



COOK ISLANDS

REVIEW OF NATURAL RESOURCE AND ENVIRONMENT RELATED LEGISLATION



Prepared by
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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

From 1901 until 1965, the Cook Islands was a dependent territory of New Zealand (NZ). In 1965, following an act of self-determination under the United Nations auspices, the Cook Islands became self-governing in free association with New Zealand, adopting its own Constitution and establishing its own government.

1.1. Free Association Relationship between Cook Islands and New Zealand

The status of self-government in free association has the following characteristics:

- The Cook Islands is self-governing with the power of making its own laws;
- The Cook Islands Government has full executive powers;
- However, the Cook Islands remain part of the Realm of New Zealand, and the Queen in Right of New Zealand remains the Head of State of the Cook Islands;
- Cook Islanders retain New Zealand citizenship; and
- New Zealand retains responsibility for the external affairs and defense of the Cook Islands.

1.2. The Constitutional and Territorial Asset

Constitution

The Constitution, enacted by the New Zealand Parliament in 1965, authorises the Cook Islands Legislative Assembly (after 1981, called the Cook Islands Parliament) to enact laws for the Cook Islands. The Parliament provides for no more than 24 members elected by secret ballot. The laws in existence in the country (also NZ) that were entered into force before the Constitution were continued except in so far as they were inconsistent with the Constitution (Art 77 Constitution).

The New Zealand Parliament maintained power to enact laws for the Cook Islands at the request, and with the consent, of the Cook Islands Government until 1981 (Art 46 Constitution), and the Parliament of the Cook Islands adopted a number of New Zealand Acts of Parliament. However, after 1981, the power of the New Zealand Parliament to legislate for the Cook Islands was abolished by a Constitutional amendment and the Cook Islands Parliament ceased to enact laws to adopt New Zealand laws.

Consequently, following self-governance, the laws of the Cook Islands comprise the following:

- Constitution of the Cook Islands as the supreme law;
- Acts of the Cook Islands Legislative Assembly and, from 1981, the Parliament of the Cook Islands made with the consent of the New Zealand High Commissioner, and, from 1982, of the Queen's Representative;
- Ordinances - in force in the Cook Islands immediately before 4 August 1965, until repealed by Parliament (Art 77 Constitution);
- Acts of the Parliament of New Zealand
 - i) extended to Cook Islands by the *Cook Islands Act 1915*;
 - ii) applied to Cook Islands by their own terms; and
 - iii) adopted by New Zealand Laws Acts enacted by the Legislative Assembly of Cook Islands in 1966, 1967, 1968, 1969, 1970, 1973 and 1979;
- Acts of the British Parliament that were in force in New Zealand on 1 April 1916, except in so far as is inconsistent with the *Cook Islands Act 1915* (NZ) or is inapplicable to the circumstances of the country, and until repealed by Parliament (section 615 *Cook Islands Act 1915* (NZ); Art 77 Constitution);

- English common law and equity, except in so far as it is inconsistent with the *Cook Islands Act 1915* (NZ) or inappropriate to the circumstances of the country or inconsistent with the Constitution (section 615 *Cook Islands Act 1915* (NZ); Art 77 Constitution); and
- Ancient custom and usage of the people of Cook Islands.

Executive authority is vested in Her Majesty the Queen in right of New Zealand. The Constitution also establishes a Cabinet consisting of a Prime Minister and not more than eight other Ministers, as well as an Executive Council consisting of the Queen's Representative and members of Cabinet.

The Constitution does not contain any direct reference to the protection of environment.

1.3. Local Government and Customary Law

House of Arikis Act 1966

The Constitution establishes a system of representation of the local and customary law government known as the House of Ariki (high chiefs). In the Act, 'Ariki' is defined as a person invested with the title, rank or office of Ariki in accordance with ancient custom prevailing in each of the Cook Islands.

The House comprises 14 representatives with the customary title of Ariki, from each of the island groups of the Cook Islands, appointed by the Queen's Representative. Eight representatives are selected from the Outer islands and not more than six are selected to represent Palmerston and Rarotonga. The House may consider matters of importance to the Cook Islands as submitted to it by the Legislative Assembly for its opinion, and it may make its own recommendations to the Legislative Assembly on any matter affecting the custom and traditions of the Cook Islands. The House meets at least once every twelve months.

