



VANUATU

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

1.1. The Constitution

Constitution of the Republic of Vanuatu

The Republic of Vanuatu has been independent since 1980. Prior to Independence, Vanuatu was administered for 74 years as a joint Condominium between France and the United Kingdom. Therefore Law in the Republic of Vanuatu consists of a mixed system combining the legacy of English common law, French civil law and indigenous customary law.

The Constitution which came into effect upon the country's formal accession to independence on July 30, 1980, establishes the bases of the country's law. This supreme Act establishes a Parliament, where members are elected for four-year terms. Members elect a Prime Minister among themselves, who informs the President of the Republic, and may appoint and dismiss ministers. The Prime Minister together with the Council of Ministers, constitute the executive of the Government. The President of the Republic may not also be the Prime Minister, and is elected by an electoral college comprised of members of Parliament and the chairpersons of the provincial government councils. The President's functions are largely ceremonial, although he/she may pardon, commute or reduce a sentence imposed on a criminal offender.

In addition, the Constitution establishes a Malvatumauri Council of Chiefs, comprising customs chiefs from the islands and districts of the Republic. Members of the Council are elected by their peers. The Council's role is to discuss all matters relating to custom and tradition, make recommendations for the preservation and promotion of ni-Vanuatu culture and languages, and answer questions relating to tradition and custom in connection with any parliamentary bill.

The Constitution touches on natural resources or the environment in the following ways:

- It imposes a fundamental duty for every Ni-Vanuatu and his/her descendants "to protect the Republic of Vanuatu and to safeguard the national wealth, resources and environment in the interests of the present generation and of future generations".
- 2013 amendments introduced a new Article 78, which enabled Parliament to formally recognise appropriate customary institutions to resolve land ownership and disputes over custom land. Once recorded in writing, final substantive decisions reached by customary institutions or procedures in accordance with Article 74, are binding in law and are not subject to appeal or any other form of review by any Court of law.

1.2. Customary Law and Traditional Practices

Customary law in Vanuatu is diverse, as each community has its own customs. Customary law is applied primarily by village or Island courts.

Island Courts Act 1983

The Constitution requires that: "*Parliament shall provide for the establishment of village or island courts with jurisdiction over customary and other matters and shall provide for the role of chiefs in such courts.*"

This is implemented through the *Island Courts Act 1983*, which confers jurisdiction on village or island courts to hear minor civil and criminal cases in accordance with local custom, "so far as the same is not in conflict with any written law and is not contrary to justice, morality and good order". Vanuatu supports a system of village courts, which are administered by chiefs to dispense communal justice according to custom.

1.3. Local Government

Decentralization Act 1994 (as amended in 1997, 1998, 2000 and 2013)

The *Decentralization Act 1994* (previously named the *Decentralization and Local Government Regions Act 1994*) allows for a decentralized structure of governance that involves the Malvatumauri National Council of Chiefs, down to Local Government Councils and Area Councils. Local Government Councils include the six provinces and three municipalities in Vanuatu, which may be further divided into Area Council Divisions and Districts. These are overseen by the Department of Local Authorities.

Local Government Councils are responsible for good government and promoting the health and welfare of people within each respective region. Local Government Councils are also empowered to make by-laws on matters listed at section 20 of the Act, including fishing licences and conditions, regulations governing the environmental protection zones and economic development policies and plans. The powers and duties of Municipal Councils are outlined separately in the *The Municipalities Act 1980 (as amended)*. These include management of land leased from authorities, safeguarding public health, and general management of the municipality such as in respect of “sewers, drains, dams, culverts and open spaces”. Area Councils are responsible for reviewing community action plans, developing an area council Strategic Development Plan and coordinating, monitoring and reporting to the Local Government Council on the implementation of the plan.

ENVIRONMENTAL PLANNING AND ASSESSMENT

2.1. National Environmental Law

Environmental Protection and Conservation Act 2002 (as amended)

The *Environmental Protection and Conservation Act* provides for the conservation, sustainable development and management of the environment of Vanuatu, and the regulation of related activities.

