



MARITIME SEARCH & RESCUE LEGISLATIVE FRAMEWORK CONCEPT PAPER



Legal Services Department
NATIONAL MARITIME SAFETY AUTHORITY Champion Parade, Defense Haus Level 3

Contents

Foreword:	2
The Concept Paper for the Maritime Search & Rescue Coordination Legislative Framework	
Consultation	4
Purpose	4
Introduction	4
Discussion	4
A. NMSA's current role in Maritime SAR	4
B. Government vision for National Rescue Coordination Centre	5
C. CASA's current role in Civil Aviation SAR	5
D. The Policy Intervention for Legal Reform	6
E. What the Maritime SAR legislative framework entails	6
F. Stakeholders that will be affected by the legal reform	7
G. The Consultations	7
Final remarks	8
Recommendation	9
Annexures	9



Maritime Search & Rescue Legislative Framework

Foreword:

The National Maritime Safety Authority ("the NMSA") was established by the *National Maritime Safety Authority Act 2003* (Act) and provides coordination of the maritime search and rescue in Papua New Guinea.

Per the Act, the NMSA maintains and operates a Maritime Rescue Co-ordination Centre to:

- 1) coordinate search and rescue operations for vessels in distress or lost at sea according to the terms and conditions of a search and rescue plan prepared by the Minister from time to time and approved by the Authority;
- 2) coordinate with other agencies and persons including international organizations and consultants on matters concerning search and rescue operations at sea;
- 3) collect data relevant to search and rescue operations;
- 4) act on behalf of the State with domestic and international agreements relating to search & rescue operations at sea to which the State is a party;
- 5) make recommendations on policy to the Minister regarding search and rescue at sea; and
- 6) Consult and enter into agreements with other agencies at the national, provincial, and local level governments (with the consent of the Minister), commercial, and industrial bodies to supplement incident or consequential acts as are necessary to be convenient for carrying out search and rescue functions.

Consistent with the above functions, the NMSA has developed a legal policy to provide a comprehensive legislative framework to give effect to the functions of the Maritime Rescue Coordination Centre.

As a member of the International Maritime Organization (IMO), PNG is also obligated to comply with international standards, codes of practice, and other related rules set by IMO. Thus, this reform enables the alignment of relevant international standards for domestic implementation by the NMSA in promoting safety at sea.

In the recent past, several gap analyses were conducted against the current regime as part of a legal reform led by NMSA to bring about the *Maritime Search & Rescue Bill*.

The NMSA is now seeking stakeholders' responses to the Bill to appreciate best practices, trends, challenges, and issues faced by the maritime industry and other stakeholders to have a law that can effectively serve the maritime industry into the future.

Please note, that the following Concept Paper provides a set of guidelines only to guide the NMSA and its Stakeholders during the external consultation in preparation for the relevant government clearance processes before enactment of the *Maritime Search & Rescue Bill* by the Parliament of PNG.

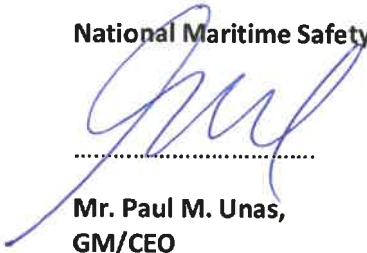
It contains a brief overview of the formulation of the Bill, the consultation roadmap, and explanatory notes of the proposed draft legislation.

As such, the NMSA invites its valued stakeholders to participate in the Consultation workshops of the Maritime Search & Rescue Bill as scheduled from September to October 2024 to bring about the desired reform that is required to serve PNG's growing maritime industry, trade, and transportation.

The Bill can be obtained using this NMSA website address: -<https://www.nmsa.gov.pg/conventions-and-national-legislations/legislation-review/>.

Yours sincerely,

National Maritime Safety Authority

A handwritten signature in blue ink, appearing to read 'Paul M. Unas', is written over a dotted line. Below the signature, the text 'Mr. Paul M. Unas, GM/CEO' is printed.

**Mr. Paul M. Unas,
GM/CEO**

The Concept Paper for the Maritime Search & Rescue Coordination Legislative Framework Consultation

Purpose

To provide the maritime industry stakeholder with the necessary information about the background of the formulation of the Maritime Search & Rescue Bill ("the Bill"), the content of the Bill, and the proposed consultation roadmap which is prepared to guide the external consultation of the Bill from September to October this year, 2024.

Introduction

The National Maritime Safety Authority (NMSA) implements the functions outlined in the National Maritime Safety Authority Act 2003 (NMSA Act as amended). It is also the lead implementer of the *Merchant Shipping Act 1975* to regulate merchant shipping.

This Concept Paper provides a comprehensive brief of the need for reform of the functions relating to maritime search and rescue. In Annexure 1 of this Concept Paper, it provides a step-by-step guide for the consultations. In addition, since the Bill has over 30 provisions, for ease of appreciation, Annexure 2 sets out in brief detail an explanation of each of the respective parts of the Bill. This Paper acts as a guide to the NMSA and its stakeholders during the consultations in preparation for the relevant government clearance processes before the enactment of the proposed Maritime Search & Rescue Bill by the Parliament.

Discussion

The Maritime Search & Rescue Legislative Framework is intended to be a Bill for an Act of Parliament that will provide comprehensive legislative mandates to complement the functions of the NMSA in coordinating maritime search and rescue.

Hence the proposed legislative framework is targeted to:

- 1) provide awareness of maritime search and rescue coordination by the National Maritime Safety Authority (NMSA) and the coordination and provision of services for maritime search and rescue operations and services in Papua New Guinea;
- 2) guide the effective coordination and administration of maritime search and rescue operations in Papua New Guinea and along regional maritime borders of Papua New Guinea where appropriate regional search and rescue regions ;
- 3) establish a Maritime Search and Rescue Fund which shall be called MSARFUND; and
- 4) codify relevant international standards as appropriate for the rescue coordination region of Papua New Guinea, and
for related purposes.