While the House of Ariki is comprised of hereditary chiefs, secondary level chiefs comprise the Koutu Nui, a subsidiary of the House of Ariki. The Koutu Nui (Council of traditional leaders) also meets once annually and, in recent years, has been principally responsible for the re-establishment of the raui system of protected areas on Rarotonga and Aitutaki.

The *House of Arikis Act* has been amended as follows:

1967	Amends section 5 of the principal Act in relation to the term of membership.
1970-71	Contains a provision for the salary and allowance of Arikis amending section 15 of the principal Act.
1972	Provides interpretation provisions.
2008	Provides for the disqualification of members of the House of Arikis where a member makes a declaration not recognising the Queen in right of New Zealand as the Head of State of the Cook Islands.

Cook Islands Act 1915

The *Cook Islands Act* is one of the Acts entered into force under the New Zealand occupation. The Act provides for the recognition of land and other customary practices such as customary land, land titles, succession and other native customs.

Customary laws and authorities are relevant in the Cook Island, similar to other countries in the Pacific region, as they are the source of land allocation and sustainable use, and also the source of management of marine

areas and their sustainable use through bye-laws and other customary instruments. Therefore the adequate management of natural resources goes through the recognition of traditional roles.

Outer Islands Local Government Act 1988

The *Outer Islands Local Government Act* applies to all the Islands except Rarotonga. Where this Act applies, the local government is vested in the Islands Councils. Membership of an Island Council consists of the following:

- the Ariki or the Ui Ariki of the Island (if any);
- a representative of the Aronga Mana of the Island who is elected at a meeting chaired by the Chief Administration officer of the Island;
- the members of Parliament of the Island; and
- the elected members of the Island Council constituencies for each Island.

Only elected members are entitled to vote at any meeting of an Island Council. Each Island Council is empowered to elect a mayor and deputy mayor from the elected members. The mayor is entitled to a deliberative vote, and in the event of an equality of votes he/she is entitled to a casting vote.

The functions for Island Councils are listed in Section 7 as the following:

- to carry into effect and administer the provisions of ordinances and by-laws that may be applicable to the Island; the Island Council has the power to make, revoke or alter by-laws.
- to assist in the co-ordination of any activity relevant to the economic and social development of the island;
- to assist the Government of the Cook Islands in the good rule and government of the islands; and
- to advise on or determine any matter, question or dispute referred to it by any person or organisation.

Under the *Island State Government Act 2003* and the *Environment Act 2003*, an Island State Government may refer to the Minister for approval of a by-law made by it relating to the protection or management of the environment. For example, the *Aitutaki (Controlled Zones) By-Laws* were adopted in 2006 under this Act, in order to provide for the Island Council of Aitutaki's power to designate controlled zones and the terms and conditions upon which any person can enter or remain in the zone.

Environment Act 2003

Importantly, Part 2 of the *Environment Act 2003* (Island Environment Authorities) provides for the establishment of a specific local authority for the management of environmental issues in each of the outer islands to which the Act applies.

ENVIRONMENTAL PLANNING AND ASSESSMENT

2.1. National Environmental Law

Environment Act 2003

The *Environment Act 2003* applies throughout the Cook Islands (including the territorial sea and exclusive economic zone), except the Outer Island (unless otherwise specified by the Queen's Representative by Order). The Act repealed the previous *Rarotonga Environment Act 1994-1995*.

The Act aims to be a comprehensive instrument that provides for all environmental aspects within the country, from the distribution of powers and functions both at a central and a local level to the prescription of specific environmental requirements and management procedures. Moreover the *Environment Act 2003* attempts to provide a strategy for the domestic implementation of the international environmental obligations assumed

by the Cook Islands under international law. As such, the Act includes references to international conventions and protocols including the *Convention on Biological Diversity* and the *United Nations Framework Convention on Climate Change*.

