



# Stocktake of Existing and Pipeline **Waste Legislation:** KINGDOM OF TONGA



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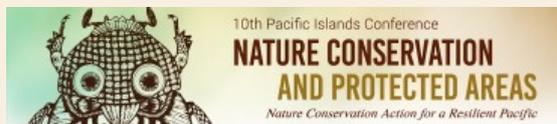
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# Table of Contents

About this Report .....	4
Legislative Summary .....	6
Pipeline activities .....	10
Stocktake of Relevant Multilateral Environmental Agreements .....	11

## List of Tables

Table 1: Legislation impacting waste governance in Tonga .....	7
Table 2: Policies impacting waste governance in Tonga .....	9
Table 3: Government departments with waste responsibilities in Tonga .....	9
Table 4: Pipeline activities for Tonga .....	10
Table 5: MEAs and implementing legislation .....	11

# 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 Kingdom of Tonga is an archipelago comprised of 176 islands, 36 of which are inhabited. There are three island groups; Ha'apai, Tongatapu and Vava'u. It has a population of approximately 106,000 (2020 estimate). The official languages are Tongan and English.
2. Tonga was united into a Polynesian kingdom in 1845, became a constitutional monarchy in 1875 and a British protectorate in 1900. In 1970 Tonga attained full independence and joined the Commonwealth.
3. Tonga has a Westminster style of government with the King as Head of State and the Prime Minister as Head of Government. There is a unicameral Legislative Assembly and a three-tiered system of courts of general jurisdiction. There is also a specialist Land Court with jurisdiction to hear and determine disputes, claims and questions of title concerning land in the Kingdom.
4. Tonga has an English style common law system. Sources of law are the Constitution (as the supreme law), laws enacted by the King and the Legislative Assembly and the common law. Unlike many other countries in the region, Tonga's constitution and legislation do not make express provision for custom or customary law to be applied in any court or for any purpose in the legal system.

## Legislation impacting waste governance

5. As a result of a substantial reform program undertaken in the mid-2000s, Tonga has dedicated legislation for waste management. This legislation provides a central point of administration for waste management matters in Tonga under the auspices of the Tonga Waste Authority Ltd (WAL).
6. The following tables provide a stocktake of the existing legislative environment for waste management in Tonga, 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 governance in Tonga found through the UoM's stocktake research.
  - Table 2 lists the key policy instruments.
  - Table 3 notes the relevant departments with waste management responsibilities.

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

Legislation	Regulations
<p><b>Waste Management Act Cap 32.18 (as at 2016)</b></p> <p>This Act provides for the development of the waste management sector, with wide ranging powers and responsibilities for the Waste Authority Ltd (WAL).</p> <p>The Act establishes waste management service areas and provisions for waste collection and disposal services; contracting arrangements; fees to be levied and collected; preparation of operating plans and reports; development of codes of practice; community awareness raising; and monitoring of public health and environmental impacts.</p> <p>Sections 24–26 define specific waste-related offences, including littering, dumping, movement of hazardous wastes, and creates enforcement and prosecution provisions.</p> <p>Standards of environmental waste management practices and facilities are prescribed, monitored and enforced by the Ministry of Environment (s 22).</p>	<p><u>Waste Management (Plastic Levy) Regulations 2013</u> Cap 32.18.1</p> <p>This Regulation imposes a 10% levy on import of certain plastic bags (r 3–4) from 4 July 2013, empowering authorised officers to ensure that correct payments are made (r 6). WAL is the collection authority.</p>
<p><b>Hazardous Wastes and Chemicals Act Cap 47.08 (as at 2016)</b></p> <p>This Act provides for the regulation and proper management of hazardous wastes and chemicals in accordance with accepted international practices and the international conventions applying to the use, transboundary movement and disposal of hazardous substances.</p> <p>The Conventions to which the Act refers are the Stockholm, Rotterdam, Basel and Waigani Conventions. The Act applies to POPs (Persistent Organic Pollutants), hazardous wastes and chemicals listed in the Conventions.</p> <p>Part II of the Act provides for the limitation of POPs by regulating and, in some cases, prohibiting their use within Tonga.</p> <p>Parts III–IV sets out specific prohibitions, management procedures and rules for transboundary movement of hazardous wastes, including import, export or transit of hazardous wastes within the area of national jurisdiction.</p> <p>Section 22 sets rights for Tonga to control entrance, exit and transit of substances within the country.</p>	<p>None identified.</p>