The substantive provisions of the Act are as follows:

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| Part 2 | <p>Provides for the administration of the act, including:</p> <ul style="list-style-type: none"> • appointment of a Director within the Department of Environmental Protection and Conservation (Department); • establishment of an Environmental Registry; • preparation of National State of the Environment Reports; and • development and variation of National Policies and National Plans. |
| Section 4 | <p>The Director is responsible for the development, co-ordination and, where appropriate, implementation of the Government’s environmental policies and programs. In carrying out these functions, the Director must:</p> <ul style="list-style-type: none"> • administer the Environmental Registry established under section 6; • prepare a National State of the Environment Reports under section 7; • prepare National Policies and National Plans under section 8; • administer the Environmental Impact Assessment procedure under Part 3; • prepare guidelines, standards, codes of practice and procedures; • prepare advice on international environmental treaties and instruments, including implementation strategies; |

- undertake environmental research, assessment, monitoring, and inspection generally; and
 - undertake such other duties and responsibilities as may lawfully be required by the Minister.
- Section 5 The Director has powers “as may be necessary or convenient for the performance of the Director’s functions under this Act”. This includes appointment of persons as authorised officers and the establishment of committees for ensuring better inter-departmental and inter-agency co-ordination on particular environmental matters.
- Section 6 The Director must establish, operate and maintain an Environmental Registry of all records relating to:
- environmental impact assessment documentation provided under Part 3;
 - applications, permits and approvals required or issued under this Act;
 - regulations, standards, guidelines or codes of environmental practice established under this Act;
 - National State of the Environment Reports prepared under section 7;
 - National Policies and National Plans prepared under section 8;
 - Community Conservation Areas registered under section 37;
 - international environment and conservation treaties and instruments to which Vanuatu is a party;
 - climate change database in joint coordination with the National Advisory Committee on Climate Change; and
 - such other matters as may be prescribed by regulation.
- Section 7 The Director must prepare and publish a National State of the Environment Report at least once every ten years, covering the matters outlined in subsection (2).
- Section 8 The Director must prepare the National Policy or National Plan as is required for the conservation, sustainable development and management of the environment.
- Part 3 Sets out the provisions related to Environmental Impact Assessment (EIA) activities.
- Section 11 States all activities that are subject to the Act.
- Section 12 Defines projects, proposals and development that are subject to an EIA as all projects, proposals or development activities that:
- cause or are likely to cause significant environmental, social and/or custom impacts; or
 - cause impacts relating to the matters listed in subsection (2).
- Section 13 Lists activities that are exempt from EIA requirements.
- Section 14 Proponents for non-exempt activities must apply to the Director for preliminary environmental assessment (PEA) to determine if an EIA is necessary (introduced with the 2010 amendments).
- Division 2, Part 3 Details the EIA process, including considerations in making a decision, terms of reference, public notice, review of EIA report and notification of EIA decision.

- Section 24 It is an offence to undertake any activity that is subject to an EIA but has not received written approval, or any activity where an EIA approval has been refused.
- Part 4 Contains provisions related to bioprospecting and community conservation areas.
- Sections 29, 31 Establishes a Biodiversity Advisory Council (BAC) responsible for advising the Minister on any matter relating to the implementation of the *Convention on Biological Diversity 1992* and, in particular, on matters relating to commercial bioprospecting.
- Section 32 It is an offence to:
- undertake or attempts to undertake any biodiversity prospecting without a bioprospecting permit;
 - export or attempts to export any specimen obtained from biodiversity prospecting without a bioprospecting permit;
 - import or attempts to import any foreign organism that may have a significant adverse impact on Vanuatu's native flora or fauna without a bioprospecting permit; or
 - contravene any law relating to the protection of Vanuatu's native flora and fauna.
- Section 33 Outlines the application process for obtaining a bioprospecting permit.
- Part 4, Division 3 Provides for the identification and registration of Community Conservation Areas.
- Section 35 The Director may negotiate with the applicant for the protection and registration of any site as a Community Conservation Area where he/she has acquired the consent of the custom landowners, and is satisfied that the site possesses the characteristics as outlined in section 35.
- Part 5 States offences under the Act, enforcement provisions (introduced with 2010 amendments), court orders, and establishes a right to civil claim for damages.
- Section 44B Establishes an Environmental Trust Fund administered by the Department. The Trust Fund will hold:
- money appropriated by Parliament;
 - any environmental bond;
 - any contribution or donation;
 - fines of fixed penalties;
 - any environmental protection fee; or
 - any other money required under this Act or any other written law to be paid into the Trust Fund.
- Section 45 Sets out the Minister's powers to make regulations to give effect to the Act, including the following areas:
- prescription of standards, guidelines or codes of environmental practice;
 - variation of any environmental assessment procedure;
 - control of the taking or use of specified species;
 - regulating the environmental effects of importing and transporting hazardous substances, introducing foreign organisms, pests and weeds, waste management and air and water pollution;
 - harvest of natural resources;

