



# Stocktake of Existing and Pipeline **Waste Legislation:** **VANUATU**



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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 Zhunwey 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. Vanuatu is an archipelagic nation of 83 islands, extending over 1000 kilometres in a north-south direction between the equator and the tropic of Capricorn.
2. Prior to independence, what was then called the New Hebrides became jointly governed by the colonial powers of France and the United Kingdom in 1906. It was known as a Condominium territory, in which separate but coexisting French and British colonial authorities administered and made laws for their own nationals. In 1980 the islands gained independence and became the Republic of Vanuatu.
3. Vanuatu has a mixed legal system of English common law and French civil law. Like civil law countries, it has a civil code and criminal code. Indigenous customary law is also part of the mixed system.
4. The Constitution of Vanuatu is the Supreme Law. It ensures the continued effect of customary law as administered by regional Island or Village Courts, and customary institutions in the case of land disputes. Other sources are the common law made by courts and statutes.
5. Vanuatu is a parliamentary democracy, modelled on the Westminster style of government. The Parliament of the Republic of Vanuatu is unicameral. The President of the Republic is the Head of State and the Prime Minister is the Head of Government.
6. The Court system is four tiered, including Island Courts, Magistrates Courts, Supreme Court and Court of Appeal. The Supreme Court has jurisdiction to interpret the Constitution.

## Legislation impacting waste governance

7. Until the enactment of the Waste Management Act 2014 and Pollution Control Act 2013, there was no stand-alone legislation on waste management and pollution control in force in Vanuatu.
8. Solid waste management was regulated by the Environment and Conservation Act and the Public Health Act. Water pollution and management was regulated by the Water Resources Management Act and the Public Health Act.
9. This older legislation still deals with waste in some ways, particularly in terms of conducting Environmental Impact Assessments, potential wastewater issues and public health matters arising from waste management. This older legislation must therefore be read together with the more recent legislation to understand the legislative environment for waste governance in Vanuatu.
10. An analysis of the main national waste situation has been undertaken through the National Waste Management and Pollution Control Strategy and Implementation Plan 2016-2020, which calls for establishment of an inter-sectoral coordination mechanism through the National Waste and Pollution Control Coordinating Committee. At present, a Working Group coordinated by the Department of Environmental Protection and Conservation (DEPC) oversees implementation of the strategy. This is due for revision and is a potential area for reform. It is unclear whether this is currently in the pipeline.
11. The following tables provide a stocktake of the existing legislative environment for waste management in Vanuatu located in the UoM desktop review. Each table includes hyperlinks (current as of the date of this report) to electronic versions of these instruments.
  - Table 1 details the legislation relevant for waste management and governance in Vanuatu 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 Vanuatu**

Legislation	Regulations	Orders
<p><b>Waste Management Act 2014 (in force June 2014)</b></p> <p>Provides for the protection of the environment by encouraging effective waste services and operations.</p> <p>Establishes specific responsibilities for identifying waste, collecting waste, disposing of waste, planning and reporting on waste management and managing hazardous waste. Also includes provisions on litter and waste disposal.</p> <p>These responsibilities are shared between the Department of Environmental Protection and Conservation, municipal and provincial councils, the Ministry of Health and Biosecurity Vanuatu.</p>	<p>Waste Management Regulations 2018</p> <p>These regulations concern:</p> <ul style="list-style-type: none"> <li>- control of single use plastic bags, plastic straws and polystyrene takeaway boxes.</li> <li>- littering .</li> <li>- licensing of private waste operators.</li> </ul>	<p><u>Waste Management Regulations Order No 15 of 2018</u></p> <p><u>Private Waste Operator’s Licence Fees Order No 16 of 2018</u></p> <p><u>Waste Management Penalty Notice Regulation Order No 17 of 2018</u></p>
<p><b>Pollution Control Act 2013 (in force June 2014)</b></p> <p>Controls emission and discharge of pollution. Mentions wastewater but not solid waste.</p>		
<p><b>Environment and Conservation Act 2002 (version as at 2006)</b> <b>Environment and Conservation Amendment Act 2010</b></p> <p>General environmental legislation. No specific mention of waste.</p>	<p>Environmental Impact Assessment Regulations</p> <p>EIA Report must, to the extent appropriate, include (f): a description of the possible environmental and resource management impacts of the project, proposal or development activity, including any pollution or waste that may be generated.</p>	<p><u>Environmental Impact Assessment Regulations Order No. 175 of 2011</u></p> <p><u>Environmental Impact Assessment Regulations Order No. 102 of 2012</u></p>
<p><b>Water Resources Management Act 2002 (as at 2006)</b> <b>Water Resources Management (Amendment) Act 2016</b></p> <p>2002 Act - s 37(2)(h)(i) – regulations may be made for ‘the control, regulation or prohibition of any matter or thing in connection with the diversion, taking, collection, storage, supply, disposal, or discharge of any wastewater’.</p>	<p>None identified.</p>	<p>None identified.</p>

