-laws.</p> <p>By-laws made by the various Provinces all contain identical provisions relating to 'sanitation' and the 'disposal of rubbish'.</p>	<p><u>Bua Province (Public Health) (Villages) By-Laws 1969 (as at 2 July 2010)</u></p> <p><u>Cakaudrove Province (Public Health) (Villages) By-Laws 1969 (as at 2 July 2010)</u></p> <p><u>Namosi Province (Public Health) (Villages) By-Laws 1969 (as at 2 July 2010)</u></p> <p><u>Naitasiri Province (Public Health) (Villages) By-Laws 1969 (as at 2 July 2010)</u></p> <p><u>Serua Province (Public Health) (Villages) By-Laws 1969 (as at 2 July 2010)</u></p> <p><u>Tailevu Province (Public Health) (Villages) By-Laws 1972 (as at 2 July 2010)</u></p> <p><u>Kadavu Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Lau Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Ba Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Lomaiviti Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Rewa Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Ra Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Nadroga/Navosa Province (Public Health) (Villages) By-Laws 1973 (as at 2 July 2010)</u></p> <p><u>Macuata Province (Public Health) (Villages) By-Laws 1988 (as at 2 July 2010)</u></p>

Table 2: Policies relevant for waste governance in Fiji

Policy	Details
Fiji National Solid Waste Management Strategy 2011–2014	<p>Latest National Solid Waste Management Plan.</p> <p>Implementation plan for solid waste management is outlined on pp. 51–2.</p> <p>Guiding principles for Fiji’s waste management include:</p> <ul style="list-style-type: none"> • Polluter-pays principle • Precautionary principle • Consultation principle • Duty of Care–Producer responsibility • BATNEEC Principle
National Solid Waste Management Strategy & Action Plan 2008–2010	<p>Sets out how Fiji should address waste.</p> <p>Covers waste minimisation, not limited to resource conservation, waste segregation at source, waste disposal, recycle, reuse and composting.</p> <p>Precursor to Waste Management Regulation under the Environment Management Act 2005.</p>
Fiji National Solid Waste Management Strategy and Action Plan 2006–2010	<p>Precursor to 2008-2010 edition.</p>
Waste and Waste Water Management Initiatives in Ra Province — Diagnosis and Action Plan	<p>Reviews past and current initiatives on waste and wastewater management initiatives.</p> <p>Identifies areas that RESCCUE can address, support and facilitate strengthening waste and waste water management.</p>
Climate Change and Health Strategic Action Plan 2016–2020	<p>Outlines various strategies to control communicable diseases through adaptive actions. One strategy is the safe disposal of communal solid waste and waste waters in identified vulnerable areas.</p>
National Plan for Implementation of the Stockholm Convention on Persistent Organic Pollutants in Fiji Islands 2006	<p>Implementation Plan for Fiji’s obligations under the Stockholm POPs Convention</p>

Table 3: Government departments with waste responsibilities in Fiji

Responsible government departments	Responsibilities
Department of Environment (including Waste Management and Control Unit)	<p>Administers the Environment Management Act 2005.</p> <p>Environment Management Act establishes the Waste Management and Control Unit which has responsibility for waste management and pollution control in Fiji, namely solid waste, liquid waste, air pollution, hazardous and chemical waste.</p>
Minister for Finance	<p>Administers the Customs Act 1986.</p> <p>May make regulations under the Customs Act for the purpose of carrying out the provisions of the Act.</p>
Ministry of Health and Medical Services	Administers the Public Health Act 1935.
Ministry of iTaukei Affairs	<p>Responsibility for the preservation of Fijian culture and achieving economic and social development.</p> <p>iTaukei Affairs Act 1944 allows Provincial Councils to make by-laws for the ‘health, welfare and good government’ of Fiji.</p>

Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management in Fiji, summarised in Table 4 below.
2. Limited information about these activities was available to the UoM team due to the inability to undertake the online survey or interviews with in-country contacts in Fiji. Details of pipeline activities are thus restricted to those identified in the desktop research.
3. A recent initiative concerns Fiji's single-use plastic bag ban. A new section 45A of the Environment Management Act was inserted in January 2020 – this provision makes it an offence to manufacture a plastic bag. It is also an offence for a person to sell, supply or distribute a plastic bag to another person. 'Plastic bag' is defined to mean a 'carry bag the body of which comprises in whole or in part, polyethylene with a thickness of less than 50 microns ... or a bag that is of a kind prescribed by regulations'.
4. Fiji's Ministry of Waterways and Environment has committed 'vigorously' to monitor compliance of the ban on single use plastic bags. In conjunction, the Suva City Council is running an awareness campaign handing out eco-bags to promote alternatives to plastic.
5. Another recent amendment to the Environment and Climate Adaptation Levy Act in 2019 will increase the plastic bag levy from \$0.20 to \$0.50 once it enters into force.
6. Establishment of Fiji as a recycling hub for other countries in the Pacific region has been flagged as a possibility. This could be supported by the Moana Taka Partnership, which was signed in 2018. This would provide shipping and help overcome the problem of freight cost that has been a barrier to recycling initiatives.
7. In respect of MEAs, the Waigani Convention is mentioned in the Fiji National Solid Waste Management Strategy 2011–2014. This notes that 'most of these international obligations are not well incorporated into policies and into business as usual'.

Table 4: Pipeline activities for Fiji

Pipeline activities	Description	Timeframe
Single-use plastic bag ban	Introduced by section 45A of the Environment Management Act in January 2020.	Ban in effect. Ongoing monitoring of effectiveness of compliance efforts.
Increase of plastic ban levy	Amendment to the Environment and Climate Adaptation Levy Act in 2019 to increase the plastic bag levy from \$0.20 to \$0.50	Not yet in force. Will commence on a day to be announced in the Fiji Gazette Commencement Notices.
Fiji recycling hub	Proposal for Fiji to become a regional recycling hub with support from the Moana Taka Partnership.	Partnership signed in 2018 and ongoing consideration of this proposal.
Implementation of Waigani Convention	Identified as a gap at p.22 in the Fiji National Solid Waste Management Strategy 2011–2014	Not specified.

Stocktake of Relevant Multilateral Environmental Agreements

1. The relevant multilateral environmental agreements 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).
2. The Table below provides details of the membership of Fiji in these MEAs. Specifically, it lists:
 - The relevant MEAs to which Fiji is party and the date the MEA was in effect;
 - Details of designated national authorities (DNAs) or national focal points for these MEAs; and
 - Details of any implementing legislation or policies for the relevant MEA.

Table 5: MEAs and implementing legislation

MEA	In effect for country	Designated national authority or National focal point	Implementing legislation
Stockholm Convention	16 May 2004	Not specified.	No specific implementing legislation but see National Plan for Implementation of the Stockholm Convention on Persistent Organic Pollutants in Fiji Islands 2006
Waigani Convention	21 Oct 2001	Director of Environment Ministry of Local Government Housing and Environment PO Box 2131 Government Buildings SUVA, Fiji Telephone: (679) 311 699 Fax: (679) 312 879 Email: aminiasi.qareqare@environment.gov.fj	No specific implementing legislation.
Basel Convention	Not party		
Rotterdam Convention	Not party		
Minamata Convention	Not party		



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