



PAPUA NEW GUINEA

REVIEW OF NATURAL RESOURCE AND ENVIRONMENT RELATED LEGISLATION



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INTRODUCTORY NOTE

The following review, prepared jointly by the Secretariat of the Pacific Regional Environmental Programme (SPREP) and the Environmental Defenders Office Ltd (EDO NSW), updates and builds on the reviews conducted in the early 2000s under the International Waters Project.

The review offers a brief overview of environmental legislation in force in each Pacific Island country identified and is current as of January 2018.

A number of sources were referenced for this update, including:

- Prior reviews prepared by SPREP;
- Pacific Islands Legal Information Institute – Paclii;
- ECOLEX - an information service on environmental law, operated jointly by FAO, IUCN and UNEP; and
- Government websites.

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This review is for information purposes only. It is not intended to be a complete source of information on the matters it deals with. Individuals and organisations should consult a local lawyer for legal advice on specific environmental matters.

If you have any feedback in relation to this review, please forward your comments to: registry@sprep.org.



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CONSTITUTIONAL AND ADMINISTRATIVE STRUCTURE

In 1885, New Guinea was divided into two portions. The North was controlled by Germany through the New Guinea Company Berlin. The South was controlled by the United Kingdom as the Protectorate of British New Guinea. In 1888, the Protectorate became the Crown Colony of British New Guinea. In 1899, the German Imperial Government took over control from the New Guinea Company of the northern portion. In 1902, Australia took control of British New Guinea (although the *Papua Act* was not passed until 1905 when it became known as the Territory of Papua) and occupied it during World War I. Australian military forces occupied the northern part in 1914 and controlled it until 1921. The League of Nations gave the British government, on Australia's behalf, a mandate to rule the area as the Territory of New Guinea. The Australian military, through the Australian New Guinea Administrative Unit, administered both portions during World War II. The General Assembly of the United Nations approved a Trusteeship Agreement for the Territory of New Guinea in 1946, and Australia passed legislation in 1949 confirming the joint administrative area of "the Territory of Papua and New Guinea".

1.1. The Constitution

Constitution

The *Constitution of the Independent State of Papua New Guinea* (PNG Constitution) was adopted in 1975 and has been amended on several occasions. Independence was proclaimed on 16 September 1975.

The Constitution contains an introductory passage entitled 'National Goals and Directive Principles'. One of the guiding principles relates to natural resources and the environment as follows:

"We declare our fourth goal to be for Papua New Guinea's natural resources and environment to be conserved and used for the collective benefit of us all, and be replenished for the benefit of future generations.

WE ACCORDINGLY CALL FOR-

Wise use to be made of our natural resources and the environment in and on the land or seabed, in the sea, under the land, and in the air, in the interests of our development and in trust for future generations; and

The conservation and replenishment, for the benefit of ourselves and posterity, of the environment and its sacred, scenic and historical qualities; and

All necessary steps to be taken to give adequate protection to our valued birds, animals, fish, insects, plants and trees."

The Constitution does not contain substantive environmental rights. It is interesting to note that there is a constitutional right to access official documents in section 51.

Following several civil wars, Bougainville became an autonomous region. The PNG Constitution provides that:

Sections 279-280

Bougainville is to have a system of autonomous government and its own constitution. The full name of the Constitution is the Constitution of the Autonomous Region of Bougainville 2004.

Part XIV

Contains further relevant provisions including the functions and powers of the Bougainville Government.

- Section 290 These powers relate to matters including the environment, fisheries, forestry and agro-forestry, harbours and marine, parks and reserves, waste management, water and sewerage, water resources, and wild life preservation.
- Section 338 A referendum on Bougainville's independence must be held by 2020. Note also the Organic Law on Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum 2002 which implements Part XIV of the Constitution.

Part IV creates a national legislature, executive and national judicial system. Section 82 establishes the Queen as the Head of State to be represented by a Governor-General. Papua New Guinea has a Prime Minister and a National Executive Council (otherwise known as the Cabinet).

Papua New Guinea's legal framework is composed of the Constitution, Organic laws, ordinary statutes and custom. The supreme law of Papua New Guinea is composed of the Constitution and Organic laws (Art. 11). Organic laws are laws passed by the National Parliament and are above the status of an ordinary Act of Parliament, and can only be changed or repealed in accordance with the relevant procedures in the Constitution. Customary laws continue to operate.

Papua New Guinea also has adopted Laws. These are Australian and United Kingdom Acts that have been adopted for Papua New Guinea. The *Underlying Law Act 2000* adopts customary law and the common law of England in force before independence as the underlying law for Papua New Guinea. In this way it implements section 20 of the PNG Constitution. Various statutes recognise custom for specific purposes. For example, the *Native Customs (Recognition) Act 1963* outlines when a Court may reject custom, although this Act has been partially repealed.

1.2. Local Government and Customary Law

Constitution

Part VIA of the PNG Constitution makes provision for provincial governments and local level governments. In particular:

- Section 187B An Organic Law will make provisions for how Provincial and Local-level government is to be formed.
- Section 5 The Organic Law on Provincial Governments and Local-level Governments 1998 establishes a system of Provincial Governments and Local-Governments.
- Section 50 The National Government may delegate through legislation its powers and functions to a Provincial Government or Local-level Government.
- Sections 10, 17-18 Each Provincial Government is to have a provincial legislature, a Provincial Governor and a Deputy Governor.
- Section 23 Each Province is to have a Provincial Executive Council.
- Section 42 Provincial Governments may make laws on a wide range of matters including, agriculture, fishing and fisheries, land and land development, forestry and agro-forestry, renewable and non-renewable natural resources. Provincial Governments may delegate their powers to a Local-level Government.

Sections 26-27 This Organic Law also established a system of Local-level Governments for both rural and urban communities and an executive composed of the members of the local government legislative arm.