<p>The 2016 Amendment Act inserted s 27A – buffer zones. Section 27A(2)(d) prohibits filling or dumping of waste in buffer zones.</p> <p>While the current provisions of the Act do not specify wastewater in terms of the PacWastePlus definition, there appears to be scope under the legislation to create regulations that may cover water impacted by solid waste.</p>		
<p><b>Public Health Act 1994 (as at 2006)</b> <b>Public Health (Amendment) Act 2018</b></p> <p>Makes general provisions for public health, including through regulating waste management, sanitation, and prohibiting water pollution. Part 8 of the 2006 consolidation, in particular, dealt with sanitation and waste disposal, with specific provisions on littering and inappropriate waste disposal (ss 65, 66 and 72). Part 8 was substantially amended by the 2018 amending legislation and the provisions on littering repealed. Many provisions now relate to sewage sanitation systems. More relevant are ss 73H, 73I and 73J on the provision of rubbish bins and interference with rubbish bins and tips.</p> <p>Healthcare waste is not specifically identified in the legislation.</p> <p>Other provisions relating to inappropriate waste disposal and litter management now fall under the Waste Management Act 2014.</p>	None identified.	None identified.
<p><b>Ozone Layer Protection Act 2010 (as at 2010)</b> <b>Ozone Layer Protection (Amendment) Act 2014</b></p> <p>Relevant prohibitions on the importation of plastic foam manufactured with substances controlled by the Montreal Ozone Protocol</p>	None identified.	<p><u><a href="#">Ozone Layer Protection (Fees and Penalty Notices) Regulation Order 2011</a></u></p> <p><u><a href="#">Schedule to the Ozone Layer Protection Act No. 27 of 2010 (Amendment) Order 2012</a></u></p>