Specifically the *Environment Act 2003* provides for the following:

- Parts 1-2 Establishment, powers, functions of the National Environment Service (already provided by the repealed *Rarotonga Environment Act*) and the Island Environment Authorities.
- Parts 3, 11 Convening of the National Environment Council and the Cook Islands Environment Forum with the purpose of determining policy direction and programs, reviewing compliance and obligations to the Act and international treaties and protocols.
- Part 4 Appointment of National Environment Officers and their powers.
- Part 5 Environmental impact assessment (EIA) and environmental planning.
- Part 8 Recognition of the most vulnerable areas to development such as the foreshore area, the wetlands and the sloping lands and therefore the establishment of protected areas.
- Part 9 Establishment of an Environment Protection Fund and its use.
- Section 70 Regulations for waste and pollution may be made by the Queen's Representative from time to time by Order in Executive Council.

The Act is administered within the National Environment Service (NES), which is a body corporate headed by a Director of Service, with the obligation to protect, conserve and manage the environment and wildlife, ensure the sustainable use of natural resources, prevent, control and correct the pollution of air, water, and land and carry out other functions listed in Section 9. Private organisations involved in environmental protection may register with the NES under Part 12.

The Island Environment Authorities (which are local environmental authorities established pursuant Section 2) functions include assisting the NES in identifying environment priorities, formulating and publishing guidelines on specific issues of environmental protection, making recommendations to the Minister with regard to regulations to be made, determining applications for permits and undertaking other functions.

The Act also provides for zone planning and resource management, including the need to undertake environmental impact assessment (EIA) for developments that could impact the environment, and the need to adopt draft management plans for the purposes of protection, conservation, and management of wildlife, including protected species and the habitat of such wildlife and species, soil erosion, protection of forests, protection and conservation and management of wetlands.

Protected areas and protected species can be designated pursuant to Sections 41 and 55, while special provisions are made for the protection of foreshore and Cook Islands waters, and the prevention from pollution of Cook Islands waters and inland waters.

Environment (Application to Mitiaro) Order 2004

This order applies the *Environment Act 2003* to the island of Mitiaro.

Environment Act (Mitiaro) Regulations 2008

Made pursuant to Section 70 of the *Environment Act 2003*, these 2008 regulations have the objective of implementing its provisions on the Island of Mitiaro. The regulations make provisions for the protection of species and habitats on the Island of Mitiaro, identify the right to declare a raui (restrictions on the use of the land, reef and lagoon with regards to their resources), provide for the appointment of officers called to enforce the regulations (Tiaki Raui) and make provisions on general environmental health and management, and protection of marine resources.

Environment Act (Atiu and Takutea) Regulations 2008

Similarly, the *Environment Act (Atiu and Takutea) Regulations* are made pursuant to Section 70 of the *Environment Act 2003*, and have the objective of implementing its provisions on the Islands of Atiu and Takutea. The regulations designate Takutea as a Community Conserved Area that will be managed by the native local community in accordance to a management plan drafted with the support of the National Environment Service. The same types of provisions as for the Islands of Mitiaro are included in this regulation for the Island of Atiu.

Environment Act (Ozone Layer Protection) Regulations 2008

Adopted pursuant to Section 70 of the *Environment Act 2003*, these regulations have the objective of implementing the Montreal Protocol by banning or managing the use of ozone depleting substances (ODS) within the country (see below).

2.2. Environmental Impact Assessment

Environment Act 2003

Provisions on Environmental Impact Assessment (EIA) are made through the *Environment Act 2003*. Section 5 provides that no person shall undertake any activity which causes or is likely to cause significant environmental impacts except after having applied for a project permit in respect of the activity in accordance with the procedures (if any) prescribed by regulations, and consequently having obtained such permission.

No regulations on EIA have been adopted under the Act. However, the Act itself identifies the minimum content of an EIA which must be submitted to the permitting authority and Ministry.

EIAs are usually required for (but are not restricted to) developments and activities in Specific Areas of Concern including:

- Foreshore and Cook Islands Waters;
- Inland Waters;
- Sloping Land; and
- Wetlands.

2.3. Land Management, Zoning and Planning

Land Use Act 1969

The *Land Use Act 1969* is the principle act dealing with physical planning and is administered by the Ministry for Justice.