Section 44 Local-level Governments may make laws on numerous topics including, the provision of water supply, local environment, domestic animals, flora and fauna.

Organic Law on Provincial Boundaries 1998

The *Organic Law on Provincial Boundaries 1998* implements section 5 of the Constitution and establishes the following Provinces:

- Bougainville Province;
- Central Province;
- Chimbu Province;
- Eastern Highlands Province;
- East New Britain Province;
- East Sepik Province;
- Enga Province;
- Gulf Province;
- Madang Province;
- Manus Province;
- Milne Bay Province;
- Morobe Province;
- New Ireland Province;
- Northern Province;
- Southern Highlands Province;
- Western Province;
- Western Highlands Province;
- West New Britain Province; and
- West Sepik Province.

Organic Law on National and Local-level Government Elections 1997

The *Organic Law on National and Local-level Government Elections 1997* implements constitutional provisions about electorates, elections and other matters relating to Provincial Governments and Local-level Governments. It creates a Boundaries Commission and an Electoral Commission, defines the boundaries of National Electorates, and provides for the holding of National Elections and Local-level Government elections.

The Acts described below relate to Provincial and Local-level Governments.

District Development Authority Act 2014

The *District Development Authority Act* sets out the characteristics and functions of District Development Authorities. The functions of an Authority are:

- perform service delivery functions and carry out service delivery responsibilities specified in the Ministerial determination made under Section 6;
- develop, build, repair, improve and maintain roads and other infrastructure;
- approve the disbursement of district support grants and other grants;
- oversee, co-ordinate and make recommendations as to the overall district planning, including budget priorities, for consideration by the Provincial Government and the National Government;

- determine and control the budget allocation priorities for the Local-level Governments in the district;
- approve the Local-level Government budgets for presentation to the Local-level Government and to make recommendations concerning them;
- draw up a rolling five-year development plan and annual estimates for the district;
- conduct annual review of the rolling five year development plan; and
- such other functions as are prescribed by the regulation.

Local Government Act (Chapter 57)

Key provisions of the *Local Government Act* include:

Section 10 The Head of State may by proclamation establish a Local Government Council for specified areas.

Section 19 Councillors are to be elected by secret ballot.

Section 56 The function of a Council is to control, manage and administer the Council area and to ensure the welfare of that area and the persons in the Council area.

Part VI, Division 2

Councils may make rules in exercising its powers, functions and duties. Schedule 1 of the Act stipulates matters over which Local Councils may be involved and regulate. These include but are not limited to:

- public places and lands vested in the Council or placed under its control permanently or temporarily;
- health, sanitation, cleansing and scavenging, the prevention and suppression of infectious and other diseases;
- the abatement of nuisances and other noxious and offensive trades and the disposal of the dead;
- town planning;
- supply of water, light and power;
- water conservation;
- flood prevention;
- storm-water drainage and reclamation of land;
- agricultural, pastoral, horticultural and forestry industries; and
- methods on, and the economic use of, customary land.

The Head of State may, by proclamation, establish an Area Authority or a Special Purposes Authority for an area. Local Government Authorities may be vested with any functions, duties and responsibilities so long as that does not divest a Council of the power or function (section 127).

Subsidiary legislation made under this Act include the following:

- *Local Government Regulation*;
- *Local Government (Electoral Provisions) Regulation*;
- *Local Government (Council Staff) Regulation*; and
- *Local Council (Urban Council Electoral Provisions) Regulation*.

Local Government (Consolidation of Proclamations) Act (Chapter 57A)

This Act is to enable the consolidation and revisions of proclamations made under the *Local Government Act* relating to Local Government Councils and Local Government Authorities, to be incorporated and read as one with that Act.

Local Government Service Act 1971

Section 3 establishes a Local Government Service Commission. Section 9 outlines the functions of the Commission, which includes improving the efficiency of Local Council staff and Local Government Authorities. The Act also creates a Local Government Service under section 16.

ENVIRONMENTAL PLANNING AND ASSESSMENT

2.1. National Environmental Law

Environment Act 2000

Section 4 of the *Environment Act* sets out multiple objects:

- to promote the wise management of Papua New Guinea natural resources for the collective benefit of the whole nation and ensure renewable resources are replenished for future generations;
- to protect the environment while allowing for development in a way that improves the quality of life and maintains the ecological processes on which life depends;
- to sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, and safeguard the life-supporting capacity of air, water, land and eco-systems;
- to ensure that proper weight is given to both long-term and short-term social, economic, environmental and equity considerations in deciding all matters relating to environmental management, protection, restoration and enhancement;
- to avoid, remedy or mitigate any adverse effects of activities on the environment by regulating in an integrated, cost-effective and systematic manner, activities, products, substances and services that cause environmental harm;
- to require persons engaged in activities which have a harmful effect on the environment progressively to reduce or mitigate the impact of those effects as such reductions and mitigation become practicable through technology and economic developments;
- to allocate the costs of environmental protection and restoration equitably and in a manner that encourages responsible use of, and reduced harm to, the environment;
- to apply a precautionary approach to the assessment of risk of environmental harm and ensure that all aspects of environmental quality affected by environmental harm are considered in decisions relating to the environment;
- to regulate activities which may have a harmful effect on the environment in an open and transparent manner and ensure that consultation occurs in relation to decisions under this Act with persons and bodies who are likely to be affected by them; and
- to provide a means for carrying into effect obligations under any international treaty or convention relating to the environment to which Papua New Guinea is a party.

The *Environment Act* creates a general environmental duty under section 7. It covers a wide range of matters including, environmental offences, environmental policies, environmental impact assessment and environment permits. It is an offence under sections 9-13 to cause environmental harm, serious material environmental harm or material environmental harm. Section 17 establishes an Environment Council. The Act repeals the *Environmental Planning Act*, the *Environmental Contaminants Act*, the *Environmental Contaminants (Amendment) Act 1994* and the *Water Resources Act*.

