



SPREP
Secretariat of the Pacific Regional
Environment Programme



PacWastePlus
PACIFIC WASTE MANAGEMENT

This initiative is supported by **PacWastePlus**-a 85 month project funded by the European Union (EU) and implemented by the Secretariat of the Pacific Regional Environment Programme (SPREP) to **sustainably and cost effectively improve regional management of waste and pollution.**

Model ACM Ban Regulations



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Our vision: A resilient Pacific environment sustaining our livelihoods and natural heritage in harmony with our cultures.

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About PacWastePlus

The impact of waste and pollution is taking its toll on the health of communities, degrading natural ecosystems, threatening food security, impeding resilience to climate change, and adversely impacting social and economic development of countries in the region. The PacWastePlus programme will generate improved economic, social, health, and environmental benefits by enhancing existing activities and building capacity and sustainability into waste management practices for all participating countries.

Countries participating in the PacWastePlus programme are: Cook Islands, Democratic Republic of Timor-Leste, Federated States of Micronesia, Fiji, Kiribati, Nauru, Niue, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.

KEY OBJECTIVES

Outcomes & Key Result Areas

The overall objective of PacWastePlus is “to generate improved economic, social, health and environmental benefits arising from stronger regional economic integration and the sustainable management of natural resources and the environment”.

The specific objective is “to ensure the safe and sustainable management of waste with due regard for the conservation of biodiversity, health and wellbeing of Pacific Island communities and climate change mitigation and adaptation requirements”.

Key Result Areas

- Improved data collection, information sharing, and education awareness
- Policy & Regulation - Policies and regulatory frameworks developed and implemented.
- Best Practices - Enhanced private sector engagement and infrastructure development implemented
- Human Capacity - Enhanced human capacity

About the Regional Asbestos Management Project

The management and disposal of asbestos and asbestos containing materials (ACM) is an ongoing concern in the Pacific region. In seeking to improve the ways that asbestos and asbestos containing materials are managed, our project's focus is to prevent exposure to asbestos fibres in order to eliminate asbestos-related diseases.

Asbestos is a known health hazard and may be present in buildings and pipes throughout the Pacific. A 2016 study estimated some 188,000m² of non-residential asbestos was present in Pacific islands, of which some 146,000 m² (78%) was confirmed as a high or moderate risk to human health (SPREP 2016).

When products containing asbestos are damaged or become degraded over time, asbestos fibres are exposed and may become airborne. Health risks are exacerbated in natural disasters, with destructive cyclones damaging products such as asbestos roofing and cladding, an issue of increasing concern as the impacts of climate change are experienced across the region.

The World Health Organisation (WHO) states that when a country stops using asbestos, their asbestos-related disease burden decreases over time. In contrast, countries that continue to use asbestos are likely to have a substantial burden of asbestos-related disease in the future due to their past and ongoing asbestos use. Reducing exposure without addressing ongoing import and use are insufficient to eliminate asbestos-related diseases (Kameda et al, 2014).

PacWastePlus Regional Asbestos Project

The PacWastePlus Regional Asbestos Project supports countries in executing solutions, both legislative and policy driven, to preventing exposure to asbestos fibre, and thereby reduce asbestos-related diseases.