Under the Act, a zone or zones for land use may be established in any Island. Once a zoning order is made, the use of land within the zone created will be in accordance with the provisions of the zoning order. The zoning orders may provide for the use of land in any one or more of the following aspects:

- the use of land primarily for public recreation and enjoyment;
- the use of land primarily for tourist accommodation;

- the use of land primarily for residential purposes;
- the use of land primarily for industrial purposes;
- the use of land primarily for commercial purposes;
- the use of land primarily for agricultural purposes; and
- the use of land primarily for public work including roads.

No specific environmental provisions are included in the Act.

Building Controls and Standards Act 1991

The Act provides for a National Building Code to prescribe performance requirements with which buildings and their demolition must comply within the Cook Islands.

Environment Act 2003

Environmental considerations related to land use management and zoning in the Cook Islands has become more common in the last few decades. While there is no specific legislation for land use management, issues of land tenure are managed under the *Cook Islands Act 1915*. However, section 6 of the *Environment Act 2003* does regulate the protection, conservation of management of soil resources, the prevention of soil erosion and other related issues.

The *Environment Act* provides that the NES and Island Environment Authorities shall prepare a management plan for any area within the islands in order to manage the territory, its resources and prevent environmental degradation. In addition, the Act provides limitations for specific activities (such as building, developments, and sand removals) in particular foreshore and wetland areas.

BIODIVERSITY CONSERVATION

As mentioned above, the *Environment Act 2003* is the principal legislation providing a mandate to the NES for biodiversity conservation. The Act states that the primary objective of the law is “to repeal the *Rarotonga Environment Act 1994-95* and to provide for the protection, conservation, and management of the environment in a sustainable manner”.

It provides national legislation for the conservation and management of biodiversity as follows:

- Designating animals and plant as protected species for the purpose of the Act;
- Providing for the protection, conservation and management of wildlife, protected species or both;
- Regulating or prohibiting trade and commerce in wildlife, protected species, or both; and
- Establishing protected areas and regulating or prohibiting activities within these protected areas.

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

Environment Act 2003

The *Environment Act 2003* is the leading piece of legislation for the conservation of natural resources in the Cook Islands. The Act doesn't provide for particular resources, species or ecosystems, but provides the national and islands authorities with the power to make decisions and adopt regulations concerning their protection and sustainable management.

Conservation Act 1986-1987

The *Conservation Act 1986-1987* repealed the *Conservation Act 1975*, and was the main Act providing for the adoption of biodiversity conservation measures within the Cook Islands prior to the *Environment Act* entering into force in 2003.

The objective of the Act is to establish a Conservation Service, and to provide for the conservation and protection of the environment and national resources, and the establishment of national parks and reserves.

The Conservation Service is established under section 5, with functions including:

- administering national parks and reserves;
- protecting, conserving, managing and controlling wildlife;
- protecting, conserving, managing and controlling water catchments and Cook Islands waters;
- protecting, conserving, managing and controlling soils resources and the coastal zone;
- preventing, controlling, and correcting pollution of air, water, and land resources, and promoting litter control; and
- doing anything incidental or conducive to the performance of these functions.

Conservation

Environment Act 2003

Under the section 37, in order to foster the conservation of all natural resources in the country, the NES shall from time to time, at the request of the Island Environment Authority for an island, prepare a draft management plan for any area within the island, for all or any of the following purposes:

- protection, conservation, and management of wild life including protected species and the habitat of such wildlife and species;
- protection, conservation and management of inland waters;
- protection, conservation and management of uninhabited islands;
- conservation and management of forests;
- protection, conservation and management of wetlands; and
- conservation and management of historical, archaeological and cultural sites.

The effect of management plans is that any person who, without reasonable excuse or lawful justification, fails to comply with or acts in contravention of any provision of a management plan in force shall upon conviction be liable to a fine not exceeding \$5,000.

Cook Islands Natural Heritage Trust Act 1999

This Act establishes the Cook Islands Natural Heritage Trust and provides the necessary resources and powers to investigate, identify, research, study, classify, record, issue, preserve and arrange publications, exhibitions, displays and generally educate the public on the science of, and traditional practices and knowledge relating to, the flora and fauna of the Cook Islands.

The main goal of this Act is to encourage the protection of the natural environment and associated traditional knowledge by an increased awareness of Cook Islands plants and animals, and related traditional and scientific knowledge.