- upholding obligations under the *United Nations Framework Convention on Climate Change* for climate change adaptation and mitigation; and
- containment, isolation, seizure, transportation, safe-keeping or disposal of any species of wild flora or fauna.

Environmental Impact Assessment Regulations 2011

The *Environmental Impact Assessment Regulations 2011* were made by the Minister of Lands, Geology and Mines to regulate preliminary EIAs and environmental audits regarding the projects, proposals or development activities specified in Schedule I.

Key regulations provide details for the EIA process and related functions, including:

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| Reg. 3 | A preliminary environmental assessment shall be carried out by the Director of the Department of Environmental Protection and Conservation (or any other Government Department authorised to do so by the Director per section 4). |
| Reg. 6 | EIA is to be undertaken under the direction of the Director by an independent consultant or independent team of consultants who are to be selected and appointed by the Director in consultation with interested parties. |
| Regs. 7-8 | Outlines the requirements of an EIA report. |
| Regs. 9 | An environmental management and monitoring plan must be submitted with the EIA report. |
| Reg. 10 | Mandatory public consultation requirement at a time and place determined by the Director. |
| Reg. 13 | Establishes an EIA Review Committee to review EIA reports and make its recommendations to the Minister within 30 days of the EIA report being submitted (except where the time limit has been extended). |
| Reg. 20 | The Department may conduct compliance and monitoring inspections for the purposes of ascertaining any changes in the environmental condition or impact of the site/area, or compliance with conditions of EIA approval. |
| Reg. 23 | The Director may vary or cancel an EIA approval under certain circumstances, as outlined in regulation 23. |

2.2. Land Management, Planning and Zoning

Land Reform Act 1980 (amended)

The purpose of the *Land Reform Act 1980* is to “make interim provision for the implementation of Chapter 12 of the Constitution”, which pertains to land use. Chapter 12 of the Constitution provides that:

“All land in the Republic belongs to the indigenous custom owners and their descendants” and, “only indigenous citizens of the Republic who have acquired their land in accordance with a recognised system of land tenure shall have perpetual ownership of their land” and, further that “the rules of custom shall form the basis of ownership and use of land...”.

Relevant substantive provisions include:

- Section 7 An agreement (including leases) relating to custom land is void unless approved by the Minister in accordance with the process specified in section 6 and registered in the Land Records Office (as amended in 2013).
- Section 8 The Minister shall have general management and control of certain land, such as land not occupied by an alienator but where ownership is disputed.
- Section 9 All state land shall vest in the Government and be public land and be held by it for the benefit of the Republic of Vanuatu.
- Section 16 The Minister may by Order establish corporate bodies for the better carrying into effect of the purposes of this Act.
- Section 20 The Minister may by Order make regulations to implement the Act.
- Section 21 It is an offence to obstruct any person in carrying out his duties or functions under this Act.

In addition, recent amendments to the Act include the following:

Sections 6-6K Negotiation processes with custom land owners

Sections 6L-6T

Appointment of the Land Ombudsman to deal with complaints around leases, and offences against the Ombudsman.

Section 6U-6W

Processes around applications for a rural subdivision or change of lease type

Sections 6X-6Z

Ministerial consent to certain transactions, including urban leases and rural leases with/without a dispute.