The following regulations have been created under the *Environment Act*:

- *Environment (Prescribed Activities) Regulations 2002*;
- *Environment (Permits) Regulation 2002*;
- *Environment (Fees and Charges) Regulation 2002*;

- *Environment (Council's Procedure) Regulation 2000; and*
- *Environment (Water Quality Criteria) Regulation 2002.*

2.2. Environmental Impact Assessment

The *Environment Act 2000* includes provisions on Environmental Impact Assessments (EIAs). It is an offence to carry out an activity which may cause material or serious environmental harm or which may have a negative or significant negative impact on a matter of national importance, without an environment permit for that activity. The Act sets out how a permit is applied for by an applicant and granted by the Director for Environment.

The *Environment Act* categorises activities as level 1, 2 or 3 activities according to their respective environmental impact. The *Environment (Prescribed Activities) Regulations 2002* prescribe level 1, 2 and 3 activities. Examples of level 2 activities are: petroleum exploration drilling of oil and gas wells; quarrying involving the extraction of no greater than 100,000 tonnes per annum; and activities carried out under a Timber Authority issued under the *Forest Act*. Examples of level 3 activities are: logging operations where the minimum annual allowable cut is greater than 70,000m³ per annum; and mining activities which require the issue of a Special Mining Lease under the *Mining Act 1992*. The extensive EIA provisions apply to applications to conduct level 3 activities and to make major amendments to environment permits. EIAs are also required for an application to conduct a level 2 activity that may result in serious environmental harm or may have a significant impact on a matter of national importance or both.

An EIA under the *Environment Act* involves:

- submission of an inception report;
- submission of an environmental impact statement (EIS);
- assessment and public review of the EIS;
- Director's acceptance of the EIS;
- referral of the EIS, assessment report and other material to the Council;
- recommendation by the Council to the Minister; and
- where the Minister has received a recommendation from the Council, an approval in principle by the Minister.

2.3. Land Management, Zoning and Planning

Lands Act 1996

The purpose of the *Lands Act* is to consolidate and amend legislation relating to land, and to repeal various statutes, and for related purposes. The Act creates a comprehensive regulatory framework for land ownership and use in Papua New Guinea. Under section 4, all land other than customary land is the property of the State, subject to any estates, rights, titles or interests in force under any law. Significantly, the Minister may acquire customary land for the purpose of granting a Special Agricultural Business Licence (SABL) over the land. The *Lands Act* also contains mechanisms for the compulsory acquisition of land and compensation. Land can be reserved under the *Lands Act*.

Land is regulated in many ways including through the grant of state, agricultural, pastoral, business and residence, mission, government-owned building, special purpose, SABL, and urban development leases. The *Lands Act* enables the Minister to grant licences to people for specific purposes and approve certain dealings and activities (referred to respectively as "controlled dealings" and "permitted dealings"). A Land Board is also established to, amongst other things, consider all applications for grant of leases referred to it by the Department and other matters referred to it by the Minister.

Subsidiary legislation made under the *Lands Act* includes the *Land Regulation 1999*.

Land Disputes Settlement Act 1975

The purpose of the *Land Disputes Settlement Act* is “to provide a just, efficient and effective machinery for the settlement of disputes in relation to customary land” by encouraging self-reliance through the involvement of the people in the settlement of their own disputes, and the use of the principles underlying traditional dispute settlement processes. Part III establishes a Provincial Land Dispute Committee for each Province to facilitate mediations over land disputes. The Act also empowers the Minister to establish local land courts (Part IV) and Provincial Land Courts (Part V). Minor amendments to the Act were made in 2000. The Act is supported by the *Land Disputes Settlement Regulation 1975*.

Land Groups Incorporation Act 1974 (Chapter 147)

The purposes of the *Land Groups Incorporation Act* are to encourage:

- greater participation by local people in the national economy by the use of the land;
- better use of such land;
- greater certainty of title; and
- better and more effectual settlement of certain disputes, by
 - i) the legal recognition of the corporate status of certain customary and similar groups, and the conferring on them, as corporations, of power to acquire, hold, dispose of and manage land, and of ancillary powers; and
 - ii) the encouragement of the self-resolution of disputes within such groups.

The Registrar may recognise a customary group of persons as an incorporated land group by issuing them a certificate of recognition upon application (Part III). Incorporated Land Groups are corporations and have a number of powers. The *Land Groups Incorporation Act* also sets out provisions relating to settlements of disputes between incorporated land groups and a member of the group or between members of an incorporated land group (Part IV). Associated subsidiary legislation includes the *Land Groups Incorporation Regulation 1974*.

Land (Ownership of Freeholds) Act 1976

The purpose of the *Land (Ownership of Freeholds) Act 1976* is “to implement section 56(1)(b) (other rights and privileges of citizens) of the *Constitution* by – (a) defining the forms of ownership that are to be regarded as freehold; and (b) defining the corporations that are to be regarded as citizens, and to facilitate dealings in certain land to which that paragraph would otherwise apply by making provision for the conversion of certain interests in land to State leases.” The Act sets out principles of and exceptions to freehold ownership as well as ways that interests can be converted to avoid frustrations. The *Land (Ownership of Freeholds) Regulation 1977* sets out additional matters in relation to applications made under the Act.

Land Registration Act 1981

The *Land Registration Act 1981* is “an Act to unify the law relating to the registration of title to land, and for related purposes”. The Act details how the register of titles will be kept and the situations in which a certificate of title will be issued by the Registrar.

Relevant parts of the act include:

Part IV	State Leases
Parts V, XII	Requirements for the transfer and transmission of land
Part VI	Granting of leases

Parts VII-XI Other interests over land

Part XV Remedies in relation to a person's rights and interest in land

The *Land Registration Regulation 1999* was created under the Act.