Protected Areas

At the time of writing, various wetlands, marine and terrestrial reserves, wildlife sanctuaries, and water catchment areas have been established as Protected Areas within the country.

Environment Act 2003

In order to facilitate the conservation of natural resources, the *Environment Act 2003* dedicates a specific section to the establishment of protected areas. Section 41 allows an Island Environment Authority to issue a notification regarding the designation of protected areas. Restrictions are placed upon notification regarding native freehold land, native customary land and, unless and until there has been a shared resource management agreement concluded between the Director and the owners of the land and any other person having an interest in the land to which the notification relates. Every shared resource management agreement shall identify the resource, animals, plants and habitats to be protected, conserved, or managed and fulfill other requirements.

Custom

The concept of reserves has existed in the Cook Islands for hundreds of years in one form or another. Therefore, there has recently been reevaluation of the possibility of using the traditional *raui* system as a customary instrument to foster the protection of the environment. The *raui* is a traditional system whereby access to a particular resource or area is forbidden for a given period. Although it appears that the *raui* system has the aim of conserving food resources, rather than a specific environmental protection mechanism, it does in essence provide for the protection of ecological systems in the lagoons and reefs and other marine resources.

Whale Sanctuary

In 2001, the government declared the Cook Islands with its ocean EEZ of two million square kilometres as a Whale Sanctuary, in implementation of the *International Convention on Migratory Species*. To date, this protected area has not been legislated, however, regulations and a policy paper were drafted in 2015.

Marine Resources Shark Conservation Regulations 2012

In 2012, the Cook Islands designated 1.2 million km² of its waters as a sanctuary for sharks, to protect sharks from targeted fishing and to prevent the possession, sale, and trade of shark parts and products. To this end, the *Marine Resources Shark Conservation Regulations 2012* were established under the *Marine Resources Act 2005*.

Regulation 5 prescribes prohibitions, including:

- catching, targeting, or otherwise intentionally engaging in fishing for any shark;
- removing the fins of, or otherwise mutilating or injuring, any shark;
- churn for, or otherwise add substances to the water to attract, any shark;
- possessing, receiving, transferring, storing, having on board, or transshipping any shark or part of a shark; and
- possessing, selling, offering for sale, taking, purchasing, bartering, transporting, exporting, importing, trading or distributing shark, shark fins or any part of a shark.

Endangered Species

Environment Act 2003

Section 55 of the *Environment Act 2003* states that “the NES may, with the approval of the Island Environment Authority for an island, from time to time by notice in the Gazette designate specified animals and plants on the island as protected species” and provides that “every person commits an offence who, within the island concerned, threatens or disturbs any animal or plant of the protected species or the habitat of any such animal or plant”.

As a party to the *Convention on International Trade of Endangered Species* the Cook Islands, through the NES, has established a list of endangered species that require a permit in order to be exported from the country.

Cook Islands Pearl Authority Act 1993

This Act provides for the establishment and administration of the Cook Islands Pearl Authority. Objectives of the Authority are to promote, encourage and assist the development of a sustainable and commercially viable pearl industry in the Cook Islands.

However, in the carrying out of its objectives, the Authority shall:

- endeavour to be a profitable, financially self-sustaining and efficient enterprise;
- exhibit a sense of social and environmental responsibility by having regard to the interests of the community and environment in which it operates; and
- promote the social and economic well-being of the Cook Islands.

Importantly, one of the functions of the authority is to liaise between the pearl industry and agencies of Government, to ensure that the ecology of lagoons continues to be monitored, and that environmentally sound practices are made known to the industry.

Cook Islands Native Timber Preservation Ordinance 1957

There is no statute or by-law that provides for forestry in the Cook Islands. Our review identified only an ordinance made for the preservation of native trees by the control of their export. The ordinance provides for the prohibition on export of native timber without written permission.

3.2. Marine and Coastal Resources

Territorial Sea and Exclusive Economic Zone Act 1977

This Act makes provision for the demarcation of the Cook Islands marine spaces such as the territorial sea (section 3), internal waters (section 4) and the exclusive economic zone (section 8) and declares the right to control and regulate the exploitation of its marine resources within these areas. It also makes provision for the Minister for Marine Resources to establish total allowable catch for Cook Islands waters.