Section 7 An agreement (including leases) relating to custom land is void unless approved by the Minister in accordance with the process specified in section 6 and registered in the Land Records Office (as amended in 2013).

Section 8 Issuance of registered leases

Sections 8A-8F

Establishment of the Land Management Planning Committee to consider and submit certain documents to the Minister for approval.

Sections 10-10H

Leases on State Land

At independence in 1980, alienated land in Vanuatu (approximately 20%) was returned to custom owners. The effect of this initiative was to nullify all registered titles that had been granted during the colonial period. The *Land Reform Act 1980* provided for every alienator at that time to enter into leasehold arrangements with customary owners. This was enabled by the *Alienated Land Act 1982*, which provides for several categories of leases including tourism, forestry, mining and agricultural.

During the 1980s and 1990s, numerous land disputes over the ownership of custom land were brought before the Island Courts, especially on the island of Efate, Malakula and Santo — the islands where the greatest number of formerly alienated properties were located.

Custom Land Management Act 2013 (Amended in 2014)

In order to integrate the various land legislations of the country, the Ministry of Lands has started a land reform process, which has resulted in the adoption of newly amended or introduced land Acts, including the *Custom Land Management Act 2013*. The objective of this Act is to provide for the determination of custom owners and the resolution of disputes over ownership of custom land by customary institutions.

Relevant key provisions include:

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| Section 1 | Formal recognition of customary institutions termed ‘Nakamals’ and ‘Custom area land tribunals’ for determining the rules of custom that form the basis of ownership and land use in Vanuatu. Final decisions reached by these customary institutions become binding in law when appropriately recorded and are not subject to appeal or review by any Court of law. |
| Part 2 | Management of land by customary institutions, including the Malvatumauri Council of Chiefs and Island Councils of Chiefs, custom land officers, community land officers, and the National Coordinator of Land Dispute Management. |
| Part 3 | Procedures for determining custom owners. |
| Part 4 | Determination of land disputes by a Nakamal. |
| Part 5 | Land disputes between groups or individuals may be resolved through mediation. |
| Part 6 | Determination of land dispute by custom area land tribunal. |
| Part 7 | Review by Island Court (Land) of determinations of custom land owners by Nakamal or custom area land tribunal. |
| Section 57 | Existing decisions of Island Court, Supreme Court, single or joint area Customary Land Tribunal and island Customary Land Tribunal deemed to create a recorded interest in land (as amended in 2014). |

Other legislation related to land matters in Vanuatu include:

- *Land Acquisition Act 1992* (as amended in 2000, 2014 and 2017).
- *Land Leases Act 1983* (as amended in 1985, 1987, 1988, 1989, 1995, 2003, 2004, 2006, 2007, 2013, 2014, 2016 and 2017).
- *Strata Titles Act 2000* (as amended in 2003, 2013, 2014, 2017).

2.3. Tourism

Environmental concerns have been linked to tourism activities in Vanuatu, and are now regulated by the two pieces of legislation below.

Cultural Heritage

Vanuatu Tourism Office Act 1982

The Act provides for the establishment of the Vanuatu Tourism Office, the development of tourism and the improvement of standards in the tourism industry. Whilst the Act stipulates that the Office shall endeavor to preserve and stimulate pride in the cultural heritage of Vanuatu, the Act does not mention that the tourism industry must be managed in an integrated manner with the environment.

Foreshore Development

The Ministry of Lands also developed a standard form of lease for tourism developments which contain several covenants designed to minimise the impact of developments on the shoreline. These include a requirement to “minimise” interference with the flow of seawater around leased land and, in particular, not to construct any groynes or other barriers and to take appropriate measures to control erosion. Other obligations of commercial leases include protection of mangroves and coral (living or dead) on the coast or in the sea adjacent to the land.

Leases normally provide for the use of sand, gravel and rock (traditional building materials) found on the land subject to a prohibition on the removal or alive or dead coral and/or sand from any sea area adjacent to the leased land. Any developments on the foreshore (land below the mean high water mark and the seabed underlying Vanuatu’s territorial waters) or coast of any island in Vanuatu is subject to the consent of the Minister responsible for the *Foreshore Development Act 1975*.

