

MARITIME SEARCH AND RESCUE BILL 2024

(FOURTH DRAFT (EDITED VERSION) OF 07/08/24)

EXPLANATORY NOTES

Title of the Bill

Maritime Search and Rescue Bill 2024

Purpose of the Bill

To: (a) provide awareness of maritime search and rescue coordination by the National Maritime Safety Authority (NMSA) in Papua New Guinea. (b) Guide the effective co-ordination and administration of maritime search and rescue operations in Papua New Guinea and along Papua New Guinea's regional maritime borders. (c) Establish a Maritime Search and Rescue Fund which shall be called the Maritime Safety and Rescue Fund or abbreviated as MSARFUND. (d) Codify relevant international conventions and standards as appropriate for the rescue coordination region of Papua New Guinea.

Policy Objective of the Bill

To: (a) guide the effective co-ordination and administration of maritime search and rescue operations in Papua New Guinea and along Papua New Guinea's regional maritime borders. (b) Establish rules of operation and divisions of responsibility in carrying out search and rescue operations in Papua New Guinea in order to promote maritime safety at a reasonable cost. (c) Ensuring that Papua New Guinea's obligations under the Convention for the Safety of Life at Sea (SOLAS), 1974 and the International Convention on Maritime Safety and Rescue, 1979 are observed. (d) Ensuring the provisions of services and facilities for maritime search and rescue operations as efficiently and economically as practicable.

NOTES ON CLAUSES

Clause 1 of the Bill sets out the object and purpose of the Bill to guide the effective co-ordination of maritime search and rescue operations in Papua New Guinea.

Clause 2 of the Bill exemplifies rights and freedoms of citizens under the *Constitution* that are regulated or restricted to give effect to the public interest in public order and public welfare.

Clause 3 of the Bill provides that the Bill applies to shipowners, operators, masters, and passengers and seafarers operating and travelling with the Papua New Guinea search and rescue region which includes all coastlines and inland waterways; and that the Bill shall not apply to the extent of the inconsistency with provisions of *the Merchant Shipping Act 1975*, the *National Maritime Safety Authority Act 2003*, the *Civil Aviation Act 2000* (as amended), the *Small Crafts Act 2011 and related laws*, the *Marine Pollution (Preparedness and Response) Act 2013*, and the *Maritime Zones Act 2015*.

Clause 4 of the Bill provides interpretation and gives the meanings of words, phrases and acronyms in the Bill.

Clause 5 of the Bill provides the International Conventions that apply in this Bill and that they have the force of law in Papua New Guinea. For avoidance of doubt, the IAMSAR Manual also has the force of law.

Clause 6 of the Bill provides the Interpretation of PART III of the Bill.

Clause 7 of the Bill provides that it is the general duty of mariners upon the high seas and waters connected to the high seas and navigable by seagoing vessels.

Clause 8 of the Bill provides for the duty of mariners to render assistance in case of collision.

Clause 9 of the Bill provides that it is the duty of the master of the vessel involved in a collision with another vessel who has left that other vessel after offering it assistance to notify NMSA of the casualty or incident as soon as practicable.

Clause 10 of the Bill provides for the registration of distress and emergency beacons with the NMSA, and makes it an offence for failure to register.

Clause 11 of the Bill provides for ship reporting systems to be established by individuals or registered in co-operation with other States where it is considered necessary to facilitate search and rescue.

Clause 12 of the Bill provides for the ship reporting systems to provide information including sailing plans and position reports which would determine the current and future positions of participating vessels. Also, maintenance of a shipping plot, receipt of reports at appropriate intervals from participating vessels, simplicity in system design and operation and use of an internationally agreed standard ship reporting format and procedures.

Clause 13 of the Bill provides for the ship reporting system to incorporate ship reports on sailing plan, position report and final report.

Clause 14 of the Bill provides for all vessels to report their positions when travelling in areas where arrangements have been made to collect information on positions for search and rescue purposes.

Clause 15 of the Bill provides for the reporting by any person who knows or has reason to believe that an aircraft or ship is in distress.

Clause 16 of the Bill provides to make it an offence for any person who obstructs, hinders, hoxes or in any way interferes with a person engaging in any activity as a member, officer, volunteer or an agent performing a role or discharging a responsibility prescribed under the Bill, the MSAR Plan or any regulation made under the Bill.