Land (Tenure Conversion) Act 1963

Section 7 enables citizens to apply to the Commission for registration of ownership or interests in customary land in his or her name. The Commission may make a conversion order, to convert customary land to individualised tenure, and the Act details the process that is to accompany the making of such an order.

The Act was amended in 1987. Subsidiary legislation under the Act includes the *Land (Tenure Conversion) Regulations 1964*.

National Land Registration Act 1977

The *National Land Registration Act* seeks to:

- establish a Register of National Land;
- make provision for the registration in the Register of National Land of all land acquired or to be acquired by the State on or after Independence Day;
- make provision for the registration of National Land of land acquired before Independence Day by a pre-Independence Administration in Papua New Guinea and which is now required for a public purpose, the title to which may be, or may appear to be, in doubt;
- give effect to Section 54(a) (special provision in respect of certain lands) of the Constitution by providing for the recognition of the title of the State to certain land that is required for public purposes, the title to which may be, or may appear to be, in doubt;
- settle grievances in relation to the land described in paragraph (d) by providing for certain settlement payments; and
- declare and describe, for the purposes of Section 53(1) (protection from unjust deprivation of property) of the Constitution, certain matters as public purposes and justified reasons for the acquisition.

National Land is vested in the State of Papua New Guinea (section 14). Part V establishes the National Land Commission. Settlement payments may be made to persons aggrieved by declarations of national land acquired before Independence Day where certain conditions are met under Part VI. Minor amendments to the Act were made in 2006.

BIODIVERSITY CONSERVATION

3.1. Conservation of Natural Resources, Protected Areas and Endangered Species

Conservation

Conservation Areas Act 1978 (Chapter 362)

The *Conservation Areas Act 1978* is an Act:

- to provide for the preservation of the environment and of the national cultural inheritance by:
 - i) the conservation of sites and areas having particular biological, topographical, geological, historic, scientific or social importance; and
 - ii) the management of those sites and areas.
- in accordance with the fourth goals of the National Goals and Directive Principles;
- to give effect to those Goals and Principles under Section 25 of the Constitution; and

- to establish a National Conservation Council.

The Act establishes a National Conservation Council and procedures for declaring conservation areas, in which development is restricted. In 1992, 2014 and 2015 minor amendments were made.

Conservation and Environment Protection Authority Act 2014

The objectives of the *Conservation and Environment Protection Authority Act* are:

- to provide for the conservation and protection of the environment in accordance with the Fourth National Goal and Directive Principle (National Resources and Environment) of the Constitution;
- to establish the Conservation and Environment Protection Authority; and
- to repeal the *National Parks Act* (Chapter 157).

The Act contains environmental conservation objects and principles to guide the Minister and the Authority in fulfilling their statutory role. These are at section 4 and include:

- the Constitutional Fourth National Goal;
- the principles in the *Environment Act 2000*; and
- conservation objects and principles in international agreements and treaties to which Papua New Guinea is a party.

This Act establishes the Conservation and Environment Protection Authority with multiple functions aimed at conserving and protecting the environment (ss 7-9).

Crocodile Trade (Protection) Act 1974

The *Crocodile Trade (Protection) Act 1974* is an Act to regulate and protect the crocodile skin trade. It is an offence to acquire, kill or dispose of crocodiles without a licence (sections 4-5). However, section 2 provides a defence where a person has reasonable cause to believe that a crocodile is or will be a danger to himself or another person, or will or is likely to cause damage to a substantial portion of his means of livelihood. Associated regulations include the *Crocodile Trade (Protection) Regulation 1980*.

Fauna (Protection and Control) Act 1966 (Chapter 154)

The *Fauna (Protection and Control) Act 1966* provides for the protection, control, harvesting and destruction of fauna. The Conservator of Fauna is the Managing Director of the Conservation and Environment Protection Authority (section 4). Under sections 6-7, the Minister has the power to declare fauna to be protected and these become the property of the State. Under Part III, it is an offence to take, kill or possess protected fauna unless the person has a permit to do so. The Minister, acting on the advice of the Authority, may also declare an area to be a protected area under part V or a wildlife management area under part VI. The Act was amended in both 2014 and 2015.

Subsidiary legislation made under this Act includes:

- *Fauna (Protection and Control) Regulation 1968*;
- *Fauna (Protection and Control) Bagiai Wildlife Management Area Rules 1977*;
- *Fauna (Protection and Control) Balek Wildlife Sanctuary Rules 1977*;
- *Fauna (Protection and Control) Crown Island Wildlife Sanctuary Rules 1978*;
- *Fauna (Protection and Control) Maza Wildlife Management Area Rules 1979*;
- *Fauna (Protection and Control) Mojirau Wildlife Management Area Rules 1978*;
- *Fauna (Protection and Control) Pokili Wildlife Area Rules 1977*;
- *Fauna (Protection and Control) Ranba Wildlife Management Area Rules 1979*;
- *Fauna (Protection and Control) Ranba Wildlife Sanctuary Rules 1978*;
- *Fauna (Protection and Control) Sawataitai Wildlife Management Area Rules 1978*;
- *Fauna (Protection and Control) Siwi-Utame Wildlife Management Area Rules 1977*; and

- *Fauna (Protection and Control) Tonda Wildlife Management Area Rules 1976.*

Fisheries Management Act 1998

The fundamental objective of this Act is to promote long-term conservation, management and sustainable use of the marine living resources of Papua New Guinea for the people of Papua New Guinea (section 25). The *Fisheries Management Act 1998* provides for and gives effect to the National Goals and Directive Principles and in particular to promote the management and sustainable development of fisheries. The National Fisheries Authority established under the previous legislation remains. The Authority has many functions and powers listed at section 6, including the management of fisheries within the fisheries waters in accordance with the Act and taking into account Papua New Guinea's international obligations.