BIODIVERSITY CONSERVATION

Environmental Protection and Conservation Act 2002 (as amended)

Part 4 of the *Environmental Protection and Conservation Act 2002* mentioned above covers biodiversity conservation such as the establishment of Protected Areas and establishment of a Biodiversity Advisory Council.

Section 35 of the Act also confers a power to the Director of the Department to negotiate with custom landowners for the protection and registration of any site as a Community Conservation Area if he/she is satisfied that the site:

- Possesses unique genetic, cultural, geological or biological resources;
- Constitutes the habitat of species of wild fauna or flora of unique national or international importance;
- or
- Merits protection under the Convention Concerning the Protection of World Cultural and Natural Heritage.

3.1. Protected Areas

National Parks Act 1993

The purpose of the *National Parks Act 1993* is to provide for declarations of National Parks and nature reserves, for the protection and preservation of such areas. The provisions of this Act shall have effect for the purpose of protecting and preserving as national parks or nature reserves, certain areas of Vanuatu.

These are areas that:

- Have unique ecosystems, genetic resources or physical and biological formation; or
- Constitute the habitat of threatened species of animals and plants of outstanding value from the point of view of science and conservation;
- Have outstanding natural beauty; or
- Have any archaeological or other scientific or environmental significance; and for promoting scientific study and enjoyment thereof by the public.

Substantive provisions of the Act include:

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| Sections 3-8 | Establishes a National Parks Board, with the function to consider areas in Vanuatu that should be declared as national parks or nature reserves. |
| Section 10 | The Board shall prepare a management plan in respect of the park or reserve for the Minister's approval. |
| Section 13 | Every park or reserve will have a local management committee appointed by the Minister. |
| Section 14 | Outlines the duties of the local management committee. |
| Section 15 | The Board may delegate powers, functions and duties to the local management committees. |
| Section 21 | The Minister may make regulations in respect of matters listed under subsection (1). |
| Section 22 | It is an offence to contravene any provision of the Act. |

According to the data provided by the World Database on Protected Areas, in Vanuatu there are 8 Marine Protected Areas, 3 Marine Reserves, one Reserve, one Conservation Area, 3 Recreation Reserves, and 19 Forest Conservation Areas.

3.2. Endangered Species

The International Trade (Fauna and Flora) Act 1989 and the International Trade (Flora and Fauna) Regulations 1991

To implement Vanuatu's obligations under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the *International Trade (Fauna and Flora) Act 1989* and the *International Trade (Flora and Fauna) Regulations 1991* were introduced. Together, the Act and Regulations control the trade of listed specimens between Vanuatu and other countries.

Wild Bird Protection Act 1962

This Act protects a number of wild birds in Vanuatu by setting controls on their hunting and prohibiting their sale or export. The Act provides a list of protected species and a detailed obligations and limitations in relation to the exploitation, hunting or commercialisation of the latter.

This law has not been expanded to protect flora and fauna in general, especially endangered, threatened and endemic species and their habitat.

3.3. Biosafety

To date there is no specific law dealing with biosafety, however, there are currently a number of laws that address biosafety related-issues in Vanuatu.

Environmental Protection and Conservation Act 2002 (as amended)

Several provisions in the *Environmental Protection and Conservation Act 2002* mentioned above regulate the introduction of “foreign organisms” into Vanuatu. These include subjection to an EIA (section 12) and requirements to obtain a bioprospecting permit (section 32). Whilst the Minister has powers to making regulations around the introduction of foreign organisms, no biosafety regulations have been adopted.

Animal Importation and Quarantine Act 1988 (as amended)

The *Animal Importation and Quarantine Act 1988* regulates and controls the import of animals, animal products and biological products into Vanuatu. This includes quarantine measures, a quarantine officer’s powers to inspect vessels and offences under the Act. The Act is supported by the *Animal Importation and Quarantine Regulations 1994* (amended in 2007).