A. NMSA's current role in Maritime SAR

The functions of the NMSA include implementing the functions and exercising the powers conferred upon it by the NMSA Act and the "SAR Convention which PNG is a signatory to. More specifically, this applies for ships above 10metres per the requirements of the *Merchant Shipping Act 1975*.

Therefore the NMSA maintains and operates a Maritime Rescue Co-ordination Centre (MRCC) which has the main function of coordinating search and rescue in PNG. The NMSA through MRCC is required by law to:

- 1) coordinate search and rescue operations for vessels in distress or lost at sea according to the terms and conditions of a search and rescue plan prepared by the Minister from time to time and approved by the Authority;
- 2) coordinate with other agencies and persons including international organizations and consultants on matters concerning search and rescue operations at sea;
- 3) collect data relevant to search and rescue operations;
- 4) act on behalf of the State with domestic and international agreements relating to search & rescue operations at sea to which the State is a party
- 5) make recommendations on policy to the Minister regarding search and rescue at sea; and
- 6) Consult and enter into agreements with other agencies at the national, provincial, and local level governments (with the consent of the Minister), commercial, and industrial bodies to supplement incident or consequential acts as are necessary to convenient for carrying out search and rescue functions.

B. Government vision for National Rescue Coordination Centre

At present, the National Transport Strategy Volume 3 stipulates the Government's objectives concerning search & rescue. It is targeted to progressively build the capacity and extent of coverage of the maritime search and rescue (SAR) capability. It envisioned establishing a National Rescue Coordination Centre (NRCC) to combine the rescue coordination centres operated by both the NMSA & the Civil Aviation Safety Authority (CASA) respectively for maritime and civil aviation. When in operation, the NRCC will be available on a 24-hour basis to respond to information on emergencies where search and rescue may be required. The NRCC will require its search and rescue operational manuals to be updated regularly for the appropriate usage. It will maintain continuous communication with the National Disaster Management Centre, the Provincial Disaster Coordinators, and other emergency and first responder agencies within the Pacific region SAR organisations.

C. CASA's current role in Civil Aviation SAR

As we appreciate, the functions of CASA extend to regulating air traffic services, aeronautical communications services, and aeronautical navigation services among others. Further to its principal functions of the CASA, it also include search and rescue services. CASA maintains and operates a Rescue Co-ordination Centre for the conduct of aviation search and rescue operations and other search and rescue operations as the Minister may from time to time require. The Minister responsible for CASA has the role of making rules for the implementation of PNG's obligations under the Civil Aviation Conventions, the provision of aviation meteorological services, search and rescue services, and civil aviation security programs and services. The Civil Aviation SAR has been beneficial to NMSA and NiuSky Pacific in its joint efforts to respond and coordinate SAR in PNG.

The NMSA acknowledges that the role of SAR coordination is crucial. We have been supported by our existing bilateral provision to search & rescue by the Australian Maritime Safety Authority, among other partners. Locally, there are progressive discussions to commence joint coordination to realise the National Government's long-term vision for SAR.

D. The Policy Intervention for Legal Reform

There have been several policy interventions made in the past decade that gave rise to the need for legal reform in the maritime SAR space. A gap analysis was carried out by the Government which had recommended that a specific SAR legislation is required. In addition to the SAR legislation, resourcing, recruitment, and training are required for the NMSA Maritime Rescue Coordination Centre (MRCC) to improve its coordination of SAR. The gap analysis listed several essential requirements that the MRCC is required to deliver which complements the legal reform being proposed.

These policy interventions include:

- 1) the recommendations from the MV Rabaul Queen Incident - Commission of Inquiry;
- 2) the National Transport Strategy, 2013 as stated in Chapter 9 required reforms to have a greater regulatory scope of the National Rescue Coordination Centre;
- 3) NMSA operational observations have indicated the need to improve aspects of the current legislative framework. These include: manifesto records to be maintained, loading requirements must be met, vessels must be seaworthy ships, seafarers on board vessels must be qualified, and responses to distress calls and checks must be effective including regular radio surveys;
- 4) as a member of the International Maritime Organisation ("IMO"), PNG must comply with international standards, codes of practice, and related rules set by IMO on maritime safety, SAR, security, and climate change are examples of changing global jurisprudence; and
- 5) there has been no specific national law to implement the IMO SAR Convention since its ratification in 1979

The NMSA has developed a further gap analysis on existing laws that supported the legal policy reform for comprehensive SAR legislation to give more operational power to the coordination role of the NMSA taking into account the above interventions. Through this process, the proposed Maritime SAR legislative framework is being developed.

E. What the Maritime SAR legislative framework entails

The legislative framework sets out the objects and purpose of the MSAR Bill to –

- 1) provide awareness of maritime search and rescue coordination by the National Maritime Safety Authority;
- 2) coordination and provision of services for maritime search and rescue operations and services in Papua New Guinea;
- 3) guide the effective coordination and administration of maritime search and rescue operations in Papua New Guinea and along regional maritime borders of Papua New Guinea;
- 4) establish a Maritime Search and Rescue Fund which shall be called MSARFUND; and
- 5) codify relevant international standards as appropriate for the rescue coordination region of Papua New Guinea, and related purposes.

In its preliminary, the Bill sets out the international conventions which it derives principles of coordination from. It outlines the duties of mariners, it establishes a maritime search and rescue coordination committee and, the administrative functions of the SAR coordination and the cooperation between States. The Bill is supported by operating procedures for the roles of the Maritime SAR Director and the

Manager for the MRCC. For resourcing these functions, the Bill provides budgetary requirements, funding sources as well as miscellaneous provisions including regulations making power in closing.