Guiding principles for regulating authorities are at section 26, and include the precautionary approach and ecosystems approach. Customary resource ownership is recognised by the Act. The regulation of fisheries includes the prohibition of certain activities and the requirement to have licences for certain activities at part IV. The Act also contains a number of offence provisions.

The *Fisheries Management Act 1998* repeals the *Fisheries Act 1994*, and was amended in 2012 and 2015. Subsidiary legislation made under this Act is the *Fisheries Management Regulation 2000*. The Regulation sets out further details about the application and granting of different types of licences and export requirements.

Fisheries (Torres Strait Protected Zone) Act 1984

The *Fisheries (Torres Strait Protected Zone) Act 1984* gives effect to those provisions of the Treaty between the Independent State of Papua New Guinea and Australia signed at Sydney on 18 December 1978 relating to the control of fisheries within the area described in the Treaty as the Protected Zone, and for related purposes. The Minister may prohibit certain conduct relating to fishing in the Protected Zone and grant licences for fishing related activities. The Act contains offence provisions and addresses issues of jurisdiction. Subsidiary legislation includes the *Fisheries (Torres Strait Protected Zone) Regulation 1987*, which addresses matters relating to licences.

International Trade (Fauna and Flora) Act 1979 (Chapter 391)

The *International Trade (Fauna and Flora) Act 1979* is an Act to "further the conservation of the natural environment in Papua New Guinea and its native animals and plants by promoting their sustainable use, and to implement the State's obligations as a party to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* by controlling and regulating the trade, possession, transport, exportation and importation of certain species of fauna and flora." Significant amendments were made to the Act in 2003. The Schedules list the different categories of fauna and flora for the purposes of the Act. Regulations made under the Act include the *International Trade (Fauna and Flora) (Fauna) Regulations 1982*.

Protected Areas

Protected Areas are provided for under the *Fauna (Protection and Control) Act 1966*, as discussed above.

Endangered Species

Protected fauna is dealt with under the *Fauna (Protection and Control) Act 1966*, as discussed above.

Exploitation of natural resources

Forestry Act 1991

The *Forestry Act 1991* is an “Act to provide for and give effect to the National Goals and the Directive Principles and in particular to:

- (a) manage, develop and protect the Nation’s forest resources and environment in such a way as to conserve and renew them as an asset for succeeding generations;
- (b) maximise Papua New Guinean participation in the wise use and development of the forest resources as a renewable asset;
- (c) utilise the Nation’s forest resources to achieve economic growth, employment creation and industrial and increased “down stream” processing of the forest resources;
- (d) encourage scientific study and research into forest resources so as to contribute towards a sound ecological balance consistent with the National developmental objectives; and
- (e) to repeal various Acts, and for related purposes.”

The Papua New Guinea Forest Authority (PNGFA) must prepare a National Forest Plan setting out how the National and Provincial Governments will manage and utilise the country’s forest resources. Forest resources are only to be developed in accordance with the National Forest Plan. Only registered forestry industry participants may exercise timber rights on customary land where there is a Forest Management Agreement (FMA), a timber authority or a clearing authority granted over the land and must hold the relevant permit. A FMA is one means by which the PNGFA may acquire rights to customary land from customary owners. Where a proponent wishes to conduct a forest development project (FDP) the National Forest Board (Board) must arrange a Development Options Study (DOS) and then must advertise for a tender for the FDP. The Provincial Forest Management Committee will evaluate proposals and prepare and submit a report and recommendations to the Board. Considering the Board’s directions, the Provincial Forest Management Committee will negotiate a project agreement. The Board will consider the project agreement and execute it on behalf of the Authority if satisfied that it is sufficient. The Board may then recommend the Minister grant a timber permit to the proponent, which is necessary to carry out a FDP.

The *Forestry Act* contains numerous offences, including acting in the absence of or contrary to the relevant permits. In summary, the key requirements under the *Forestry Act* are being registered as a forest industry participant, holding a project agreement, holding the relevant permit, and paying a performance bond. The relevant permit depends on the volume of timber to be harvested and the type of land on which the activity will be carried out. The various permits available under the *Forestry Act* are a:

- timber permit;
- timber authority; and
- permit to carry out large scale conversion of forest to agricultural or other land use.

The *Forestry Act* was amended in 1993, 1996, 2000, 2005, 2006, 2007, 2010 and 2012. The *Forestry Regulation 1998* prescribes the forms for various applications made under the Act and related matters.

Mineral Resources Authority Act 2005

The *Mineral Resources Authority Act 2005* is “an Act to provide for the establishment of the Mineral Resources Authority and to define its powers and functions, and for related purposes”. The Minerals Resources Authority has a number of functions that relate to advising, managing and enforcing mining related activities in Papua New Guinea.

Mining Act 1992

The *Mining Act* regulates the law relating to minerals and mining. Section 5 vests “all minerals existing on, in or below the surface of any land in Papua New Guinea” in the State. It assigns a Director of Mining and creates a Mining Advisory Board. The *Mining Act* details how mining development contracts and mining tenements are to be entered into. Specifically, it provides for the granting of exploration licences, special mining leases, mining leases, alluvial mining leases, leases for a mining purpose and mining easements. In assessing an application for a mining lease, the Board is to consider a range of matters outlined at section

43, including whether the proposal will “provide adequately for the protection of the environment”. The *Mining Act* also sets out principles of compensation to landholders at Part VII. Minor amendments were made in 2000 and 2015.

The *Mining Regulations 1992* prescribe the forms for applying for various licences and related fees, rents, and expenditures.

Mining Development Act 1955

The *Mining Development Act 1955* deals with the financing of mining activities. The Act is supplemented by the *Mining Development Regulation 1957*.