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

Policy	Details
<b>National Waste Management and Pollution Control Strategy and Implementation Plan 2016-2020</b>	<u>Detailed Action Plan of Priority Activities in 2019</u> . Unclear if review is currently in the pipeline, potential area for reform.
<b>Vanuatu National Water Strategy 2018-2030</b>	2.7. Wastewater Management. This brief section notes that '[t]here are currently no regulations for wastewater management or monitoring of receiving environments'. Strategy relates mainly to sewage wastewater. Note however objective 5 that all water quality is to be monitored and maintained to meet agreed standards, including from activities contributing to the degradation of the quality of surface and groundwater including disposing human and commercial waste and urban runoff.
<b>Vanuatu 2030 The People's Plan: National Sustainable Development Plan 2016-2030</b>	<p>Policy Objective 2.4: Reduce waste and pollution through effective waste management and pollution control (page 14) and 3.</p> <p>Policy Objective 3.6 Improve the provision of government services in rural areas, including the target that three provinces have a controlled waste disposal facility by 2030.</p> <p>Monitoring and evaluation of Policy Objectives 2.4 and 3.6.2: Number of controlled waste disposal facilities - are explained in the NSDP Monitoring and Evaluation Framework 2016-2030 (see pages 28-29, 41).</p> <p>Monitoring and evaluation of Policy Objectives 2.4 and 3.6.2.</p>
<b>National Biodiversity Strategy and Action Plan 2018-2030</b>	Addresses plans to combat marine and freshwater pollution.
<b>Vanuatu National Environment Policy and Implementation Plan 2016-2030</b>	<p>Section 5 deals with Waste Management and Pollution Control.</p> <p>Policy Objective 3 includes:</p> <p>PO 3.1: Reduce waste and pollution through effective waste management and pollution control.</p> <p>PO 3.2: Review and implement the National Waste Management Strategy and Action Plan.</p> <p>PO 3.3: Establish incentive schemes that implement the polluter pays principle by encouraging cleaner production and waste recovery.</p> <p>Implementation Plan for Policy Objective 3 includes:</p> <p>3.1.5: By 2020, Waste Regulations are in force and Implemented.</p>
<b>Vanuatu Climate Change and Disaster Risk Reduction Policy 2016-2030</b>	7.2.1 Funding Allocations - an Action item to 'Ensure that adequate funding is available for climate change and disaster risk reduction by: exploring opportunities for partnering with the private sector for investment in climate change and disaster risk reduction, including in renewable energy and waste management'.

<p><b>Vanuatu National Oceans Policy 2016</b></p>	<p>Objective 3.2.5 Preserve and protect the marine environment.</p> <p>Policy Action 3.2.5.5: Reduce the impact of all sources of pollution (including land-based, solid waste, shipwrecks and shipping pollution) on the marine environment.</p> <p>Objective 6.3.1 Sustainable tourism.</p> <p>Policy Action 6.3.1.1: Work with other relevant government departments and other stakeholders to adopt measures to ensure that environmental impacts of tourism development and activities are avoided, minimized or mitigated, ensuring for example that: tourism infrastructure is not located in environmentally sensitive areas and the impacts of tourism infrastructure are minimized, both on- and off-site (e.g., impacts from the extraction of building materials, waste disposal, etc).</p> <p>See also 3.2.4 Surveillance and Enforcement (page 12) Effective surveillance and enforcement of legal and planning arrangements within Vanuatu’s marine jurisdiction is fundamental to protecting our national interests. The Government of Vanuatu will continue to employ various measures to guarantee the integrity of its marine space and resources. These measures include the protection of maritime borders and marine resources including by the Police Maritime Wing and the Fisheries Department, as well as national and international measures that reaffirm Vanuatu’s jurisdiction over its marine, island and mainland territory.</p> <p>See also 3.2.4 Surveillance and Enforcement.</p>
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**Table 3: Government departments with waste responsibilities in Vanuatu**

Government departments	Responsibilities
<p><b>Department of Environmental Protection and Conservation (DEPC)</b></p>	<p>Administers the Waste Management Act 2014. Within DEPC, waste management functions are carried out by the Waste Management and Pollution Control Officer. The Director of the DEPC is also responsible for the Government’s waste and litter minimisation policies and for activities to implement relevant MEAs.</p> <p>The DEPC is also responsible for administration and enforcement of:</p> <ul style="list-style-type: none"> <li>• Pollution Control Act 2013;</li> <li>• Environmental Protection and Conservation Act 2002.</li> </ul>
<p><b>Directorate of Public Health (Ministry of Health) Environmental Health, Health Standards and Inspection Unit</b></p>	<p>Administers the Public Health Act 1994 (as amended).</p> <p>Also responsible for enforcing the approved environmental standards relating to public health and medical waste under s 11(3) of the Waste Management Act 2014.</p>
<p><b>Department of Biosecurity</b></p>	<p>Responsible for enforcing the approved environmental standards relating to biosecurity-related waste under s 11(4) of the Waste Management Act 2014.</p>
<p><b>Department of Water Resources</b></p>	<p>Administers the Water Resources Management Act 2002.</p>