This Act has been amended as follows:

2011	Principal Act amended for the purposes of repealing the definition of “low-water mark” and replacing section 27 relating to the publication and certification of information.
2012	Addition of a provision outlining the boundaries of the contiguous zone of the Cook Islands.

Some sections of the Act have been repealed by the *Marine Resources Act 1989*, which was subsequently repealed by the *Marine Resources Act 2005*.

Ministry of Marine Resources Act 1984

The Ministry of Marine Resources (MMR) is responsible for both inshore and offshore fisheries management and in general for the management of coastal and marine resources. The principle objectives of the Ministry are:

- To seek and promote a rational approach to the development, exploitation, management, and conservation of all living and non-living resources that are found in waters under Cook Islands jurisdiction, and to exploit such resources in a manner that will ensure maximum benefits accruing to the people of the Cook Islands;
- To increase self-sufficiency in fish and protein production at the household and national levels;
- To rapidly expand development in areas offering the greatest potential for export or import substitution or both;

- To assess and introduce cost-effective fisheries technology appropriate to the Cook Islands and to ensure that such technological innovations are primarily geared to assist subsistence, artisanal, and full-time fishermen;
- To develop the exploitable marine resources in the Outer Islands that offer opportunities for self-employment, thereby raising the standard of living and slowing down emigration; and
- To work in close co-operation with all those in Government and in the private sector who are involved or will be involved in the development of marine resources of the Cook Islands.

Marine Resources Act 2005

The *Marine Resources Act 2005* defines the fishery waters of the Cook Islands as the internal waters, territorial sea and exclusive economic zone. A fishery can only be designated on the recommendation of the Secretary of MMR, after taking into account the scientific, economic, environmental and other relevant factors of the fishery in regard to effective conservation and optimum utilisation for national benefit. A fisheries plan for each designated fishery is to be prepared by the Secretary, or by a local authority in conjunction with MMR for a designated fishery within its area.

In order to implement the Act, designated fisheries have been declared under the Act in Manihiki, in Aitutaki, and following the designation of the respective fisheries, by-laws under the Outer Islands Local Government Act and under the Act were promulgated upon the recommendation of the Aitutaki Local Government Council and, in respect of pearl shell cultivation, upon the recommendation of the Manihiki Local Government Council.

The following regulations have also been adopted under the Act:

- *Marine Resources (Aitutaki and Manuae Bonefish Fishery) Regulations 2010.*
- *Marine Resources (Aitutaki and Manuae Bonefish Fishery) (Amendment) Regulations 2016.*
- *Marine Resources (Longline Fishery) Regulations 2008.*
- *Marine Resources (Longline Fishery) Amendment Regulations 2010.*
- *Marine Resources (Large Pelagic Longline Fishery and Quota Management System) Regulations 2016.*
- *Marine Resources (Licensing) Regulations 2012.*
- *Marine Resources (Purse Seine Fishery) Regulations 2013.*
- *Marine Resources (Shark Conservation) Regulations 2012.*

Seabed Minerals Act 2009

The primary piece of national legislation regulating seabed mineral activity is the *Seabed Minerals Act 2009*, which came into force in March 2013. The Act was amended by the *Seabed Minerals (Amendment) Act 2015* in order to make provision for approved exploration licences and related matters, and to clarify and harmonise the operation of the *Seabed Minerals Act 2009* alongside the provisions of the *Environment Act 2003*.

The Act establishes a system for regulating the following activities in respect of the minerals of the seabed of the Cook Islands:

- prospecting for minerals;
- exploration for minerals;
- recovery of minerals; and
- retention of areas of minerals of known commercial value where recovery is not currently economically viable.

The administration of this Act is the responsibility of the Cook Islands Seabed Minerals Authority, which is established under the Act. The Authority is responsible for granting relevant permits. The Cook Islands Seabed Minerals Advisory Board created under the Act provides a formal avenue for consultation between the Authority and the community concerning the management of the seabed minerals of the Cook Islands.