Other considerations and discussions that are expected will be on NMSA's capability to operate effective national coordination of SAR for maritime users operating in PNG and or transiting in and out of PNG waters consistent with the requirements of the International Aeronautical and Maritime Search and Rescue (IAMSAR) requirements for operating effective shore-based coordination and for mariners to comply with the requirements for mobile facilities, among others.

Having and maintaining a well-equipped and fully operational MRCC will raise the standard of SAR in the PNG shipping industry and region as well. There will be a wider awareness of mariners' duties and the role of maritime SAR.

F. Stakeholders that will be affected by the legal reform

The NMSA is now seeking its respective stakeholders' response to the Bill to appreciate best practices, trends, challenges, and issues faced by the maritime industry and other stakeholders to have a law that can effectively administer maritime safety.

The proposed Bill is ready for external consultation to seek the appropriate feedback from industry and other stakeholders. Refer to the Concept Paper, Consultation Road Map, and Explanatory Note which are annexed to this Paper in Annexure A and Annexure B.

The NMSA has identified the following main stakeholders that the Bill will have an impact on. There is an extended table of stakeholders that can be found in Annexure C of this Concept Paper. In summary, the identified stakeholders are:

Maritime Stakeholders	GoPNG & Foreign Counterpart Agencies
1) domestic shipping companies;	1) government agencies dealing with maritime affairs
2) foreign shipping companies operating in PNG;	2) small craft vessels register and operators;
3) gazetted inspectors and surveyors;	3) Regional Rescue Coordinators Centers; and
4) recognised organisations conducting surveys on behalf of NMSA;	4) Australian Maritime Safety Authority
5) maritime and fisheries colleges;	5) Pacific Maritime Authorities,
6) port authority in all maritime provinces;	6) Asian Maritime Safety Authorities, among others of our key trade partners.
7) stevedoring companies;	7) Regional and international bodies (SPC/IMO)
8) Emergency & Rescue Units	8) National & Provincial Disaster Coordination

G. The Consultations

It is a prerequisite for legal clearance of the proposed Bill to have it undergo stakeholder consultation. NMSA will host the consultation from September to October 2024. The feedback received from the consultations will complement the work already done and will complete the legal reform process being undertaken to seek Parliament's enactment of the legislation this year. The NMSA aims to be pro-active in this process. As the sponsoring agency, it will use all forms of medium necessary to gather feedback.

The external consultation will commence and run as per the following dates, centres, and venues.

No.	Dates	Centre	Venue
1	3 rd – 4 th September	Arawa, Autonomous Region of Bougainville	Bovotel Hotel
2	10 th – 11 th September	Kokopo, East New Britain Province	Gazelle International Hotel.
3	18 th – 19 th September	Lae, Morobe Province	Lae International Hotel.
4	24 th – 25 th September	Madang, Madang Province	Madang Resort
5	1 st -2 nd October	Alotau, Milne Bay Province	Alotau Bay Hotel
6.	8 th -9 th October	Port Moresby, National Capital District	Crown Hotel

The feedback of our stakeholders will assist us in raising the standards of the operations of search & rescue coordination in PNG.

The Bill can be obtained using this NMSA website address: -<https://www.nmsa.gov.pg/conventions-and-national-legislations/legislation-review/>.

The following are the designated portals for stakeholders' feedback:

- 1) Email address - Legislation@nmsa.gov.pg; and
- 2) Post Office mail - The Legal Services Manager
National Maritime Safety Authority
P.O Box 668,
PORT MORESBY
National Capital District
[Attention: Senior Legislation Officer-Legislation](#)

All responses to the legal reform are to be submitted by Friday 29th November 2024 at 4 pm.

Final remarks

Having and maintaining a well-equipped and fully operational MRCC will raise the standard of SAR in the PNG shipping industry and awareness of mariners' duties and the role of maritime SAR. A lot of responsibility will be placed on the NMSA to maintain the effective operations of the MRCC and effective coordination with its stakeholders for information sharing and implementation of roles and functions to support SAR coordination with the changing technology. Other challenges that we hope to overcome will

be in NMSA's outreach to mariners in complying with loading and safety regulations and maintaining proper records of manifestos, and incidents to avoid underreporting and proper responses to distress signals or the safety test calls regularly. To guide the reform going forward, close communications will be maintained with relevant stakeholders to assist the NMSA in effectively delivering its SAR coordination.

Recommendation

NMSA requests your feedback to ensure that the proposed Maritime SAR Bill will be a practical guide to all maritime users in Papua New Guinea and our neighboring countries.

Annexures

Refer to the following annexures to this Concept Paper for more details of the Consultations:

- 1) Annexure A – Consultation Road Map;
- 2) Annexure B – Explanatory Note of the Maritime Search & Rescue Bill; and
- 3) Annexure C – Circular Notice and Consultation Schedule for all stakeholders.

Annexure A

Consultation Road Map



CONSULTATION ROAD MAP

Maritime Search & Rescue Bill Consultations

The NMSA Legal Department and the Maritime Rescue Coordination Centre have been developing the Maritime Search & Rescue Bill in the recent past. There have been several internal consultations done within the NMSA which has led to the version of the Bill which is published for review.

On the 30th of July, 2024 the NMSA GM CEO approved for publication an invitation to the general public to attend a series of consultations. The Consultations are to provide awareness of a proposed legislative framework for maritime search and rescue (SAR) coordination and administration in PNG.

The consultations will provide an opportunity for feedback from the stakeholders of the NMSA to add value to the legislative reform work that has been done.

We will be hosting the consultations on the following dates, centres, and venues:

No.	Dates	Centre	Venue
1	3 rd – 4 th September	Arawa, Autonomous Region of Bougainville	Bovotel Hotel
2	10 th – 11 th September	Kokopo, East New Britain Province	Gazelle International Hotel
3	18 th – 19 th September	Lae, Morobe Province	Lae International Hotel.
4	24 th – 25 th September	Madang, Madang Province	Madang Resort
5	1 st -2 nd October	Alotau, Milne Bay Province	Alotau Bay Hotel
6.	8 th -9 th October	Port Moresby, National Capital District	Crown Hotel

We anticipate that all feedback will be received by the 29th of November 2024 at 4 pm.

