



Stocktake of Existing and Pipeline **Waste Legislation:** **COOK ISLANDS**



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Secretariat of the Pacific Regional Environment Programme (SPREP)

PO Box 240

Apia, Samoa

www.sprep.org

sprep@sprep.org

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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 Cook Islands is a self-governing country in free association with New Zealand. It comprises 15 islands with a total land area of 237 square kilometres, spread over a larger ocean area of 2 million square kilometres.
2. The Cook Islands became a British Protectorate in 1888. In 1901 it was annexed by the British colony of New Zealand. In 1965 the New Zealand Parliament passed the Cook Islands Constitution Act 1964 (NZ) which gave the Cook Islands self-government founded upon its own written constitution.
3. The Cook Islands is a self-governing democratic State, responsible for enacting legislation and entering into international agreements. New Zealand remains responsible for Cook Islands defence and some aspects of external affairs.
4. The Cook Islands has a Westminster system of parliament. The parliament is unicameral. There are three tiers of courts.
5. The Cook Islands has a common law legal system. Sources of law are the Constitution (as the supreme law), legislation enacted by the Cook Islands parliament and some New Zealand and English statutes that remain in force for the country, common law, ordinances and by-laws of island councils, and customary law in relation to land and customary practices.

Legislation impacting waste governance

6. Waste governance in the Cook Islands is managed under general environmental and public health legislation, although the adoption of specific waste management legislation has been strongly recommended by past reviews. There are ongoing consultations about a Solid and Hazardous Waste Bill, discussed further under 'Pipeline activities', below.
7. Some analysis of the national waste situation has been undertaken through the National Solid Waste Strategy 2013-2016 but lack of data on waste generation and waste management has been identified as a barrier to progress in this area, as has the lack of dedicated waste management legislation.
8. The following tables provide a stocktake of the existing legislative environment for waste management and governance in the Cook Islands, 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 impacting waste governance in the Cook Islands found through the UoM's stocktake research.
 - Table 2 lists the key policy instruments and reports.
 - Table 3 notes the relevant departments with responsibilities for waste management

Table 1: Legislation impacting waste governance in the Cook Islands

Legislation	Regulations
<p>Environment Act 2003 (as made)</p> <p>Establishes a National Environment Service (NES), functions of which under include: to prevent, control and correct the pollution of air, water, and land; and to ensure environmentally safe disposal of toxic chemicals and wastes.</p> <p>Section 11 establishes an Island Environment Authority (IEA) for each island, a function of which is to formulate and publish guidelines on specific issues of environmental protection and improvement and environmental quality and wastewater standards for the purposes of the Act.</p> <p>Part 5 outlines requirements relating to Environmental Impact Assessments (EIAs), and s 36(13) states that the designation of land for the disposal of any kind of waste is deemed to be an activity likely to cause significant environmental impacts, therefore requiring an EIA permit.</p> <p>Part 7 relates to the control of litter. Section 46 allows the Minister to designate or approve any land as an area to be used by the public for the disposal of waste. It is noted in s 46(6) that this section is subject to s 36(13), requiring an EIA. Section 47 allows Environment Officers to issue notices requiring occupiers of private land to clear litter.</p> <p>Section 51 makes pollution of Cook Islands waters and inland waters an offence</p> <p>Section 54 allows regulations to impose a levy on commercial establishments degrading water quality, to be deposited into the Environment Protection Fund.</p> <p>Section 56 makes an offence to dispose of any toxic chemical or its waste in a manner likely to harm the environment.</p> <p>Section 61 establishes an Environment Protection Fund, to be expended on, among other things, protection from pollution.</p> <p>Section 70 allows the creation of regulations.</p>	<p><u>Environment (Atiu and Takutea) Regulations 2008</u></p> <p><u>Environment (Mitiaro) Regulations 2008</u></p> <p>These regulations are made for the Island Environment Authorities for Atiu and Takutea and Mitiaro established pursuant to s 11 of the Act. Part 4 relates to environmental health and Part 7 to enforcement. Note that r 26 makes it unlawful to bring onto the Islands any non-biodegradable plastic shopping bags or glass beer containers.</p> <p>Prohibition on Importation of Plastic Shopping Bags Regulations 2012 (Regulation 2012/9)</p> <p>These regulations are referred to in various reports but are not available online.</p>
<p>Public Health Act 2004 (as made)</p>	<p><u>Public Health (Sewage) Regulations 2008</u></p> <p>Establishes Sewage and Sanitation Board and regulations regarding operational standards (pt 2), sewage system construction (pt 3), sewage</p>