Oil and Gas Act 1998

The *Oil and Gas Act* is an Act to enact comprehensive legislation governing:

- the exploration for and production of petroleum (including oil and gas) in Papua New Guinea, including the offshore area;
- the grant to traditional landowners and Provincial Governments and Local-level Governments of benefits arising from projects for the production of petroleum (including oil and gas); and
- the processing and transportation in Papua New Guinea of petroleum and petroleum products.

Key provisions include the following:

Section 6 Vests ownership of petroleum and helium in Papua New Guinea in the State.

Section 8 Persons can only lawfully explore for and extract petroleum in accordance with a tenement or consent granted under the *Oil and Gas Act 1998*.

Sections 47-48

The exploration and extraction of petroleum is regulated through the use of licences. It is a requirement that petroleum prospecting licence holders undertake social mapping studies and landowner identification studies and consult with landowners.

There are a few environmental protections in the *Oil and Gas Act*. These include the following:

Section 35 Where a person wishes to recover petroleum, the Minister may require them to carry out investigations about the feasibility of the proposal. These investigations may include “physical impact studies into the possible effects of that industry on the environment”.

Section 56 Holders of a petroleum development licence must lodge a security deposit for compliance with “the conditions relating to the protection and restoration of the environment; the provisions of this Act; and any requirement in any law relating to the protection and restoration of the environment, or any condition imposed on the licensee under any such law”.

Section 57 Sets out the matters to which the Minister must have regard when deciding whether or not to grant a petroleum licence, including whether the proposal will provide adequately for the protection of the environment and the welfare of the people of the area.

Section 87 An application for a petroleum processing facility licence must particularise the “environmental monitoring systems, waste disposal procedures and the results of environmental studies”.

Section 113 Recognises the continuing right of persons with an interest in any private land in a licence area to use, occupy and enjoy the land.

Part IV Provides for the payment of royalties, including the payment to customary landowners.

Subsidiary legislation made under this Act includes the *Oil and Gas Regulation 1999* and the *Oil and Gas Regulation 2000*. The regulations require certain activities associated with the petroleum operations to be carried out in an environmentally acceptable manner, such as the appropriate disposal of waste products.

Petroleum (Submerged Lands) Act 1967 (Adopted)

Section 11 of the Australian *Petroleum (Submerged Lands) Act 1967* was adopted into Papua New Guinea law. It relates to which laws govern areas adjacent to territories and the exploration of the sea-bed or subsoil for petroleum and natural resources. The *Offshore Seas Proclamation 1978* sets out the outer limits of offshore seas.

Unconventional Hydrocarbons Act 2015

The *Unconventional Hydrocarbons Act 2015* is an Act to govern:

- (a) the exploration for and production of unconventional hydrocarbons in Papua New Guinea, including the offshore area; and
- (b) the grant to traditional landowners and Provincial Governments and Local-level Governments of benefits arising from projects for the production of unconventional hydrocarbons, and for related purposes.

This Act vests ownership of unconventional hydrocarbons in the State and regulates the exploration and development of them. The Act impacts upon land use in various ways. For example, Part III, Division 13 addresses rights in respect of land and property. The *Unconventional Hydrocarbons Act* operates alongside the *Mining Act 1992* and the *Oil and Gas Act 1998*.

3.2. Marine and Coastal Resources

National Seas Act 1977

The *National Seas Act 1977* describes and delineates the territorial sea, the internal waters, the offshore seas and the archipelagic waters of Papua New Guinea for the purpose of determining the State's rights over those marine areas.

3.3. Biosafety

Animal Disease and Control Act 1952 (Chapter 206)

The *Animal Disease and Control Act 1952* is "an Act relating to diseases of animals; and to prohibit and restrict the importation into and the keeping in the country of certain animals". The Act gives inspectors multiple powers to deal with animals to prevent the further spread of diseases. The *Animal Disease and Control Regulation 1955* supports the Act.

National Agriculture Quarantine and Inspection Authority Act 1997

The *National Agriculture Quarantine and Inspection Authority Act 1997* is "an Act to provide for the protection of animals and plants, natural resources and the environment from pests and diseases in the interest of National, Social and Economic Development and, for that purpose, to establish the National Agriculture Quarantine and Inspection Authority and to define its powers and functions." The Act established a National

Agriculture and Quarantine Inspection Authority with multiple quarantine related functions. It also sets out a range of general quarantine processes. Part IX sets out a number of offences, such as importing prohibited animals or trespassing on a quarantine station.

Plant Disease and Control Act 1953 (Chapter 220)

The *Plant Disease and Control Act 1953* relates to diseases of plants and prohibits and restricts the keeping of certain plants. The Minister may make declarations about a notifiable disease or pest, a disease area and a noxious plant. The Act is administered by inspectors and a Chief Inspector. These inspectors have a range of powers that include, but are not limited to, the power to:

- examine items;
- order a person to produce information;
- destroy a plant that is or is suspected to be disease;
- carry out tests; and
- seize plants.

Subsidiary legislation made under the Act is the *Plant Disease and Control Regulation 1956*.

Quarantine Act 1953

The *Quarantine Act 1953* relates to all quarantine matters and is administered by the Director of Quarantine, the Departmental Head. Certain vessels, aircraft, vehicles, persons and good are subject to quarantine procedures. The Act also contains provisions about the quarantine of animals and plants. The *Quarantine Act* contains a number of offences, such as importing prohibited animals, trespassing on quarantine stations and providing false documentation. The *Quarantine Regulation 1956* is subsidiary legislation made under this Act and provides further details about quarantine processes.