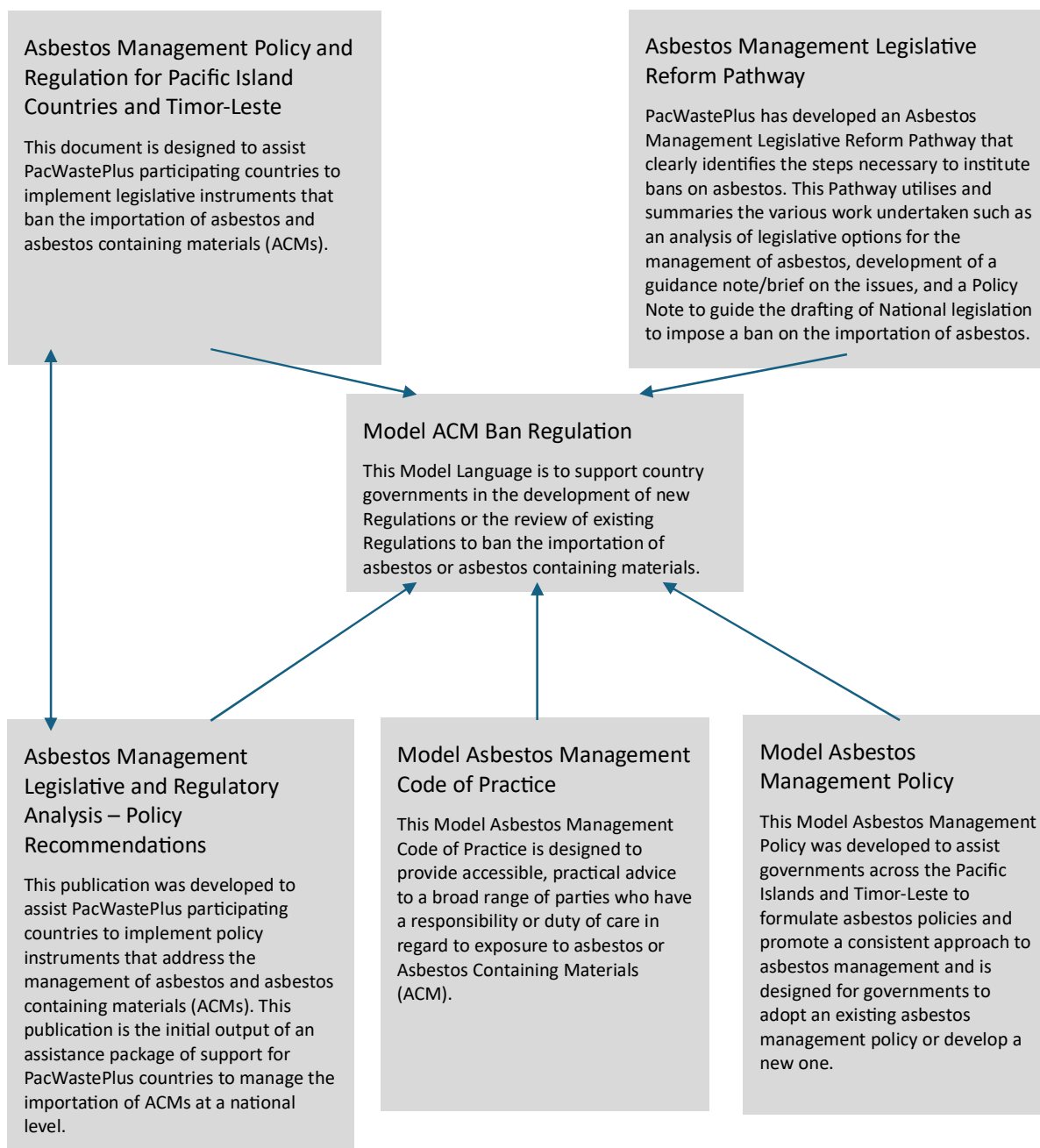
The activities to be delivered by the PacWastePlus Regional Asbestos Project are:

- Promote the understanding of asbestos exposure risks
- Implement legislative/regulatory bans on the manufacture, use, reuse, import, transport, storage, or sale of all forms of asbestos and ACMs
- Create and support the adoption of an ACM Code of Practice
- Provide support tools/documents to properly manage and control ACM.

The project will achieve these outcomes through direct work with countries, and development of tools and guidance as described in the following schematic.

The technical resources will be supported through the production and dissemination of a variety of community and government resources, and provision of training to government workers involved in the management of asbestos.

Model ACM Ban Regulations



Introduction to Model Regulatory Language

PacWastePlus has been working with several countries on the development of appropriate regulations to ban the importation of Asbestos and Asbestos Containing Materials (ACM).

The following Template Regulations are provided as a starting point for countries wishing to progress similar Regulations in their jurisdictions.

Following a comprehensive review of the legislative environment throughout the region, the predominant ways asbestos and ACM could be banned was identified as through the following three common Acts / Regulations:

- Customs Regulation
- Environment Regulation
- Health Regulation

The following Model Regulations are provided as a starting point for countries to develop Regulatory language that suits their specific legislative environment.

How to Use This Model Regulation

This Model Language is to support country governments in the development of new Regulations or the review of existing Regulations to ban the importation of asbestos or asbestos containing materials.

Guidance notes are provided in the grey boxes to guide countries where specific consideration is required.

Guidance Note

To enable countries to utilise this template policy more efficiently, text in **red font** needs to be replaced by country specific information.

STATUTORY INSTRUMENT

No. ?? of 20??.

Environment (Asbestos) Regulation 20??.