Plant Protection Act 1997

The *Plant Protection Act 1997* provides for the exclusion and effective management of plant pests (including aquatic plants), the facilitation of plant produce exports and the quarantine.

Other laws in Vanuatu can be used to/address biosafety related-issues in Vanuatu include:

- *Decentralization Act 1988*;
- *Fisheries Act 2014*;
- *Forestry Act 2001*;
- *The International Trade (Flora & Fauna) Act 1989*;
- *National Park Act 1993*;
- *Pesticides (Control) Act 1993*;
- *Public Health Act 1994*; and
- *Vanuatu Agricultural Research and Technical Centre Act 2002*.

3.4. Natural Resources

Forestry Act 2001

The *Forestry Act 2001* provides for the protection, development and sustainable management of forests and the regulation of the forestry industry within Vanuatu.

This Act applies to all forests and all forestry operations in Vanuatu, covering the following topics:

- Planning for the forestry sector;
- The requirements for carrying out commercial forestry operations on any land;
- Protection of the forest environment;
- Reforestation; and
- Export of timber.

The substantive provisions include the following:

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| Part 2 | Establishes the Forests Board of Vanuatu whose role is to consider and decide on applications for agreements or licences, and advise the Minister where needed. |
| Part 3 | Requires a Forestry Sector Plan to be prepared by the Director of Forests with appropriate consultation. |
| Part 4 | Outlines requirements for a timber rights agreement, a timber permit and a forestry lease. |
| Part 5 | Outlines requirements for a timber licence, a mobile sawmill licence, a sandalwood licence, and a special licence under Division 5. Granted licences are also subject to a range of conditions as stated at section 33. |
| Part 6 | Sets out a framework for the protection of forest environments. It provides for the declaration of Conservation Areas, and lays down some general environmental restrictions on logging and the lighting of fires in forest areas. |

The Act is supported by a number of regulations, including the:

- *Forestry Regulations 2003* (as amended in 2004).
- *Forestry (Control of Mobile Sawmills) Regulations 1996* (as amended in 2004).
- *Forestry (Management and Control of Sandalwood Trade and Exports) Regulations 1997* (as amended in 2004).

Forestry Rights Registration and Timber Harvest Guarantee Act 2000

This Act relates to the registration of certain forestry rights granted in respect of land, and to the harvesting and accreditation of timber plantations.

Forestry rights refer to:

- An interest in the land pursuant to which a person having the benefit of the interest is entitled to enter the land and do all or any of the following:
 - i) to establish, maintain, and harvest a crop of trees on the land;
 - ii) to maintain and harvest a crop of trees on the land;
 - iii) to construct and use such buildings, works and facilities as required for crop management;
- A carbon sequestration right in respect of the land; or
- A combination of the above.

The main provisions are as follows:

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| Section 3 | The proprietor of a lease registered under the <i>Land Leases Act</i> may, by instrument in writing in the prescribed form, grant a forestry right over the land, or a part of the land, comprised in the lease. |
| Section 4 | The Director of Land Surveys shall prepare a survey plan defining the area or areas of land affected by the forestry right. |
| Section 13 | The owner or manager of a timber plantation may apply to the Director-General of the Department responsible for forestry and timber resources for the accreditation of the timber plantation or proposed timber plantation. |

Section 15 The accreditation of a timber plantation or proposed timber plantation is to be granted subject to such conditions as the Director-General determines.

Sections 19 and 20

The Director-General shall maintain a register of accredited timber plantations and shall prepare a Timber Plantations Code, which may, for the purposes of protecting the environment, regulate the carrying out of operations, including harvesting operations, on accredited timber plantations.

Petroleum (Exploration and Production) Act 1993

It is an Act to make provision with respect to searching for and producing petroleum.

Key provisions include:

- Section 2 Prohibits petroleum prospecting or development operations, except in accordance with a licence issued under the Act.
- Section 5 Appointment of a Commissioner for Petroleum Exploration and Production.
- Section 11 The Minister may, on behalf of the Republic, enter into an agreement with any person with respect to the grant of a licence and conditions of the licence.
- Section 14 Licences may not be granted to individuals who are not indigenous citizens of the Republic or body corporates who are not incorporated in the Republic.