After the feedback from the consultations is incorporated into the draft Bill, we will update the stakeholders with the final version of the Bill which will be put through to the Office of the State Solicitor for legal clearance.

Once the legal clearance is completed, we will submit the Bill with the relevant certification to the National Executive Council for its approval in the first and second quarter of 2025. We aim to keep our stakeholders updated on our progress.

For further information, please send us an e-mail to Legislation@nmsa.gov.pg. We will reply to e-mails and social media comments immediately or weekly if need be.

Annexure B

Explanatory Notes & MSAR Bill

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 makes 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.

Fourth Draft (Edited Version) of 05/08/24 incorporating changes as proposed in DIs of 17/8/23 – and
DI on Third Draft of 24/7/24

[Done after consultations with Ms Yaninen on Friday 02/08/24]

Fourth Draft (Edited Version) of 05/08/24

Version of 6/8/24 – Parts underline & shaded yellow are changes made for purposes of conformity
with intent of Bill, & Clause 5(2) inserted to give force of law to International Conventions]



No. of 2024.

A Bill for

An Act

entitled

MARITIME SEARCH AND RESCUE BILL 2024

Certified on: / / 2024.



NO. OF 2024.

A BILL FOR

AN ACT

ENTITLED

MARITIME SEARCH AND RESCUE BILL 2024,

ARRANGEMENT OF CLAUSES.

PART I – PRELIMINARY

1. Object and Purpose.
2. Compliance with Constitutional requirements.
3. Application of this Bill.
4. Interpretation

"aircraft"

"alerting posts"

"Chairperson"

"Committee"

"Director of MARSAR"

"IAMSAR Manual"

"incident"

"Manager of MRCC"

"Minister"

"MRCC"

“MSAR Plan”

“Postal vote”

“NiuSky Pacific Limited”;

"prescribed".

"rescue";

“SAR”

“SAR Convention”

“SAR Coordinator”

“Secretariat”

“Search and Rescue”

“Search and Rescue Region”

“ship”

“SOLAS Convention”

“SRR”

“State”

“the Conventions”

"this Bill"

PART II. – INTERNATIONAL CONVENTIONS.

5. International Conventions that apply in this Bill.

PART III. – DUTY OF MARINERS.

6. Interpretation of this Part.
7. General duty of mariners.
8. Duty of mariners to render assistance in case of collision.
9. Duty of master of the vessel to report casualty and incident.
10. Registration of distress and emergency beacons.
11. General.
12. Operational requirements.
13. Types of reports.
14. Use of systems.
15. Reporting of aircraft or ship in distress.

16. Obstruction and hoxes.

PART IV. – ESTABLISHMENT OF MARITIME SEARCH AND RESCUE COMMITTEE.

17. Establishment and purpose of the Committee.
18. Functions of the Committee.
19. Powers of the Committee.
20. Meetings of the Committee.
21. Sub-committees.
22. Secretariat.

PART V. – SAR COORDINATION AND SERVICES.

23. Arrangements for provision and coordination of search and rescue services.
24. Establishment of rescue co-ordination centres and sub-centres.
25. Co-ordination with aeronautical services.
26. Equipment of search and rescue units.

PART VI. – CO-OPERATION BETWEEN PAPUA NEW GUINEA AND OTHER STATES.

27. Co-operation between Papua New Guinea and other States.

PART VII. – OPERATING PROCEDURES.

28. Preparatory measures.
29. Information concerning emergencies.
30. Initial action.
31. Emergency phase.
32. Procedures to be followed by rescue co-ordination centres and rescue sub-centres during emergency phases.
33. Co-ordination when two or more parties are involved.
34. On-Scene coordination of search and rescue activities.
35. Termination and suspension of search and rescue operations.

PART VIII. – MSAR DIVISION.

36. Director of MSAR.
37. Maritime search and rescue region.
38. Maritime rescue coordination centre.
39. Function of MRCC.
40. Manager of MRCC.

- 41. Rescue sub-centres.
- 42. Maritime search and rescue plan.
- 43. Joint rescue coordination centre.
- 44. Co-operation with other rescue coordination centres.

PART IX. – ADMINISTRATION.

- 45. Budget.
- 46. Establishment of Maritime Search and Rescue Trust Fund.
- 47. Application of Public Finance (Management) Act 1995.
- 48. Payments from the Trust Fund.
- 49. Establishment of Trust Account.

PART X. – MISCELLANEOUS.

- 50. Reports.
- 51. Exemption from liability.
- 52. Request for assistance of aircraft and ships.
- 53. Recovery of certain expenses.
- 54. Regulations.
- 55. Transitional provisions.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 2024.

A BILL

For

AN ACT

Entitled

MARITIME SEARCH AND RESCUE BILL 2024.

Being a Bill for an Act to –

- (a) provide awareness of maritime search and rescue coordination by the National Maritime Safety Authority;
- (b) co-ordination and provision of services for maritime search and rescue operation and services in Papua New Guinea;
- (c) guide the effective co-ordination and administration of maritime search and rescue operations in Papua New Guinea and along regional maritime borders of Papua New Guinea;
- (d) establish a Maritime Search and Rescue Fund which shall be called MSARFUND; and
- (e) codify relevant international standards as appropriate for the rescue coordination region of Papua New Guinea,

and for related purposes.

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the National Executive Council.

PART I. – PRELIMINARY.