<p>Part 6 (ss 35–41) relates to waste, the purpose of which under s 35 is to ensure that waste is safely stored, collected, treated, removed, transported, disposed of, and otherwise dealt with. Other provisions of the legislation deal with building health standards, including for waste disposal and wastewater.</p> <p>Section 37 establishes responsibilities of building occupiers to ensure proper and safe disposal of waste. Section 38 prohibits burning of plastic waste and tyres. Section 39 outlines required methods of emptying and disposal of septic tank waste. Section 40 prohibits dumping of waste. Section 41 allows for the making of further regulations regarding waste management.</p> <p>Schedule 1 outlines ‘offensive trades’, including operating a waste disposal site, removal of waste from septic tanks and waste collection, treatment or disposal. Part 8 regulates offensive trades. Offensive trades are prohibited without permits by s 51, while s 52 establishes offensive trade permits and their requirements.</p>	<p>operation and maintenance (pt 4) and upgrades (pt 5). Part 6 outlines enforcement, offences, penalties and liabilities. Health inspector powers are authorised in s 36.</p> <p><u>Public Health Sewage (Code) Regulations 2008</u></p> <p>Technical code on minimum specifications for sewerage systems.</p> <p><u>Public Health Sewage (Forms) Regulations 2008</u></p> <p>Schedule of forms for various applications under sewerage regulations.</p>
<p>Infrastructure Act 2019 (as made)</p> <p>The Act outlines a structure of management for Cook Islands infrastructure, including establishing role of ‘infrastructure manager’ with various powers of entry and responsibilities.</p> <p>In s 6, ‘infrastructure’ is defined to include: wastewater networks, solid and hazardous waste facilities, storm water drains and storm water networks.</p> <p>A principle in implementation of the Act is the management of infrastructure in an environmentally sound manner.</p>	<p>None identified</p>
<p>Dangerous Goods Act 1984 (as made)</p> <p>Outlines licensing system for the storage of dangerous goods (said to be defined in a schedule to the Act but no schedule could be located).</p>	<p>None identified</p>
<p>Pesticides Act 1987 (as made)</p> <p>N.B. link provided but unable to download legislation</p> <p>Section 5 establishes a Pesticides Board, a function of which is to promote the efficient, prudent and safe use of pesticides. Section 12(3) requires the Board to refuse an application for registration of a pesticide if its use would give rise to an unacceptable hazard to the public or the environment</p>	<p>None identified</p>

Table 2: Policies and reports impacting waste governance in the Cook Islands

Policy	Description
National Health Strategic Plan 2017-2021	Improvement of various kinds of waste management highlighted as objectives.
National Implementation Plan for the Stockholm Convention in the Cook Islands 2011	Submitted in fulfilment of Cook Islands obligations as a party to the Stockholm POPs Convention.
National Infrastructure Investment Plan, 2015	Analysis and plan for infrastructure needs, including sanitation and solid waste management .
National Sustainable Development Plan 2016-2020	Goal 3 is to promote sustainable practices for, and effectively manage, solid and hazardous waste, while goal 4 is sustainable management of water and sanitation.
National Water Policy 2016	Objective 3 is to ensure access to reliable, safe drinking water for all who reside in the Cook Islands, including minimising any wastewater and ensuring appropriate water quality such that effluent and wastewater do not affect the environment. Objective 4 is to establish equitable and economically sustainable systems for minimising waste and leakage, while objective 7 is to ensure catchment and water sources are protected, including waste from domestic and commercial animal farming. An overarching policy principle is that Cook Islands will comply with all conventions or treaties related to water resource management and environmental protection that it has ratified.
Sanitation (Wastewater Management) Policy 2016	Discussion throughout of wastewater management, including context, principles, objectives and implementation.
Single Use Plastic Ban Policy 2018-2023	Policy establishes the process to ban the importation of single-use plastic products into Cook Islands, rather than actually doing so. Ban supposed to be written into upcoming Solid and Hazardous Waste Bill.
Solid Waste Management Policy 2016-2026	Policy relating to solid waste management, outlining goals relating to waste minimisation along with institutional and legislative framework and implementation.
National Solid Waste Management Strategy 2013-2016	Seeks to establish an Integrated Solid Waste Management Framework that improves the country's management of solid waste and promotes shared solid waste management responsibility by all stakeholders. Legislative review and drafting of new waste management legislation identified as a priority.
Water Supply Master Plan for Rarotonga Cook Islands 2014	Waste discussed largely in Section 2.0 regarding the governance of the water supply system on Rarotonga.

Reports	Description
4th National Report to the Convention on Biological Diversity 2011	Report submitted by Cook Islands as a party to the CBD.
Audit of Rarotonga's Domestic Sanitation Systems 2011	Report audited 101 sanitation systems in Rarotonga. 90% of sanitation systems failed. Identified lack of knowledge and training. Recommended review of Public Health (Sewage) Regulations 2008 and Code, as well as further training and education.
Baseline Study for the Pacific Hazardous Waste Management Project: Healthcare Waste (Cook Islands) 2014	Report on healthcare waste infrastructure in the Cook Islands.
Final Report for Preparing the Infrastructure Development Project 2009	Large report detailing the state of Cook Islands infrastructure and proposed projects. Volume 3 relates to the Water Supply and Sanitation Sector, including waste management.
Green Climate Fund Country Programme: Cook Islands 2019	Waste management highlighted throughout as important part of mitigation and adaptation in response to climate change.
Mitigation Analysis and Technology Needs Assessment 2009	Discussion of waste as it relates to greenhouse emissions throughout, with focus on waste management on p 38.
National Report for the 2014 SIDS Conference and post-2015 SDGs 2013	Management of solid waste discussed on p 18.
National Water, Sanitation and Climate Outlook 2011 (draft report)	Section 5.1.1 discusses land-use activities causing water pollution. Section 6.1 on governance discusses the waste management and sanitation improvement program. Section 6.2.2 discusses wastewater and sanitation facilities.
Second National Communication under the UNFCCC 2011	Submitted in fulfilment of Cook Islands obligations as a party to the UNFCCC.
Waste Management Feasibility Study 2016	Study on feasibility of various proposals relating to waste collection, processing and disposal.
Waste to Energy Feasibility Study 2012	Study on feasibility of proposal to turn waste into renewable energy (through biomass gasification).
Basel Convention National Report 2004 (submitted in 2006)	Submitted in fulfilment of Cook Islands obligations as a Basel Convention Party