## Pipeline activities

1. The following sections provide details of identified pipeline activities relevant for waste management and governance in Vanuatu, summarised in Table 4 below.
2. Information about these activities was obtained through interviews with in-country stakeholders, from data in the online survey and from the desktop review.
3. The Oceans Affairs division in the Department of Foreign Affairs and International Cooperation is a new group created to implement the Vanuatu National Oceans Policy 2016. The possibility of developing new oceans legislation is currently in the pipeline. It is envisaged that this will provide for inter-agency cooperation and an oversight role in terms of oceans governance and compliance issues. A ‘three-pronged’ approach is to be taken where the State government, provincial councils and traditional governance structures work together to address compliance and enforcement issues relating to marine biodiversity and waste management.
4. Another new initiative reported by interviewee participants was establishing the functions of the Vanuatu National Statistics Office, especially with regards to environmental and compliance reporting.
5. In terms of plastics, under the Waste Management Regulations 2018, Vanuatu recently banned single-use plastic bags, drinking straws and styrofoam food containers. Interviewee participants reported on the ongoing implementation challenges associated with this ban, such as defining what constitutes a single-use plastic bag, and steps that have been taken, with one participant noting in particular a potential ‘second phase’ of the plastics ban. Further detail on this second phase was not provided.
6. Interviewees highlighted that establishing a future container deposit scheme was in planning stages. At the moment it is contemplated that this scheme would cover all beverage containers and, if the system proves to be economically self-sustaining long term, further items could be added. This was regarded by interview participants as a potential ‘game changer’ in terms of the recyclability of plastics. As discussed above, a number of other Pacific Island nations have developed such schemes.
7. Pilot training on disaster waste management was completed in November 2019. This was intended to culminate with the development of National Disaster Waste Management Action Plan. However, this Action Plan is not available online. Interviewee participants reported on the challenges associated with unclear allocation of responsibilities amongst departments to deal with disaster waste.
8. Suggested areas for future reforms will be covered in subsequent reports. These suggestions will take into account information derived from in-country interviews and survey responses.

**Table 4: Pipeline activities for Vanuatu**

Pipeline activities	Description	Timeframe
Oceans Initiative	Creation of new oceans legislation and the empowerment of local governance structures to address marine biodiversity and waste management issues.	Ongoing.
Vanuatu National Statistics Office	Developing environmental and compliance reporting systems.	Ongoing.
Second phase of plastics ban	Dealing with implementation issues associated with the plastics ban.	Ongoing.
Container deposit scheme	Developing a container deposit scheme for the recycling of beverage containers initially.	In planning.
National Disaster Waste Management Action Plan	Following training in November 2019.	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. Table 5 below provides details of the membership of participating countries in these MEAs. Specifically, it lists:
  - The relevant MEAs to which a participating country is party and the date the MEA was in effect for that country;
  - Details of designated national authorities (DNAs) or national focal points for these MEAs in each participating country party; and
  - Details of any implementing legislation or policies for the relevant MEA in each participating country.

**Table 5: MEAs and implementing legislation**

MEA	In effect for country	Designated National Authority or National Focal Point	Implementing legislation
<b>Basel Convention</b>	14 Jan 2019	Not specified.	No specific implementing legislation.
<b>Stockholm Convention</b>	15 Dec 2005	Not specified.	<a href="#"><u>Waste Management Act 2014</u></a>
<b>Rotterdam Convention</b>	14 Jan 2019	Not specified.	No specific implementing legislation.
<b>Minamata Convention</b>	14 Jan 2019	Not specified.	No specific implementing legislation.
<b>Waigani Convention</b>	17 Feb 2008	Mr. Trinison Tari Department of Environmental Protection and Conservation George Pompidou Building, PMB 9063, Port Vila, Vanuatu Telephone: (678) 5333830 Fax: (678) 22227 E-mail: ttari@vanuatu.gov.vu	<a href="#"><u>Waste Management Act 2014</u></a>



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