1. OBJECT AND PURPOSE.

The primary objects of the Bill are to –

- (a) guide the effective co-ordination and administration of maritime search and rescue operations in Papua New Guinea and along its regional maritime borders; and
- (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; and
- (c) ensuring that Papua New Guinea's obligations under the International Convention for the Safety of Life at Sea, 1974 and the International Convention on Maritime Search and Rescue, 1979 are observed; and
- (d) ensuring the provision of services and facilities for maritime search and rescue operations as efficiently and economically as practicable.

2. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Bill, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the **Constitution**, namely:

- (a) the right to freedom conferred by Section 32; and
- (b) the right to liberty of person conferred by Section 42; and
- (c) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (d) the right to freedom of employment conferred by Section 48; and
- (e) the right to privacy conferred by Section 49; and
- (f) the right to freedom of movement conferred by Section 52; and
- (g) the protection from unjust deprivation of property conferred by Section 53,

is a law that is made for the purpose of giving effect to the public interest in public order, public safety and public welfare.

(2) For the purposes of Section 41 and 42 of the **Organic Law on Provincial Governments and Local Level Governments (Organic Law)**, it is declared that this Bill is on a matter specified in Section 42 or 44 of the *Organic Law* and therefore prevails over any Provincial or Local Level Government law.

(3) For purposes of Section 41 (6) of the *Organic Law*, it is declared that this Bill shall be enacted as an Act of Parliament on a matter specified in Section 42 or 44 of the *Organic Law* and prevails over any Provincial or Local Level Government law.

3. APPLICATION OF THIS BILL.

(1) Subject to the **Constitution**, this Bill or any other law, the Conventions listed in Clause 5 shall have the force of law of the Independent State of Papua New Guinea subject to any such modifications as are necessary to suit the circumstances in Papua New Guinea.

(2) This Bill shall apply in respect of maritime search and rescue incidents but shall not prejudice the application of any law related to the management of a declared natural disaster.

(3) Notwithstanding Subclause (2), the provision of a maritime search and rescue services or conduct of a maritime search and rescue operation during a natural disaster may be guided by the IAMSAR Manual.

(4) This Bill applies to shipowner, operator, master, and passenger operating and travelling within the Papua New Guinea search and rescue region which includes all of the coastlines and inland waterways.

(5) Further to Subclause (1), this Bill shall not apply to the extent of its inconsistency with the following Acts:

- (a) the **Merchant Shipping Act 1975**;
- (b) the **Civil Aviation Act 2000** (as amended);
- (c) the **National Maritime Safety Authority Act 2003**;
- (d) the **Small Crafts Act 2011** and related laws;
- (e) the **Marine Pollution (Preparedness and Response) Act 2013**, and
- (f) the **Maritime Zones Act 2015**.

(6) Any law that is inconsistent with this Bill shall be ineffective to the extent of the inconsistency.

(7) This Bill binds the State.

4. INTERPRETATION.

In this Bill, unless the context indicates otherwise, or contrary intention appears –

"**aircraft**" means any machine that can derive support in the atmosphere from the reactions of the air other than the reactions of the air against the earth's surface;

"**alerting post**" means any facility intended to serve as an intermediary between a person reporting an emergency and the Maritime Rescue Co-ordinating Centre, and shall include but shall not be limited to–

- (a) coastal radio station; and
- (b) air traffic service units; and
- (c) public safety units such as police, National Disaster and Emergency Services and fire departments; and
- (d) ships; and

(e) aircraft; and

(f) other persons or facilities which may receive and relay such alerts;

"AIS" is the acronym for Automatic Identification System;

"Chairperson" means the person appointed under Clause 17(2)(a) or nominated to chair the Committee established under Clause 17;

"Committee" means the Maritime Search and Rescue Committee established under Clause 17;

"Director of MSAR" means the person appointed as the director of MSAR under Clause 36;

"EPIRB" is the acronym for Emergency Position Indicating Radio Beacon;

"IAMSAR Manual" means the International Aeronautical and Maritime Search and Rescue Manual 2013 and as amended from time to time;

"Manager of MRCC" means the person appointed pursuant to Clause 40 and is operationally responsible for the functions of the MRCC;

"GMDSS" is the acronym for Global Maritime Distress Safety System;

"Maritime Search and Rescue Region" means an area of defined dimensions, associated with a rescue coordination centre, within which search and rescue services are provided;

Search and rescue services" [NMSA to provide meaning (per DI p3 (j) on 3rd draft)

"Minister" means the minister responsible for maritime transport matters or where applicable maritime search and rescue operations;

"MRCC" means the Maritime Rescue Coordination Centre responsible for promoting efficient organization of search and rescue services and for coordinating the conduct of search and rescue operations within a search and rescue region established under Clause 38;

"MSAR Plan" means the maritime search and rescue plan established under Clause 42;

"postal vote" means a vote expressed by a committee member in writing to the secretariat through electronic means;

"PNGSAR" is the acronym for Papua New Guinea Search and Rescue body established under this Bill;

"prescribed" means prescribed by regulation;

"rescue" includes the provision of the initial medical treatment of a person rescued;

"SAR" means maritime search and rescue;

"SAR Convention" means the international Convention on maritime search and rescue adopted on 27 April 1979 by the Maritime Safety Committee of the International Maritime Organization;

"SAR Coordinator" means the official temporarily assigned to coordinate response to an actual or apparent distress situation;

"Secretariat" means the entity established under Clause 22;

"search" means an operation, normally coordinated by a rescue co-ordination centre or rescue sub-centre, using available personnel and facilities to locate persons in distress;

“search and rescue services” means the performance of distress monitoring, communication, coordination and search and rescue functions, including provisions of medical advice, initial medical assistance, or medical evacuation, through the use of public private resources including cooperating aircraft, vessels and other craft and installations;

“search and rescue unit” means a unit composed of trained personnel and provided with equipment suitable for expeditious conduct of search and rescue operations;

“rescue sub-centre” means a unit subordinate to the rescue coordination center and established to complement the rescue coordination centre with its defined roles under Clause 41;