WASTE MANAGEMENT AND POLLUTION

4.1. Waste

National Capital District Water Supply and Sewerage Act 1996

The *National Capital District Water Supply and Sewerage Act 1996* allows for the creation and management of water and sewerage facilities in the National Capital District by NCD Water and Sewerage Pty Limited (Company). Section 5 states that the Company is to “maintain and operate water works in and for the National Capital District”. This Act protects the water supply through prescribing offences such as taking water without authority and wrongful use of water. In addition to water supplies, section 16 requires the Company to maintain and operate a public sewerage system, where applicable, in and for the National Capital District.

National Water Supply and Sewerage Act 1986 (Chapter 393)

The aims of the *National Water Supply and Sewerage Act 1986* are “to establish a National Water Supply and Sewerage Board and to provide for the co-ordinated supply of water and sewerage facilities in the country and for related purposes.” Part V deals with the supply of water and requires the Board to maintain and operate water works for each water district and ensure a constant supply of water to all persons entitled under the Act. Part VI deals with sewerage works. The Board is required to maintain and operate a public sewerage system in each sewerage district. The *National Water Supply and Sewerage Regulation* made under this Act provides further detail on water and sewerage arrangements for Papua New Guinea.

Public Health Act 1973

Under the *Public Health Act 1973*, the Head of State may make regulations on a wide range of matters listed at section 141, including the prevention of the pollution of natural water courses and the maintenance of the purity of water supply; and the disposal of garbage, refuse and night-soil.

Regulations made under the Act include the *Public Health (Sewerage) Regulation 1973*, the *Public Health (Septic Tanks) Regulation 1973* and the *Public Health (Underground Water Tanks) Regulation 1973*. The regulations outline in great detail how sewerage and water infrastructure is to be established and operated.

4.2. Pollution

Marine Water Pollution

Marine Pollution (Ballast Water Control) Act 2013

The *Marine Pollution (Ballast Water Control) Act 2013* is an Act:

- prevent, reduce and control the introduction of harmful aquatic organisms and pathogens to Papua New Guinea waters via ships' ballast water and sediments; and
- incorporate into the law of Papua New Guinea relevant provisions of the *International Convention for the Control and Management of Ships' Ballast Water and Sediments*.

Section 4 gives legal effect to the *International Convention for the Control and Management of Ships' Ballast Water and Sediments* (BWM Convention) in Papua New Guinea. Ships to which this Act applies must only discharge ballast water in accordance with the Act unless an exception or exemption applies (in accordance with sections 5-7 and parts III-V).

Marine Pollution (Liability and Cost Recovery) Act 2013

The *Marine Pollution (Liability and Cost Recovery) Act* is an Act:

- to provide for the establishment and operation of a National Marine Pollution Fund (POLFUND); and
- to provide for liability, insurance, the recovery of costs and the payment of compensation relation to pollution damage in or to Papua New Guinea waters, coastline and related interests from vessels and oil or chemical handling facilities; and
- to incorporate into the law of Papua New Guinea relevant provisions of certain international Conventions relating to marine pollution liability, cost recovery and compensation; and
- to repeal the *Protection of the Sea (Shipping Levy) Act 2004*.

The Act applies to the State of Papua New Guinea but not to Defence Force vessels in times of war, conflict or emergency (section 1). Section 4 gives the following International Conventions the force of law:

- *International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (Bunkers Convention)*;
- *Protocol of 1992 to amend the International Convention on Civil Liability for Oil Pollution Damage 1969 (92 Civil Liability Convention)*; and
- *Protocol of 1992 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1971 (92 Fund Convention)*.

Part II of the Act establishes the National Marine Pollution Fund (POLFUND) gathered from marine pollution levies to be used for activities relating to marine pollution. The Act also creates a scheme for liability, insurance, the recovery of costs and the payment of compensation relating to pollution damage from oil carried by tankers (Part III), for bunker oil carried by ships (Part IV), and for pollution damage from oil or chemical handling facilities (Part VI).

Marine Pollution (Preparedness and Response) Act 2013

The *Marine Pollution (Preparedness and Response) Act* is an Act:

- to provide for the effective response to and control of oil, chemicals or any other pollutant from vessels or any other sources within Papua New Guinea waters or which pollute or threaten to pollute Papua New Guinea waters, aquatic resources, coastline or related interests;
- to provide for effective cooperation with neighbouring countries in matters pertaining to marine pollution preparedness, response and control; and
- to incorporate into the law of Papua New Guinea relevant provisions of certain international conventions relating to marine pollution preparedness, response and control.

Section 1 applies the Act to all spills or possible spills of oil, chemicals or any other pollutant from any or all sources that may pollute or threaten to pollute Papua New Guinea waters, aquatic resources, coastline or related interests. Under section 1, the Act also applies to the State unless the vessel is being operated in times of war, conflict or emergency.

Section 4 gives the following international conventions and related documents the force of law in Papua New Guinea:

- *Intervention Convention*,
- *Intervention Protocol*;
- *OPRC Convention*;
- *OPRC-HNS Protocol*; and
- *SPREP Pollution Emergencies Protocol*.

Other key provisions of the Act include:

Section 5 The National Maritime Safety Authority (Authority) (as established under the National Maritime Safety Authority Act 2003) shall undertake national marine pollution risk assessments.

Sections 6, 12

The Authority shall also ensure that there is a National Marine Pollution Contingency Plan (NATPLAN) that conforms to international standards and cooperate with neighbouring countries for mutual assistance.

Sections 7-9 Requires measures such as site-specific contingency plans for port infrastructure which pose a risk of marine pollution.

Section 11 Creates a National Marine Pollution Committee to give advice and support to the Authority and the Incident Commander.