The Act was amended in 2015 by the *Seabed Minerals (Amendment) Act 2015*, which makes provision for approved exploration licences and related matters, and clarifies and harmonises the operation of the principal Act with the provisions of the *Environment Act 2003*.

The *Seabed Minerals (Prospecting and Exploration) Regulations 2015* govern prospecting applications, exploration licences, the conduct of seabed mineral activity including monitoring, investigation and enforcement, and also the management of incidents, including those with known environmental effects. Environmental considerations are currently covered by the *Environment Act 2003*, with further regulations planned in order to align it with seabed mineral activity.

3.3. Biosafety

In relation to biosafety, the Ministry of Agriculture plays a major role through administering a number of acts and regulations.

Biosecurity Act 2008

This Act has the objectives of:

- preventing the entry of animal and plant pests and diseases into the Cook Islands;
- to control their establishment and spread into the Cook Islands;
- to regulate the movement of animal and plant pests and diseases and of animals and plants and their products;
- to facilitate international cooperation in respect of animal and plant diseases; and
- to make ancillary and related provisions.

The Act provides for the administration of biosecurity measures in the Cook Islands by establishing a biosecurity service and specific procedures. Section 7 defines the relationship of this Act with other legislation. It is important to note that other relevant laws have a significant role in regulating the protection of biodiversity in terms of biosafety, including:

- *Copra Act 1970*
- *Wandering Animals Act 1976*
- *Cook Islands Fruit Regulations 1965*
- Regulations under *Cook Islands Act 1915* for preventing growth and spread of noxious weeds, 1916 (as amended in 1927, 1931, 1933)
- Regulations under *Cook Islands Act 1915* for the protection of indigenous and imported birds and to prevent the introduction of noxious animals and birds into the Cook Islands.

WASTE MANAGEMENT AND POLLUTION

4.1. Waste

The previous *Littering Act* provisions have been overcome by two new key pieces of legislation that govern the management of solid waste in the Cook Islands: the *Environment Act 2003*, and the *Public Health Act 2004*.

Environment Act 2003

Section 7 of the *Environment Act* provides for the control of litter in public places, the management of litter for public health purposes and the designation or approval of waste disposal areas. Under the *Environment Act*, the National Environment Service is primarily responsible for developing policy, enforcing regulations

against illegal rubbish dumping, and monitoring and enforcing environmental standards at the landfill on Rarotonga.

The National Environment Strategic Action Framework adopted under the *Environment Act 2003* also includes the management of waste. The adoption of a new waste management act, which would consolidate responsibility for solid waste management under a single entity, has been heavily recommended.

Public Health Act 2004

The objective of the *Public Health Act 2004* is to protect and safeguard the health of people in the Cook Islands. The Ministry of Health is charged with the administration of this Act, and is therefore responsible for protecting public health and for managing medical waste. Under section 7, the Secretary may appoint health inspectors to administer and enforce the provisions of the Act under the *Ministry of Health Act 1995-1996*.

The Ministry for Cook Islands Infrastructure (ICI) is responsible for solid waste infrastructure development, and collection and disposal services.

4.2. Pollution

Environment Act 2003

The *Environment Act 2003* confers to the NES the function of the management and control of air, water and land pollution within the country under section 9. Per section 37, the NES is also tasked with preparing draft management plans for the purpose of the prevention and control of pollution and waste.

The Act provides for the powers and the offences in relation to pollution of the environment, with the following notable provisions:

- Section 51 It is an offence to pollute Cook Islands waters and inland waters, either from a vessel, the shore, or from a manufacturing establishment.
- Section 54 Regulations may be made to impose levies on any commercial establishment that allows its customers or guests to degrade water quality.
- Section 56 It is an offence to dispose of toxic chemicals in a manner likely to harm the environment.
- Section 61 The Environment Protection Fund shall be expended on protection from pollution of (and removal of pollution from) land, sea and air.
- Section 70 Allows for regulations to be made by the Queen's Representative regulating or prohibiting the pollution of air, water or land, and the depositing of litter or any substance of a dangerous, noxious, or offensive nature.