<p>The Minister may, with Cabinet’s consent, make regulations necessary for effective implementation of the Act and applicable Conventions.</p> <p>Section 37 sets out a wide range of authorities entitled to enforce its provisions:</p> <ul style="list-style-type: none"> <li>• Police officers</li> <li>• Environment Officers appointed under Environment Management Act</li> <li>• Authorised officers under the Public Health Act</li> <li>• Custom officers</li> <li>• Quarantine officers</li> <li>• Authorised Officers of any Port Authority; and</li> <li>• Any other environment officers authorised, in writing, by Minister for Environment</li> </ul>	
<p><b>Environment Management Act Cap 47.02 (as at 2016)</b></p> <p>This Act establishes the Ministry of Environment and Climate Change to ensure the protection and proper management of the environment and the promotion of sustainable development.</p> <p>Regulations made under the Act may relate to regulation or prohibition of pollution of the air, water or land, and the ‘depositing or dumping of litter, rubbish, or any substance of a dangerous, noxious or offensive nature’. Any regulation made under the Act may make provision for offences and prescribe penalties.</p>	<p><u>Environment Management (Litter and Waste Control) Regulations 2016 Cap 47.02.2</u></p> <p>This Regulation defines activities and offences that relate to waste pollution, including the dumping of waste and hazardous waste, waste causing pollution and the burning of litter and waste.</p> <p>Section 3 makes it an offence to drop, deposit or dump litter at any place. Contravention attracts a fine of up to \$50. Part III outlines ‘waste related offences’ (dumping waste, dumping hazardous waste, waste which cause pollution, and restrictions on burning litter and waste). Part IV outlines the enforcement provisions.</p>
<p><b>Public Health Act Cap 28.30 (as at 2016)</b></p> <p>This Act regulates waste collection and waste containers, as well as disposal of solid and hazardous waste. It prohibits import of toxic and hazardous waste, ensuring that recyclers are issued licences. The provisions of the Act extend to ships.</p>	<p>None identified.</p>
<p><b>Pesticides Act Cap 28.26 (as at 2016)</b></p> <p>Section 19 proscribes persons from disposing of a pesticide or pesticide container except in accordance with instructions on registered label, and as prescribed/directed by the Registrar. Section sets out offences and penalties.</p>	<p>None identified.</p>
<p><b>Ozone Layer Protection Act Cap 47.10 (as at 2016)</b></p> <p>This Act implements Tonga’s obligations as a party to the Vienna Convention and Montreal Protocol. Its list of prohibited imports includes pre-polymers used in the manufacture of rigid plastic foams.</p>	<p>None identified.</p>

**Table 2: Policies impacting waste governance in Tonga**

Policy	Description
<b>Tonga National Infrastructure Investment Plan (NIIP) (2013–2023)</b>	<p>In this Plan high priority is given to the ‘Solid Waste’ sector with, an estimated \$4 million to be invested into new landfill or transfer stations. The Plan notes that WAL cannot fully fund its own operational and maintenance costs and thus requires Government subsidy to remain financially viable.</p> <p>The NIIP also focuses on economic infrastructure facilities, such as water and waste management facilities, to support everyday life and business activity. Sectors include water and waste related services (water supply, wastewater, drainage and solid waste).</p>
<b>Tonga National Strategic Development Framework 2015–2025</b>	<p>Discusses aim of a ‘more progressive Tonga supporting a higher quality life for all’. To achieve this goal, the framework enumerates seven National Outcomes with 29 supporting Organisational Outcomes. One of the Organisational Outcomes is for a ‘cleaner environment and less pollution from household and business activities building on improved waste management, minimization and recycling’. To achieve this, Tonga plans to ‘develop an effective country-wide program to proactively reduce the creation of solid waste (including e-waste) and manage the segregation, disposal and recycling of wastes’.</p>
<b>Tonga Enabling Activities for the Development of a National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants</b>	<p>Submitted in fulfilment of Tonga’s obligations as a party to the Stockholm POPs Convention.</p>

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

Government departments and other entities	Responsibilities
<b>Department of Environment, Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change &amp; Communication (MEIDECC)</b>	<p>Administers the Environment Management Act 2010. Environment officers have enforcement powers under the Act e.g. to issue an infringement notice.</p> <p>Under the Waste Management Act, the standards of environmental waste management practices and facilities are prescribed, monitored and enforced by the Ministry of Environment.</p>
<b>Tonga Waste Authority Ltd (WAL)</b>	<p>Established by the Waste Management Act 2006, it is a Government Public Enterprise mandated to manage waste in Tongatapu. Reports to the Ministry of Public Enterprises.</p> <p>WAL is also the designated collection authority for the plastic bag levy</p>
<b>Ministry of Health</b>	<p>The Minister of Health is responsible for the administration and implementation of the Public Health Act.</p>