The Act is supported by the *Petroleum Regulations 1997*.

Mines and Minerals Act 1986

This Act makes provision for the control of mining and related operations in Vanuatu. The Act provides that the property in minerals, in their natural condition, in land is vested in the Republic of Vanuatu. The Act shall apply in relation to the seabed and subsoil of the continental shelf and beneath the waters of the exclusive economic zone, as it applies in relation to land. A public servant is to be appointed and known as the Commissioner for Mines and Minerals. Licences for exploration, prospecting, or mining shall be granted by the Minister or the Commissioner.

The Act is supported by the *Mines and Minerals (Licences) Regulations 1986*, which regulates applications for and grant of exploration and prospecting licences.

Geothermal Energy Act 1987

This Act regulates the prospecting for geothermal energy sources and production of energy derived or derivable from within the ground or thereunder by natural heat, and related matters such as surface rights and limitation of disturbance caused by prospecting or production. All rights exercisable, in relation to geothermal energy, by Vanuatu with respect to the continental shelf or the exclusive economic zone are hereby vested in the Republic of Vanuatu. The Act shall apply in relation to the sea-bed and subsoil of the continental shelf and beneath the waters of the exclusive economic zone, as it applies in relation to land. The Minister may grant, on such conditions as he or she determines, a prospecting licence in accordance with section.

The Act is supported by *Geothermal Energy (Prospecting Licences) Regulations 1987*, which regulates applications for and grant of prospecting licences.

Fisheries Act 2014

Administered by the Department of Fisheries, the *Fisheries Act 2014* provides for the management, development and regulation of fisheries within Vanuatu waters, and for the control of fishing vessels entitled to fly the flag of Vanuatu outside of Vanuatu waters in a manner consistent with Vanuatu's international obligations.

The Act includes key provisions around the following:

Part 3	Sets a structure to govern the administration of the Act, including establishment of a Fisheries Management Advisory Council.
Part 5	Aquaculture licences.
Part 7	Obligations of Vanuatu fishing vessels and local fishing licences.
Part 8	Registration and records of fishing vessels on the international shipping registry.
Part 10	Foreign fishing vessels.
Part 11	Compliance with international obligations.
Part 12	Fishing by Vanuatu vessels outside of Vanuatu waters.
Part 14	Bans driftnet fishing.
Part 15	Establishment of a Vanuatu Marine Mammals Sanctuary.

Further details supporting the implementation of the Act are contained in the *Fisheries Regulations 2009* (as amended in 2014).

Other related fisheries and oceans legislation are:

- *Maritime Zones Act of 2010* - defines the maritime zones for Vanuatu and sets out Vanuatu's rights in relation to its exclusive economic zone and the continental shelf.
- *National Parks Act* - relevant to oceans management and use from the perspective that it provides for the creation of protected areas.
- *Maritime Conventions Act* - gives effect to international Conventions to which Vanuatu is a signatory, including dealing with pollution at sea.
- *Shipping Act* - safe passage of vessels through the waters of Vanuatu and addresses the issue of protecting Vanuatu waters from pollution.

WASTE MANAGEMENT AND POLLUTION CONTROL

4.1. Waste and Pollution

Waste Management Act 2014

The *Waste Management Act 2014* provides for the protection of the environment through encouragement of effective waste services and operations.

Key substantive provisions include the following:

Sections 3-5 The Director of the Department of Environmental Protection and Conservation is responsible for the development, coordination and implementation of the Government's waste and litter minimisation policies and programs. In carrying out the functions the Director is called on to:

- Prepare guidelines and standards;
- Administer the system; and
- Undertake environmental assessment, monitoring, and inspection generally.