Marine Pollution (Sea Dumping) Act 2013

The *Marine Pollution (Sea Dumping) Act 2013* repeals the *Dumping of Wastes at Sea Act 1979*. The purpose of this Act is “to prohibit the incineration of wastes and other matter at sea and to control the dumping of wastes and other matter at sea, through the implementation of the London Protocol and the SPREP Dumping Protocol”. Under section 1, the Act applies in all Papua New Guinea waters and to any Papua New Guinea vessel, aircraft or platform wherever it may be, but not to military vessels or those involved in seabed mineral resource operations. The Act gives the *London Protocol* and the *SPREP Dumping Protocol* the force of law in Papua New Guinea, as provided in section 4.

Sections 5-6 prohibit the incineration of wastes and the dumping of wastes at sea. However, it is possible to obtain a permit for the dumping of certain materials under sections 8-13.

Marine Pollution (Ships and Installations) Act 2013

The *Marine Pollution (Ships and Installations) Act* is an Act to:

- provide for the prevention and control of marine pollution from any vessel and any offshore installation in Papua New Guinea waters and from any Papua New Guinea vessel and any Papua New Guinea offshore installation wherever it may be; and
- incorporate into the law of Papua New Guinea relevant provisions of certain International Conventions relating to marine pollution prevention and control; and
- repeal the *Prevention of Pollution of the Sea Act 1979* and the *Prevention of the Sea Regulation 1980*.

Under section 4, this Act gives the *International Convention on the Control of Harmful Anti-fouling Systems on Ships 2001* (AFS Convention) and the *International Convention for the Prevention of Pollution from Ships 1973* (MARPOL Convention) the force of law.

Key parts of the Act deal with:

Part II	Prevention of pollution by oil.
Part III	Prevention of Pollution by Noxious Liquid Substances.
Part IV	Prevention of pollution by harmful substances in packaged form.
Part V	Prevention of pollution by sewage.
Part VI	Prevention of pollution by garbage.
Part VII	Prevention of pollution by anti-fouling systems.
Part VIII	Prevention of pollution from offshore installations.
Part IX	Waste reception facilities.

The Act operates alongside the *Environment Act* and the *Quarantine Act*.

OTHER

5.1. Disaster Risk Management

Climate Change (Management) Act 2015

The *Climate Change (Management) Act 2015* aims to provide a regulatory framework to:

- promote and manage climate compatible development through climate change mitigation and adaptation activities; and
- implement any relevant obligations of the State under applicable rules of international law and international agreements relating to climate change; and
- establish Papua New Guinea's Designated National Authority or an equivalent entity for the purposes of the Kyoto Protocol and any such other or subsequent arrangements or agreements made under the Kyoto Protocol.

This Act establishes the Climate Change and Development Authority (Authority) and vests it with powers at sections 10-11, including to:

- promote and manage climate compatible development through climate change mitigation and adaptation activities;
- implement the State's international legal obligations and give effect to Papua New Guinea's national commitments under the UNFCCC and Kyoto Protocol;
- be Papua New Guinea's Designated National Authority for UNFCCC agreements; and
- administer compensation or incentive funds to assist climate compatible economic development.

Sections 12-13 also established a National Climate Change Board to control and guide the Authority. Parts V-VI specify mitigation and adaptation activities, including a requirement that certain sectors reduce their carbon dioxide and greenhouse gas emissions and prepare mitigation plans. The Act recognises the rights of customary landholders and requires their "free, prior and informed" consent before the Authority or others can enter into a climate change related project on customary land.

Disaster Management Act 1984

The *Disaster Management Act* repeals the *Emergency Provisions Act*. The purpose of the *Disaster Management Act* is "to establish a machinery for forward planning to ensure the efficient, prompt and effective management and control of natural disasters in the country". Disaster is defined as "an earthquake, volcanic eruption, storm, tempest, flood, fire or outbreak of pestilence or infectious disease, or any other natural calamity whether similar to any such occurrence or not, on such an extensive scale as to be likely to endanger the public safety or to deprive the community or any substantial proportion of the community of supplies or services essential to life". The Act establishes a National Disaster Committee, Provincial Disaster Committees and a National Disaster Centre. Minor amendments were made in 1997.

The United Nations Paris Agreement (Implementation) Act 2016

The *United Nations Paris Agreement (Implementation) Act 2016* aims to address the climate change issues in Papua New Guinea and to give effect and implement the State's obligations under the *United Nations Framework Convention on Climate Change* and its subsidiary agreement, the *Paris Agreement*. This Act operates alongside the *Climate Change (Management) Act 2015*.

MULTILATERAL ENVIRONMENTAL AGREEMENTS

INTERNATIONAL ENVIRONMENTAL INSTRUMENT	STATUS
BIODIVERSITY	
Convention on Biological Diversity (CBD)	R
<ul style="list-style-type: none"> • Cartagena Protocol on Biosafety • Nagoya Protocol on Access and Benefit-Sharing 	A -
Convention on International Trade in Endangered Species (CITES)	A
Convention on Migratory Species (CMS)	-
Convention on Wetlands (Ramsar)	R
World Heritage Convention (WHC)	Ac
WASTE AND POLLUTION	
Hazardous waste and pollution	
Basel Convention	A
Rotterdam Convention	-
Stockholm Convention	R
Atmospheric Pollution	
Vienna Convention	A
<ul style="list-style-type: none"> • Montreal Protocol 	A
Ship-based pollution	
UNCLOS (Part XII : Protection and Preservation of the Marine Environment)	R
London Convention - Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter	R
<ul style="list-style-type: none"> • London Protocol 	-
CLIMATE CHANGE	
UNFCCC	R
<ul style="list-style-type: none"> • Kyoto Protocol • Paris Agreement 	R R
LAND DEGRADATION	
UNCCD	A
REGIONAL AGREEMENTS	
Waigani Convention	R
Noumea Convention	R
<ul style="list-style-type: none"> • Dumping Protocol • Emergencies Protocol 	R R

Ratification (R), Acceptance (Ac), Accession (A), Signed (S)