Environment Act (Ozone Layer Protection) Regulations 2008

These Regulations, administered by the Environment Services, constitute the implementation of the obligations assumed by the country in participating in the *Montreal Protocol on Substances that Deplete the Ozone Layer*. It provides for the control of importing, exporting and manufacturing of ozone depleting substances (ODS), the issuing of permits, and the enforcement action that Environment Officers can exercise under the *Environment Act 2003* and other related Acts.

Pesticides Act 1987

This Act makes provision for the regulation and control of the importation and sale of pesticides. The Act is administered by the Ministry of Agriculture, and provides for the establishment of a Pesticides Board to promote the efficient, prudent and safe use of pesticides through the creation of a pesticides registration scheme.

4.3. Marine Water Pollution

Prevention of Marine Pollution Act 1998

This Act, administered by the Ministry of Tourism and Transport, has the objective to provide for the prevention of pollution, the dumping and transportation of other waste in Cook Islands Waters by vessels and to give effect to various international conventions on marine pollution and protection of the marine environment.

The Act deals with this area in six parts:

- I. A preliminary part dealing with the interpretation aspects of the Act;
- II. A part dealing with dumping and incineration of wastes:
 - It provides for dumping or incinerating without a permit and criteria governing the dumping of waste and other matter at sea;
- III. This part deals with marine casualties:
 - It covers the powers of Secretary in relation to marine casualties, and the right to compensation.
- IV. The fourth part of the Act deals with liability and compensation for oil pollution damage:
 - In specific, deals with liability for pollution damage, requirement for insurance, the extinguishment of the right to compensation unless action is brought within three years of the damage, and the establishment of a fund for the paying of compensation for pollution damage;
- V. The last part includes miscellaneous provisions, namely that:
 - The Cabinet may make regulations, the Minister may develop an oil spill contingency plan, provides offences and penalties.

Some provisions of the Act have been amended by the *Maritime Transport Act 2008*.

Maritime Transport Act 2008

The *Maritime Transport Act* was enacted in 2008 with the purpose of reforming and restating the law relating to maritime transport. Therefore, the Act is supplementary to the *Prevention of Marine Pollution Act 1998*, and will only prevail to the extent there is any inconsistency with the 1998 Act.

This Act provides rules for maritime transportation of goods including hazardous substances and oil, and defines functions and powers of authorities for purposes of control of maritime transportation and for the implementation of international obligations of the Cook Islands in the field of maritime transportation and protection of the environment. It implements the IMO *International Convention on Civil Liability for Oil Pollution Damage*.

OTHER

5.1 Disaster Risk Management

Disaster Risk Management Act 2007

This Act provides for the establishment of a disaster risk management system. Key actors of the system are:

- The Emergency Management Authority, whose role is to administer the Act and provide for a disaster risk management plan and report;
- The National Disaster Risk Management Council;

- Response Executive; and
- The National Controller (police).

The Act also provides specific powers for the police in the case of disaster or emergency.

The National Disaster Management Office (NDMO) is based within the Police Department and is responsible for the development of policies relating to disaster preparedness, risk reduction, and coordination. The approach of the Cook Islands to disaster management in recent years has shifted from a focus on recovery and response to preparedness and risk reduction, with a large input from the private sector and the community. While the disaster management program has currently integrated adequate early warning systems for immediate disasters (cyclone, tidal surge), early warning systems for long-term disasters (climate change effects-droughts) need to be incorporated into planning systems.

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 	S -
Convention on International Trade in Endangered Species (CITES)	-
Convention on Migratory Species (CMS)	A
Convention on Wetlands (RAMSAR)	-
World Heritage Convention (WHC)	R
WASTE AND POLLUTION	
Hazardous waste and pollution	
Hazardous waste and pollution	-
Basel Convention	A
Rotterdam Convention	A
Stockholm Convention	A
Atmospheric Pollution	
Atmospheric Pollution	-
Vienna Convention	A
<ul style="list-style-type: none"> Montreal Protocol 	A
Ship-based pollution	
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	-
<ul style="list-style-type: none"> London Protocol 	-
CLIMATE CHANGE	
CLIMATE CHANGE	
UNFCCC	R
<ul style="list-style-type: none"> Kyoto Protocol Paris Agreement 	R R
LAND DEGRADATION	
LAND DEGRADATION	
UNCCD	A
REGIONAL AGREEMENTS	
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)