“ship” means a boat or craft used in navigation whether it has any means of propulsion, and also includes –

- (a) a barge, lighter, or other like vessel;
- (b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of the air against the surface of the water over which it operates;
- (c) a submarine or other submersible;

“SOLAS Convention” means the international Convention for Safety of Life at Sea 1974 as affected by any amendment other than amendments that are not accepted by the State which was made and came into force under Article VIII of the Convention including protocol of 1978 relating to the Convention;

“SRR” means the region notified by the Minister which MRCC is responsible for coordinating search and rescue operations as part of the global system for coordination of maritime search and rescue;

“State” means the Independent State of Papua New Guinea;

“the Conventions” mean –

- (a) the International Convention on Maritime Search and Rescue adopted on 27 April 1979 by the Maritime Safety Committee of International Maritime organization; and
- (b) the International Convention for Safety of Life at Sea 1974 as affected by any amendment;

“this Bill” includes the regulations.

PART II.- INTERNATIONAL CONVENTIONS.

5. INTERNATIONAL CONVENTIONS THAT APPLY IN THIS BILL.

(1) The International Conventions adopted by Papua New Guinea as a Party to these Conventions are:

- (a) International Convention for the Safety of Life at Sea (SOLAS);
- (b) Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS);
- (c) International Convention on Maritime Search and Rescue 1979;

- (d) United Nations Convention on the Law of the Sea;
- (e) IAMSAR Manual adopted in November 1999, jointly published by IMO and the International Civil Aviation Organization (ICAO)
- (f) Convention on International Civil Aviation done at Chicago on the 7th day of December 1944.

(2) The International Conventions listed in Subclause (1) have the force of law in Papua New Guinea.

(3) For avoidance of doubt, the IAMSAR Manual in Subclause (1)(e) also has the force of law in Papua New Guinea.

PART III.- DUTIES OF MARINERS.

6. INTERPRETATION OF THIS PART.

In this part –

“**mariners**” mean seafarers who operate ships that transport cargo and passengers for commercial purposes and include the master, owner and crew of a vessel;

“**vessel**” does not include a “small craft” within the meaning of the *Small Craft Act 2011*.

7. GENERAL DUTY OF MARINERS.

(1) It is the general duty of all mariners upon the high seas and all waters connected to the high seas and navigable by seagoing vessels to ensure:

- (a) at all times that a proper look-out is maintained by sight and hearing as well as all available means (which includes safe speed) appropriate in prevailing circumstances so as to make a full appraisal of the situation and of the risk of collision.
- (b) when proceeding along the course of a narrow channel or fairway the vessel is kept as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable;
- (c) a vessel 20 metres in length or a sailing vessel does not impede the passage of a vessel which can safely navigate only within a narrow channel or fairway; or
- (d) if such crossing impedes the passage of a vessel which can safely navigate only within such channel or fairway;
- (e) the vessel crosses traffic lanes as nearly as practicable at right angles to the general direction of the traffic flow.

(2) Fishing vessels shall not impede the passage of any vessel following a traffic lane.

(3) If a vessel is obliged to cross traffic lanes it shall do so nearly as practicable at right angles to the general direction of the traffic flow.

8. DUTY OF MARINERS TO RENDER ASSISTANCE IN CASE OF COLLISION.

(1) In case of a collision, it is the duty of the master in command of the vessel, as far as practicable, without danger to his own vessel, crew or passengers (if any):

- (a) to offer the other vessel, her master, crew or passengers (if any) such assistance as is necessary in order to preserve life and property from further harm or injury that may have occurred as a result of the collision; and
- (b) shall not leave the other vessel until he is assured that she has no more need of further assistance from him;
- (c) both masters of the two vessels shall give to the other:
 - (i) his name as the person in charge of his vessel;
 - (ii) the name of his vessel;
 - (iii) the name of the port to which she belongs;
 - (iv) the names of the ports from which she comes and to which she is bound; and
 - (v) the name of the owner of the vessel.

(2) The master of a vessel involved in a collision is guilty of an offence if he fails to observe any of the requirements under Clause 5.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months or both.

9. DUTY OF MASTER OF THE VESSEL TO REPORT CASUALTY AND INCIDENT.

(1) The master of the vessel involved in a collision who has left the other vessel after offering it assistance shall notify the NMSA of the casualty or incident as soon as practicable.

(2) It is an offence if the requirement of Subclause (1) is not observed.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months or both.

10. REGISTRATION OF DISTRESS AND EMERGENCY BEACONS.

(1) It is a requirement under this Part to register with the NMSA:

- (a) all distress and emergency beacons; and
- (b) all lifesaving equipment and appliances.

(2) The NMSA shall issue a SAR certificate when the distress and emergency beacons are registered and the requirements under this Clause is fully satisfied upon inspection of a vessel.

(3) Every vessel is required to have a minimum emergency response system, including:

- (a) AIS installed and operational;
- (b) GMDSS radio system installed and fully operational;
- (c) Coastal monitoring system fully operational.

(4) It is an offence for a person not to register a beacon or an emergency device, including the following:

- (a) an Emergency Position-Indicating Radio beacon (EPIRB);
- (b) an aviation distress beacon (ELT);
- (c) a personal distress beacon (PLB); and
- (d) a satellite emergency notification device (SEND).

Penalty: Individual – A fine not exceeding K10,000.00 or imprisonment for a term not exceeding six months or both.

Corporation: A fine not exceeding K40,000.00, Default penalty: K1,000.00 per day the beacon or device is not registered.

(5) For avoidance of doubt, all SAR personnel shall treat every distress alert as genuine until they know differently.

11. GENERAL.

(1) Ship reporting systems may be established either individually within Papua New Guinea to monitor its own search and rescue operations or in co-operation with other Pacific Island States, where this is considered necessary to facilitate search and rescue operations.