ARRANGEMENT OF SECTIONS

PART 1. - PRELIMINARY

1. Interpretation
2. Declaration of beneficial value

PART 2. – ASBESTOS WASTE OFFENCES

3. Unlawful disposal of asbestos waste
4. Prohibition on re-use or recycling of asbestos waste
5. Unlawful transportation or depositing of asbestos waste
6. Use of place as an asbestos waste facility without lawful authority
7. False or misleading information regarding asbestos waste

PART 3. – AMENDMENT OF ENVIRONMENT (PRESCRIBED ACTIVITIES) REGULATION 2002

8. Amendment of Schedules 1 and 2

PART 4. – ASBESTOS CODE OF PRACTICE

9. Activities must comply with Asbestos Code of Practice

PART 5. – MISCELLANEOUS

10. Method of analysis
11. Evidence
12. General penalty

No. ?? of 20??.

Being a Regulation made under the [Act Name],

MADE by the [Position], acting with and in accordance with, the advice of the [Committee] under the [Act name] to come into operation by notice in the National Gazette.

Dated 20??

PART 1. PRELIMINARY

1. INTERPRETATION

In this Regulation, unless the contrary intention appears-

“asbestos” means any of the following fibrous forms of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthophyllite asbestos;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos;

“Asbestos Code of Practice” means the Asbestos Code of Practice in place from time to time as an Environmental Policy established by the National Executive Council under section 30 of the Act [Alternative: as a Technical Standard established by the Minister under section 133A of the Act];

“asbestos-containing material” means any goods, material or thing, including waste material and soil, that contain asbestos;

“asbestos waste” means any waste that contains asbestos;

“building work” means any construction, installation, alteration, renovation or development activity including, but not limited to, the construction, alteration, installation or development of all or any part of any industrial, commercial, public or residential building, infrastructure or other structure including any attachment, equipment, shed, fence, groundworks, foundations, supports and utility supply works;

“dispose” in relation to asbestos waste includes to dump, abandon, deposit, discard, or emit anything that constitutes asbestos waste, and also includes to cause or permit the disposal of asbestos waste; and

“waste” means:

- (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment, or
- (b) any discarded, rejected, unwanted, surplus or abandoned substance, or

- (c) any otherwise discarded, rejected, unwanted, surplus or abandoned substance intended for sale or for recycling, processing, recovery or purification by a separate operation from that which produced the substance.

2. DECLARATION OF BENEFICIAL VALUE

For the purpose of the definition of **beneficial value** in **section ?? of the Act**, it is hereby declared that the control, prevention and minimisation of the contamination of the environment by asbestos, asbestos containing material and asbestos waste is a beneficial value.

PART 2 . ASBESTOS WASTE OFFENCES

3. UNLAWFUL DISPOSAL OF ASBESTOS WASTE

- (1) A person disposing of asbestos waste off the site at which it is generated must do so at a place that can lawfully receive the asbestos waste.
- (2) A person who contravenes subsection (1) is guilty of an offence.

Penalty: A fine not exceeding **\$[insert]** or imprisonment for a term not exceeding **[insert]**, or both.

4. PROHIBITION ON RE-USE OR RECYCLING OF ASBESTOS WASTE

- (1) A person must not cause or permit asbestos waste in any form to be re-used or recycled.
- (2) A person who contravenes subsection (1) is guilty of an offence.

Penalty: A fine not exceeding **\$[insert]** or imprisonment for a term not exceeding **[insert]**, or both.

5. UNLAWFUL TRANSPORTATION OR DEPOSITING OF ASBESTOS WASTE

- (1) If a person transports asbestos waste to a place that cannot lawfully be used as a waste facility for that asbestos waste, or causes or permits asbestos waste to be so transported—
 - (a) the person, and
 - (b) if the person is not the owner of the asbestos waste—the owner of the asbestos waste, and
 - (c) if the asbestos waste is transported in a vehicle and the person is not the owner of the vehicle—the owner of the vehicle,

are each guilty of an offence.

- (2) A person who contravenes subsection (1) is guilty of an offence.

Penalty: A fine not exceeding **\$[insert]** or imprisonment for a term not exceeding **[insert]**, or both.

- (3) In any proceedings for an offence under this section the defendant bears the onus of proving that the place to which the asbestos waste was transported can lawfully be used as a waste facility for that asbestos waste.

- (4) It is a defence in any proceedings against an owner of asbestos waste or an owner of a vehicle transporting asbestos waste for an offence under this section if the owner did not transport the asbestos waste and establishes—
- (a) that the commission of the offence was due to causes over which the owner had no control, and
 - (b) that the owner took reasonable precautions and exercised due diligence to prevent the commission of the offence.
- (5) In this section, **owner** of asbestos waste includes, in relation to asbestos waste that has been transported, the person who was the owner of the asbestos waste immediately before it was transported.