## Pipeline activities

1. The following sections provide details of identified pipeline legislative activities for waste management in Tonga, summarised in Table 4 below.
2. Limited information was available on pipeline activities through the desktop review and responses to the online survey. The UoM team will seek to obtain further information through interviews with in-country stakeholders and from additional data in the online survey.
3. In 2017, work was funded by the Australian Department of Foreign Affairs and Trade on the Nukualofa Urban Development Sector Project that developed a Building Control Act with a component on waste and sanitation regulation.
4. A local initiative in one of the communities in Nukualofa is spearheading the 'No Pelesitiki (plastic) Campaign in Tonga to raise awareness on management of single use plastic in the communities. The group promotes the use fabric bags and baskets woven from natural fibres as an alternative to using plastic bags. They are also encouraging policy makers to ban single use plastics.

**Table 4: Pipeline activities for Tonga**

Pipeline activities	Description	Timeframe
<b>Building Control Act</b>	Work was done in 2017, funded by the Australian Department of Foreign Affairs and Trade on the <u>Nukualofa Urban Development Sector Project</u> that developed a Building Control Act with a component on waste and sanitation regulation.	Pending with the Ministry of Infrastructure.
<b>Single use plastics - 'No Pelesitiki' (plastic) Campaign</b>	Community-based awareness raising initiative on management of <u>single use plastics and using woven bags and baskets as an alternative</u> . No information found on potential regulatory bans on plastics or increase of the levy on plastic bags.	Ongoing.

# 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 Tonga in these MEAs. Specifically, it lists:
  - The relevant MEAs to which Tonga 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
<b>Basel Convention</b>	21 Jan 2010	Ms Paula Pouvalu Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) Vuna Road P.O. Box 917 Nuku'Alofa Tonga Phone: +676 28 170 Fax: +676 248 61 Email: paulm@mic.gov.to	<a href="#"><u>Hazardous Wastes and Chemicals Act</u></a>
<b>Stockholm Convention</b>	26 Oct 2004	Ms Paula Pouvalu Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) Vuna Road P.O. Box 917 Nuku'Alofa Tonga Phone: +676 28 170 Fax: +676 248 61 Email: paulm@mic.gov.to	<a href="#"><u>Hazardous Wastes and Chemicals Act</u></a> . See also <a href="#"><u>Tonga Enabling Activities for the Development of a National Implementation Plan for the Stockholm Convention on Persistent Organic Pollutants</u></a> .

<b>Rotterdam Convention</b>	22 Jun 2010	<p>Ms Paula Pouvalu Ma'u Chief Executive Officer Ministry of Meteorology, Energy, Information, Disaster Management, Environment, Climate Change and Communications (MEIDECC) Vuna Road P.O. Box 917 Nuku'Alofa Tonga Phone: +676 28 170 Fax: +676 248 61 Email: <a href="mailto:paulm@mic.gov.to">paulm@mic.gov.to</a></p> <p>Mr. Viliami Manu Chief Executive Officer Ministry of Agriculture, Food, Forestry and Fisheries (MAFFF) Postal address: P.O. Box 14 Nuku'Alofa Tonga Phone: +676 23 042 Fax: +676 23 093 Email: <a href="mailto:mafsoils@kalianet.to">mafsoils@kalianet.to</a>, <a href="mailto:viliamitoaleimanu@yahoo.com">viliamitoaleimanu@yahoo.com</a></p>	<u>Hazardous Wastes and Chemicals Act</u>
<b>Minamata Convention</b>	22 Jan 2019	Not specified	No specific implementing legislation.
<b>Waigani Convention</b>	21 Jun 2003	<p>Ministry of Environment, Energy, Climate Change, Disaster Management, Meteorology, Information &amp; Communications (MEECCDMMIC) PO Box 917 Nuku'alofa Tonga Tel: (676) 25050/28170 Fax: (676) 25051/24861 E-mail: <a href="mailto:paulm@mic.gov.to">paulm@mic.gov.to</a></p>	<u>Hazardous Wastes and Chemicals Act</u>



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