(2) If co-operation with other States is contemplated to institute a ship reporting system the States who are parties to the SAR Convention shall take account of the relevant recommendations of the SAR Convention.

(3) The States that are co-operating to institute a ship reporting system shall also consider whether existing reporting systems or other sources of ship position data can provide adequate information for the region, and seek to minimize unnecessary additional reports by ships, or the need for rescue co-ordination centres to check with multiple reporting systems to determine availability of ships to assist with search and rescue operations.

(4) The ship reporting system shall provide up-to-date information on the movements of vessels in order, in the event of a distress incident to:

- (a) reduce the interval between the loss of contact with a vessel and the initiation of search and rescue operations in cases where no distress signal has been received;
- (b) permit rapid identification of vessels which may be called upon to provide assistance;

- (c) permit delineation of a search area of limited size in case the position of a person, a vessel or other craft in distress is unknown or uncertain; and
- (d) facilitate the provision of urgent medical assistance or advice.

12. OPERATIONAL REQUIREMENTS.

Ship reporting systems shall satisfy the following requirements:

- (a) provision of information, including sailing plans and position reports which would make it possible to determine the current and future positions of participating vessels;
- (b) maintenance of a shipping plot;
- (c) receipt of reports at appropriate intervals from participating vessels;
- (d) simplicity in system design and operation; and
- (e) use of an internationally agreed standard ship reporting format and procedures.

13. TYPES OF REPORTS.

A ship reporting system shall incorporate the following types of ship reports in accordance with the recommendations of the SAR Convention:

- (a) Sailing plan;
- (b) Position report; and
- (c) Final report.

14. USE OF SYSTEMS.

(1) Papua New Guinea and the States which by agreement have incorporated a ship reporting system shall encourage 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.

(2) Individual States recording information on the position of vessels shall disseminate, so far as practicable, such information to other States when so requested for search and rescue purposes.

15. REPORTING OF AIRCRAFT OR SHIP IN DISTRESS.

Any person who knows or has reason to believe that an aircraft or ship is in distress shall report the occurrence at the nearest alerting post.

16. OBSTRUCTION AND HOAXES.

(1) It is an offence if any person, without lawful or reasonable excuse obstructs, hinders, hoaxes or in any way interferes with a person engaging in any activity as a member, officer or volunteer of an agency performing a role or discharging a responsibility in accordance with this Bill, the MSAR Plan or any Regulation made under this Bill.

(2) A police officer may arrest without warrant, any person whom the officer has reasonable cause to believe is acting in breach of Subclause (1).

(3) Upon conviction, the person shall be liable to a fine not exceeding K10,000 or imprisonment not exceeding 12 months or both.

PART IV. – ESTABLISHMENT OF THE NATIONAL MARITIME SEARCH AND RESCUE CO-ORDINATING COMMITTEE.

17. ESTABLISHMENT AND PURPOSE OF THE OF THE COMMITTEE.

- (1) The Maritime Search and Rescue Co-ordinating Committee is hereby established.
- (2) The Committee shall comprise of the following members –
 - (a) the head of the National Maritime Safety Authority, *ex officio*, or his nominee, who shall be the Chairperson of the Committee;
 - (b) the Commander of the Papua New Guinea Defence Force, *ex officio* or his nominee who shall be the deputy Chairperson of the Committee;
 - (c) the Commissioner of the Royal Papua New Guinea Constabulary, *ex officio* or his nominee;
 - (d) the head of department responsible for health matters, *ex officio* or his nominee;
 - (e) the head of the department responsible for provincial affairs matters, *ex officio* or his nominee;
 - (f) the Director of Civil Aviation and Safety Authority, *ex officio* or his nominee;
 - (g) the Managing Director of NiuSky Pacific Limited, *ex officio* or his nominee;
 - (h) the head of National Information Communication and Technology Authority (NICTA), *ex officio* or his nominee;
 - (i) the head of the department responsible for Information and Communication Technology (DICT), *ex officio* or his nominee;
 - (j) the head of National Disaster Management Office, *ex officio* or his nominee;
 - (k) the head of St. Johns Ambulance or persons responsible for providing ambulance services;
 - (l) one member nominated by the Ship Owners' Association;

(m) one member representing an environmental non-government organization.

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

(4) Any person appointed to be a member of the Committee shall perform his role consistent with the objects of this Bill, including overseeing the implementation of the IAMSAR Manual and the PNG MSAR Plan.

(5) The Chairperson of the Committee and the Minister shall be signatories to the PNG MSAR Plan.

18. FUNCTIONS OF THE COMMITTEE.

The Committee shall –

- (a) consider proposals and make decisions regarding the effective implementation of this Bill and of the State's obligations arising from the SOLAS Convention and the SAR Convention and any other relevant international instruments;
- (b) advise the Minister of proposals in respect of international agreements or operation arrangements with SAR organizations of other States;
- (c) 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;
- (d) approve the SAR budget and oversee the expenditure of appropriate funds;
- (e) amend the policies and procedures in the MSAR Plan and advise the Minister and all stakeholders; and
- (f) carry out such other functions as conferred upon it by or, as are required to give functional effect to this Bill;
- (g) ensure that the performance of the functions of MSAR is in a manner which promotes efficient economic and effective use of resources;
- (h) cooperate with disaster management agencies to implement search and rescue services in Papua New Guinea;
- (i) promote for strategic collaboration between the aviation and maritime search and rescue agencies to improve efficiencies and effectiveness in search and rescue;
- (j) in collaboration with the agency responsible for the implementation of the ***Small Craft Act 2011***, to promote community awareness on safety through the maritime rescue sub-centres as part of maritime search and rescue centre's educational and promotional services responsibilities.

19. POWERS OF THE COMMITTEE.

(1) The Committee shall have such powers as are necessary to enable it to perform its functions under this Bill, including but not limited to the following –

- (a) as and when necessary, set up sub-committees;
- (b) delegate but not the power to delegate various functions under this Bill to such sub-committees;
- (c) as and when required to approve joint rescue operations coordinating Sub-committees made up of the aeronautical search rescue coordination centres and maritime search and rescue coordination centres.