6. USE OF PLACE AS AN ASBESTOS WASTE FACILITY WITHOUT LAWFUL AUTHORITY

- (1) A person who is the owner or occupier of any place must not use the place, or cause or permit the place to be used, as an asbestos waste facility or as a disposal site for asbestos without lawful authority.
- (2) A person who contravenes subsection (1) is guilty of an offence.

Penalty: A fine not exceeding **\$[insert]** or imprisonment for a term not exceeding **[insert]**, or both.

7. FALSE OR MISLEADING INFORMATION REGARDING ASBESTOS WASTE

- (1) A person who supplies information about asbestos waste to another person in the course of dealing with or disposing of asbestos waste, must not disclose information that the person knows is false or misleading in a material respect.
- (2) A person who contravenes subsection (1) is guilty of an offence.

Penalty: A fine not exceeding **\$[insert]** or imprisonment for a term not exceeding **[insert]**, or both.

- (3) In this section, information about asbestos waste means information about any of the following—
- (a) the type, classification, characteristics, composition or quantity of the asbestos waste;
 - (b) the actual or proposed storage, transport, handling, deposit, transfer, disposal, processing, recycling, recovery, re-use or use of the asbestos waste; or
 - (c) the hazards or potential harm to the environment or human health associated with the asbestos waste or an activity referred to in paragraph (b).

PART 3. AMENDMENT OF [Act name]

8. AMENDMENT OF SCHEDULES [??].

- (1) Schedule [??] of the [Regulation Name] is amended by inserting in the Table the following new Item Number immediately after Item Number [??]:

[??]	Construction or operation of public sites or landfills for the storage, treatment, reprocessing, incineration or disposal of asbestos waste, serving a population of less than [10,000] people.
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- (2) Schedule [??] of the [Regulation Name] is amended by inserting in the Table the following new Item Number immediately after Item Number [??]:

[??]	Construction or operation of public sites or landfills for the storage, treatment, reprocessing, incineration or disposal of asbestos waste, serving a population of [10,000] or more people.
[??]	Construction or operation of commercial or private sites or landfills for the storage, treatment, reprocessing, incineration or disposal of asbestos waste.

PART 4. ASBESTOS CODE OF PRACTICE

9. ACTIVITIES MUST COMPLY WITH ASBESTOS MANAGEMENT CODE OF PRACTICE

Without limiting the application of any other provisions of the Act including this Regulation, a person who -

- (1) uses or installs asbestos, asbestos containing material or asbestos waste;
- (2) conducts any activity including building work that moves, alters, demolishes, damages, disposes of or otherwise impacts on any asbestos, asbestos containing material or asbestos waste;
- (3) transports asbestos, asbestos containing material or asbestos waste; or
- (4) disposes of asbestos waste,

must comply with the Asbestos Management Code of Practice unless the actions of the person are authorised under the terms of an Act including under the terms of a licence, permit, approval or waiver issued under the Act.

PART 5. MISCELLANEOUS

10. METHOD OF ANALYSIS

Analysis, for the purposes of this Regulation, of any material shall be carried out in accordance with the methods set out in the **[Asbestos Management Code of Practice]**.

11. EVIDENCE

- (1) In any legal proceedings under this Regulation, a certificate purporting to be signed by a person appointed under subsection (2) and setting out the results of an analysis of any matter or thing submitted for analysis under this Regulation is admissible in evidence and shall be sufficient evidence of—
 - (a) the identity of the matter or thing analysed; and
 - (b) the results of the analysis; and
 - (c) the manner in which the analysis was carried out.
- (2) The Director may, for the purposes of this Regulation, appoint, by notice in the National Gazette, a person to be an analyst.

12. GENERAL PENALTY

A person who is guilty of an offence against any provision of this Regulation for which no other penalty is expressly provided is liable to a fine not exceeding **K[insert] or imprisonment for a term not exceeding [insert], or both.**

STATUTORY INSTRUMENT

No. ?? of 20??.

Public Health (Asbestos) Regulation 20??

ARRANGEMENT OF SECTIONS

13. Interpretation
14. Prohibition on the sale or supply of asbestos or asbestos containing material
15. Prohibition on use of asbestos and asbestos containing material in building work
16. Building work to comply with Asbestos Code of Conduct
17. Order to remove asbestos r asbestos containing material
18. Inspection
19. General penalty

Being a Regulation made under the [Act name]

MADE by the [Position], acting with and in accordance with, the advice of the [Committee] under the [Act name] to come into operation by notice in the National Gazette.