Clause 17 of the Bill provides for the establishment of the National Maritime Search and Rescue Co-ordinating Committee which will comprise of 13 members. The Chairperson of the Committee will be the head of NMSA, *ex officio* or his nominee, and the Commander of the defence Force *ex officio* or his nominee will be the Deputy

Chairperson. The Committee shall oversee a co-ordinated and effective maritime search and rescue service within Papua New Guinea.

Clause 18 of the Bill provides one of the Committee's functions to oversee the development and implementation of suitable strategies and policies for maritime search and rescue preparedness, training, management and public education in maritime search and rescue operations.

Clause 19 of the Bill provides that the Committee shall have such powers as are necessary to enable it to perform its functions under the Bill including setting up such sub-committees.

Clause 20 of the Bill provides for the meetings of the Committee which shall be once every three months but shall meet as often as the need and circumstance dictate its frequency, manner and method of meeting.

Clause 21 of the Bill provides for the establishment of sub-committees.

Clause 22 of the Bill provides for the establishment of a Secretariat and that the NMSA as the agency responsible for co-ordinating search and rescue activities will be responsible for providing the support function to the Committee.

Clause 23 of the Bill provides for rescue co-ordination centres in the Pacific region including Australia and New Zealand to participate in the development of search and rescue services to ensure that assistance is rendered to any person in distress at sea.

Clause 24 of the Bill provides for the MRCC to establish rescue sub-centres in such provinces as the Committee directs or is considered appropriate by the Director of MSAR.

Clause 25 of the Bill provides for rescue co-ordination centre and the rescue sub-centre where search and rescue services are carried out to ensure the closest practicable co-ordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over its search and rescue boundary.

Clause 26 of the Bill provides for each search and rescue unit to be provided with equipment appropriate for its task, such as containers and packages containing survival equipment for dropping to survivors which must have the general nature of their contents indicated by markings in accordance with standards adopted under the SAR Convention.

Clause 27 of the Bill provides for Papua New Guinea to co-ordinate search and rescue operations with neighbouring States. Unless there is an agreement between Papua New Guinea and the other State, either party cannot allow any of its personnel to go into or over the other's territorial sea or territory of rescue units solely for the purpose of searching for the position of maritime casualties and rescuing survivors of such casualties unless the national law, rules and regulations of both States allow for that.

Clause 28 of the Bill provides for preparatory measures for the Director of MSAR to ensure that the rescue co-ordination centre and the rescue sub-centres in the provinces have available up-to-date information especially concerning search and

rescue facilities and available communications relevant to search and rescue operations in their provincial boundaries.

Clause 29 of the Bill provides for information concerning emergencies on a capable 24-hour basis of promptly and reliably receiving distress alerts from equipment used for this purpose within its search and rescue region.

Clause 30 of the Bill provides for initial action by a search and rescue unit receiving information on a distress incident to initially take immediate action if it is in the position to assist and without delay and shall notify the rescue co-ordination centre or rescue sub-centre in whose area the incident has occurred.

Clause 31 of the Bill provides for the emergency phase which is in three parts: (a) Uncertain phase; (b) Alert Phase, and (c) Distress phase.

Clause 32 of the Bill provides for the procedures to be followed by the rescue co-ordination centre or rescue sub-centre, to initiate inquiries to determine the safety of a person, a vessel or other craft.

Clause 33 of the Bill provides for the co-ordination when two or more States are involved in search and rescue operations.

Clause 34 of the Bill provides for on-scene co-ordination of search and rescue operations and that the most capable person will be designated as on-scene coordinator as early as practicable and preferably before the facilities for the operation arrive within the specified area of operation.

Clause 35 of the Bill provides for the termination and suspension of search and rescue operations and that the rescue co-ordination centre or the rescue sub-centre concerned to decide when to discontinue the search and rescue operation.

Clause 36 of the Bill provides for the Director of MSAR to receive and implement directions from and report to the Committee and that he is the functional head of the Secretariat. Also provides that the Director of MSAR may at any time call an emergency or special meeting and in the event that he does the question of quorum under Clause 13(1) does not apply.