Section 7 Waste management responsibilities are assigned as follows in the Act:

- The Department is responsible for implementing International Conventions and Treaties that relate to the management of hazardous waste;
- A waste management operator designated under section 19 is responsible for providing waste collection services to residential and commercial premises;
- A waste dump or a waste disposal site is to be managed by each relevant Municipal Council or Provincial Government Council or the Ministry of Health or the Department of Biosecurity;
- The collection and disposal of waste that cannot be managed by the normal waste collection services to residential and commercial premises, is to be undertaken in accordance with any requirements imposed from by the Director;
- The Ministry of Health has the responsibility to collect and dispose of all medical waste and on the request of the Director, is to prepare and submit a report relating to any aspect of waste management under its responsibility; and
- The Department of Biosecurity has the function to collect and dispose of waste that is designated under any written law to be biosecurity waste and on the request of the Director, and to prepare and submit a report relating to any aspect of waste management under its responsibility.

Under the *Decentralization Act 1994 (as amended)*, Municipal Councils have responsibility for the management of solid waste within council areas.

4.2. Hazardous Waste and Pollution

Pesticides (Control) Act 1993

The *Pesticides (Control) Act 1993* makes provisions for the regulation and control of the importation, manufacture, sale, distribution and use of pesticides, and related matters. It establishes a Pesticides Committee and provide for the registration of pesticides within the country.

OTHER

5.1. Water and Disaster Risk Management

National Disaster Act 2000

Vanuatu's regulatory framework for Disaster Risk Reduction (DRR) and Disaster Management (DM) is primarily derived from the *National Disaster Act 2000*. The Minister of Internal Affairs is the umbrella government body that bears primary responsibility for disaster management.

The roles and responsibilities of key stakeholders are outlined in the Act as follows:

- Parts 2-3 The National Disaster Committee (NDC), chaired by the Director General of Internal Affairs, is the lead agency that coordinates disaster management and supports the National Disaster Management Office (NDMO) in implementing the National Disaster Act 2000 (NDA) and the regulations and policies associated with it.
- Section 1 The Minister of Internal Affairs is appointed with specific responsibilities for disaster management within the country and is responsible to the Cabinet of Ministers for ensuring that adequate disaster management measures exist before, during, and after a disaster.
- Section 7 The NDC is responsible for assisting the NDMO in matters related to mitigation, prevention, and preparedness, response and recovery programs, and the provision of technical advice and support to the Central Control Group (CCG) during disaster response operations.

Water Resources Management Act 2002

The *Water Resource Management Act 2002* provides for the protection, management and use of water resources in the Republic of Vanuatu. The Act applies to all water in Vanuatu, i.e. inland waters including groundwater and any estuarine or coastal sea water prescribed as water under this Act. The Minister responsible for water resources is the primary administrative authority for purposes of this Act.

Substantive provisions of the Act include:

- Sections 6-7 A person must apply to the Director responsible for water resources for the right to use water for any purpose that does not comply with section 4 or 5 of the Act, and likewise shall apply for the right to construct, operate or maintain works.
- Section 8 The Director may limit any existing right to use water for either or both of the purposes of protection of public health or shortage of water.
- Section 14 Powers of the Director.
- Section 15 A National Water Resources Advisory Committee is established with oversight, coordination and advisory functions to the Director.
- Section 19 A landowner or group of landowners can establish, and the Director can promote, a local water management committee for any water resource on or under land for the purpose of implementing water supply conservation measures or a management scheme.
- Section 26 Declaration of a Water Protection Zone by the Director for specified purposes of protection and management of water.
- Section 32 Offences.
- Section 34 Appeal to the Supreme Court against any decision made by the Minister or Director.
- Section 37 Regulation making powers of the Minister.

Amendments in 2016 introduced:

- Water works permits;

- A Provincial Water Resources Advisory Committee with oversight, advisory and coordination functions; and
- A Rural Water Committee to manage water supply at a community level.

5.2. Public Health

Public Health Act 1994

The *Public Health Act 1994* covers a broad range of public health matters related to the environment, including:

Part 3	Prevention and Suppression of Notifiable Diseases
Part 5	Prevention and Destruction of Mosquitoes and Vermin
Part 6	Filthy or Verminous Premises or Articles and Verminous Persons
Part 7	Provision and Protection of Water Supply
Part 8	Sanitation and Waste Disposal

MULTILATERAL ENVIRONMENTAL AGREEMENTS

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

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