Dated 20??

13. INTERPRETATION

In this Regulation, unless the contrary intention appears-

“asbestos” means any of the following fibrous forms of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthophyllite asbestos;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos;

“Asbestos Code of Practice” means the Asbestos Code of Practice in place from time to time under the Environment Act 2000;

“asbestos-containing material” means any goods, material or thing, including waste material and soil, that contain asbestos; and

“building work” means any construction, installation, alteration, renovation or development activity including, but not limited to, the construction, alteration, installation or development of all or any part of any industrial, commercial, public or residential building, infrastructure or other structure including any attachment, equipment, shed, fence, groundworks, foundations, supports and utility supply works.

14. PROHIBITION ON THE SALE OR SUPPLY OF ASBESTOS AND ASBESTOS CONTAINING MATERIAL

- (1) Subject to subsection (2), a person must not sell or supply asbestos or asbestos-containing material to any person.
- (2) This prohibition does not apply to the sale or supply of asbestos or asbestos-containing material fixed or installed in a building, structure, ship, plant, aircraft or vehicle at the time this prohibition comes into operation.
- (3) A person who contravenes subsection (1) is guilty of an offence.

15. PROHIBITION ON USE OF ASBESTOS AND ASBESTOS CONTAINING MATERIAL IN BUILDING WORKS

- (1) A person must not install or use any asbestos or asbestos containing material in any building work.
- (2) A person who contravenes subsection (1) is guilty of an offence.

16. BUILDING WORK TO COMPLY WITH ASBESTOS MANAGEMENT CODE OF PRACTICE

- (1) Without limiting the application of section 3, a person must not conduct building work that moves, alters, demolishes, damages, disposes of or otherwise impacts on any asbestos or asbestos containing material unless that building work is conducted in accordance with the Asbestos Management Code of Practice.
- (2) A person who contravenes subsection (1) is guilty of an offence.

17. ORDER TO REMOVE ASBESTOS OR ASBESTOS CONTAINING MATERIAL

- (1) Where it is proved to the satisfaction of the Minister that a person has installed or used asbestos or asbestos containing material in any building work in contravention of section 3, the Minister may, by written notice to the person or to the owner or occupier of the premises or place on which the building work has taken place, require that any such asbestos or asbestos containing material be removed in accordance with the Asbestos Code of Practice and such other directions as the Minister may choose to give, within the time stated in the notice.
- (2) A person who fails to comply with a notice under subsection (1) within the time stated in the notice is guilty of an offence.

18. INSPECTION

For the purposes of this Regulation, an officer authorized for the purpose by the Minister may—

- (1) enter and inspect any premises or place; and
- (2) remove for examination or analysis a sample or samples of any material.

19. GENERAL PENALTY

A person who is guilty of an offence against any provision of this Regulation for which no other penalty is expressly provided is liable to a fine not exceeding **[INSERT]**.

STATUTORY INSTRUMENT

No. of 20??.

Customs (Prohibited Imports (Asbestos) Regulation 20??

ARRANGEMENT OF SECTIONS

- 20. Amendment of Section 1 – Interpretation of Part 1.
- 21. Amendment of Schedule – Prohibitions and Restrictions.

Draft: [Insert Date]

Being a Regulation to amend the [Regulation Name]

MADE by the Head of State, acting with and in accordance with, the advice of the [Committee] under the [Act] to come into operation by notice in the National Gazette.

Dated 20[??]

20. AMENDMENT OF SECTION 1 – INTERPRETATION OF PART 1

Section 1 is amended by inserting the following new definitions immediately before the definition of “drug import licence”:

“**asbestos**” means any of the following fibrous forms of mineral silicates belonging to the serpentine or amphibole groups of rock-forming minerals:

- (a) actinolite asbestos;
- (b) amosite (brown asbestos);
- (c) anthophyllite asbestos;
- (d) chrysotile (white asbestos);
- (e) crocidolite (blue asbestos);
- (f) tremolite asbestos;

“**asbestos-containing material**” means any goods, material or thing, including waste material and soil, that contain asbestos;

21. AMENDMENT OF SCHEDULE [Insert Number] – PROHIBITIONS AND RESTRICTIONS

Schedule [Insert Number] is amended by inserting in the Table the following new Item Number immediately after Item Number [Insert Number] :

[Insert Number]	Asbestos and asbestos-containing material	Permission of the Minister
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Made this day of 20 [??]

[TITLE]