Clause 37 of the Bill provides for the recognition of maritime search and rescue region as stipulated in the *Maritime Zones Act 2015*. And when there is variation of the search and rescue region, the Minister shall publish in the National Gazette a notice of the variation. And in an emergency situation when the Minister is not available, or cannot immediately be reached the Chairperson of the Committee shall publish the notice.

Clause 38 of the Bill provides for the recognition of NMSA which currently operates as the maritime rescue co-ordination centre and to allow it to continue. And that the MRCC within NMSA will provide search and rescue operations within Papua New Guinea as mandated under Section 4 of the *National Maritime Safety Authority Act 2003*.

Clause 39 of the Bill provides for the functions of the MRCC and that the MRCC will perform its functions in a manner that promotes efficient, economic, and effective use of all internal and external resources available.

Clause 40 of the Bill provides for the MRCC to be headed by a Manager to be known as Manager of MRCC, and one of his responsibilities is to develop, co-ordinate, administer, review and evaluate plans, policies, procedures, standards and training requirements for SAR co-operation and co-ordination and recommend to the Committee for its approval.

Clause 41 of the Bill provides for the Director of MSAR to establish rescue sub-centres in the provinces where local control of SAR activities and operations will be more effective. Also, the MRCC may assist provincial disaster offices to improve maritime SAR activities in the provinces by way of training.

Clause 42 of the Bill provides for the Committee to amend the MSAR Plan to give effect to the provisions of the Bill regarding the demarcation of roles of relevant entities in the SAR system in Papua New Guinea. When the Committee amends the MSAR Plan it is required to forward it to the Minister for his approval, and if the Minister refuses to act on the recommendations of the Committee the Minister must give his reasons with alternative policy direction to the Committee.

Clause 43 of the Bill provides that the Committee may when appropriate establish a joint rescue operating centre to incorporate both aviation and maritime search and rescue operations in Papua New Guinea. And that the aviation and maritime agencies will be responsible to promote a collaborative approach to the search and rescue services and operations in Papua New Guinea, including sharing of: (a) manpower resources, (b) trainings and exercises, (c) infrastructure and communication facilities, and (d) systems and technologies.

Clause 44 of the Bill provides for the MRCC to exchange information freely and co-operate with other rescue co-operation centres in the Pacific Islands region including Australia and New Zealand. And that with the prior approval of the Director of MSAR joint exercises with other rescue co-ordination centres may be held.

Clause 45 of the Bill provides for the Minister to ensure that a budget allocation is made for maritime search and rescue services and operations.

Clause 46 of the Bill provides for the establishment of the Maritime Search and Rescue Trust Fund and will vest with the NMSA.

Clause 47 of the Bill provides for the application of *the Public Finances (Management) Act 1995*.

Clause 48 of the Bill provides for the Committee to approve all expenditure from the MSR Trust Fund.

Clause 49 of the Bill provides for the establishment of a Trust Account for the MRS Trust Fund where all the moneys will be kept consistent with Section 16 of the *Public Finances (Management) Act 1995*.

Clause 50 of the Bill provides for the Committee to present a report to the Minister every year. And the Minister is required to present the report to the Parliament 30 days after the date the Minister receives the report.

Clause 51 of the Bill provides for persons performing a role prescribed by the Bill to be exempted from liability if some other person sustains any injury as a result of him performing that role.

Clause 52 of the Bill provides for the Manager of MRCC to request assistance from a civil aircraft or a private vessel to assist in any search and rescue operation. And that moneys spent in the operation can be reimbursed.

Clause 53 of the Bill provides for the Minister to recover from any person the whole or a portion of the expenses incurred for any operation undertaken in response to any occurrence caused by an unlawful act of the person concerned.

Clause 54 of the Bill provides for regulations to be made by the Governor General, on advice on matters requiring regulations to give effect to the Bill.

Clause 55 of the Bill is the transitional provision providing that the MRCC with all its staff, facilities and equipment that existed immediately before the Bill was passed and comes into operation, will continue to exist and MRCC will continue to be a department or division of NMSA. And all deeds, bonds, agreements etc., which exist then will continue in force and be enforceable by or against the MRCC.