Table 3: Government departments with waste responsibilities in the Cook Islands

Government departments	Responsibilities
National Environment Service (NES), Ministry of Environment Services	Responsible for environmental policy development. Also enforces regulations on illegal dumping, controls and monitors pollution, sets environmental standards at the Rarotonga Waste Management Facility and ensures the environmentally safe disposal of chemicals.
Ministry for Infrastructure Cook Islands (ICI)	Responsible for solid waste infrastructure development, collection and disposal services.
Island Environment Authorities (Atiu, Takutea and Mitiaro)	An Island Environmental Authority is established for each island. Functions include formulating and publishing guidelines on specific issues of environmental protection and improvement, and environmental quality and wastewater standards for the purpose of the Environment Act.
Ministry of Health (MoH)	Administers the Public Health Act 2004.
Ministry of Agriculture	Administers the Pesticides Act 1987.

Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management and governance in the Cook Islands, summarised in Table 4 below.
2. Information on these activities was obtained primarily from the desktop research. The UoM team will seek to obtain further information on pipeline activities in the Cook Islands from the online survey and interviews with in-country stakeholders.
3. The principal pipeline initiative for the Cook Islands is passage of the proposed Solid and Hazardous Waste Bill. This draft legislation would provide a dedicated legislative framework for solid and hazardous waste management in the Cook Islands and serve as a vehicle for implementing the nation’s international commitments under relevant MEAs. The Bill would also include a ban on single-use plastics, which has been under discussion in the Cook Islands for some time and delayed on a number of occasions.
4. The Solid and Hazardous Waste Bill was due to go before the Cook Islands parliament before the end of 2019, but it is not listed in the Bills list for December 2019. [News reports](#) suggest that consideration of the Bill (and the single-use plastics ban it incorporates) have been deferred to the next parliamentary sitting scheduled for February 2020 because further discussions are needed on the scope of the ban (e.g. inclusion of bioplastics).

Table 4: Pipeline activities for the Cook Islands

Pipeline activity	Description	Timeframe
Passage of Solid and Hazardous Waste Bill	Dedicated legislative framework for solid and hazardous waste management in the Cook Islands. Implementing legislation for MEAs.	Delayed several times Due to be considered at parliamentary sitting in February 2020
Introduction of ban on Single Use Plastics	Incorporated as part of Solid and Hazardous Waste Bill – see Cook Islands Single Use Plastic Ban Policy 2018-2023	As above.

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 the Cook Islands in these MEAs. Specifically, it lists:
 - The relevant MEAs to which Cook Islands 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 active in Cook Islands

MEA	In effect for country	Designated National Authority or National Focal Point	Implementing legislation
Stockholm Convention	27 Sep 2004	Ms. Tapaeru Herrmann Secretary Ministry of Foreign Affairs and Immigration P.O. Box 105 Rarotonga, Cook Islands Phone: +682 29 347 Fax: +682 21 247 Email: secfa@cookislands.gov.ck	No specific implementing legislation but see National Implementation Plan for the Stockholm Convention in the Cook Islands 2011.
Basel Convention	27 Sep 2004	Mr Nga Puna Director, National Environment Service P.O. Box 371 Rarotonga, Cook Islands Phone: +682 21 256 Fax: +682 22 256 Email: resources@cookislands.gov.ck	No specific implementing legislation but see Basel Convention National Report 2004 (submitted in 2006).
Rotterdam Convention	27 Sep 2004	Ms. Tapaeru Herrmann Secretary Ministry of Foreign Affairs and Immigration P.O. Box 105 Rarotonga, Cook Islands Phone: +682 29 347 Fax: +682 21 247 Email: secfa@cookislands.gov.ck	No specific implementing legislation.

		<p>Mr. Vavia Tangatataia Manager, Advisory and Compliance Division National Environment Service P.O. Box 371 Rarotonga, Cook Islands Phone: +682 212 56 Fax: +682 222 56 Email: resources@cookislands.gov.ck, vavia.tangatataia@cookislands.gov.ck</p>	
Waigani Convention	21 Oct 2001	<p>Mr Nga Puna Director, National Environment Service PO Box 371 Rarotonga, Cook Islands Tel: (682) 21256 Fax: (682) 22256 Email: resources@cookislands.gov.ck</p>	No specific implementing legislation.
Minamata Convention	Not party		



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