(2) Committee shall have the power to develop its own governance procedures to ensure efficient and effective delivery of SAR services and operations.

(3) Subject to this Bill, the Committee shall do other things that are necessary and lawful to promote efficiency and effectiveness in the delivery of search and rescue services and operations in Papua New Guinea.

20. MEETINGS OF THE COMMITTEE.

(1) The Committee shall meet at least once in every three months but shall hold such meetings as are necessary for the efficient performance of its functions and at such time and place as the Committee determines or as the Chairperson directs due to circumstances dictating the frequency, manner and method of meeting.

(2) The Committee may hold virtual meetings with the aid of technology as and when necessary due to prevailing circumstances that might restrict in person meetings.

(3) Any member of the Committee who is unable to attend a meeting of the Committee shall appoint a representative either in writing or verbally to the Chairperson or the Secretariat and the representative shall have the same powers as the member at that meeting, to vote and be counted towards the quorum.

(4) The Secretariat shall provide written notice of a meeting to each Committee member and such notice may be delivered by hand or sent by post, email or other mode of transmission to an address supplied to the Secretariat for that purpose.

(5) The Chairperson shall preside at all meetings of the Committee, and if the Chairperson is absent at any meeting, the Deputy Chairperson shall preside, and in the event that both the Chairperson and the Deputy Chairperson are unavailable, the members present shall amongst themselves appoint a member to preside as the Chairperson of that meeting.

(6) At any meeting of the Committee, one more than the total number of members shall constitute the quorum.

(7) Where a meeting cannot be convened because of lack of quorum, the Chairperson shall secure the votes of the members through a circular resolution which shall be endorsed at the next Committee meeting.

(8) A matter raised at any meeting shall be decided by majority votes of the members present, and if there is an equality of vote, the Chairperson or acting Chairperson has a casting vote.

(9) The Committee may invite a person to attend a meeting for the purpose of advising the Committee on any issue or matter under consideration, but such person shall not have the right to vote or count towards a quorum.

(10) Consistent with this Bill, the Committee may enact its own procedures as it deems fit to effectively carry out its functions.

21. SUB-COMMITTEES.

(1) The Committee may, from time to time establish sub-committees and delegate certain functions to the sub-committees to deliberate and advise the Committee.

(2) The process of appointment, functions and procedures of sub-committees, and the fees and allowances that shall be paid shall be determined by the Committee.

22. SECRETARIAT.

(1) The National Maritime Safety Authority as the agency responsible for coordinating search and rescue activities shall be responsible for carry out the Secretariat functions in support of the Committee.

(2) The Secretariat shall –

- (a) arrange the meetings of the Committee, provide support and initiate follow-up actions;
- (b) prepare budget and account of the income and expenditure related to co-ordination and carriage of maritime search and rescue services for the Committee's approval;
- (c) maintain data, a library and statistics in respect of maritime search and rescue;
- (d) conduct reviews and case studies on maritime search and rescue; and

(3) Perform such other functions as may be directed by the Committee, the Director of MSAR or the Minister.

PART V. – SAR COORDINATION AND SERVICES.

23. ARRANGEMENTS FOR PROVISION AND CO-ORDINATION OF SEARCH AND RESCUE SERVICES.

(1) Rescue co-ordination centres in the Pacific Island region including Australia and New Zealand shall, as they are able to do so individually or in co-operation with other Pacific Island States

and, as appropriate, participate in the development of search and rescue services to ensure that assistance is rendered to any person in distress at sea.

(2) On receiving information that any person is, or appears to be, in distress at sea, the responsible authorities in the region shall take urgent steps to ensure that the necessary assistance is provided.

(3) In engaging in a search and rescue service in the region, a rescue co-ordination centre:

- (a) shall, as far as practicable, follow relevant minimum standards and guidelines developed under the SAR Convention; and
- (b) shall seek to promote consistency, where applicable, between Papua New Guinea's maritime and aeronautical search and rescue services and that of other States in the region which are or shall be established by agreement; and
- (c) while having accepted responsibility to provide search and rescue services for a specified area shall use search and rescue units and other facilities for providing assistance to a person who is, or appears to be, in distress at sea; and

24. ESTABLISHMENT OF RESCUE CO-ORDINATION CENTRES AND RESCUE SUB-CENTRES.

(1) Consistent with Clause 36(1) the NMSA is the rescue co-ordination centre for search and rescue services in Papua New Guinea.

(2) The MRCC shall establish rescue sub-centres in such provinces as the Committee directs or is considered appropriate by the Director of MSAR.

(3) Each rescue sub-centre established in accordance with this Clause shall arrange for the receipt of distress alerts originating from within its search and rescue boundary.

(4) Every such sub-centre established in accordance with Subclause (2) shall ensure that it has communications facilities to communicate with persons in distress, with search and rescue facilities, and with other rescue co-ordination centres or rescue sub-centres within its boundaries.

(5) The rescue co-ordination centre and rescue sub-centres shall be operational on a 24-hour basis and be constantly staffed by trained personnel having a working knowledge of the English language.

25. CO-ORDINATION WITH AERONAUTICAL SERVICES.

(1) The rescue co-ordination centre and the rescue sub-centre in the province where the search and rescue services are carried out shall 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.

(2) Whenever practicable, Papua New Guinea shall establish joint rescue co-ordination centres and rescue sub-centres with other States to serve both maritime and aeronautical purposes.

(3) Whenever separate maritime and aeronautical rescue co-ordination centres or rescue sub-centres are established under Subclause (2) to serve the same area, the State concerned shall ensure the closest practicable co-ordination between its rescue co-ordination centre or the rescue sub-centres.

(4) Both States involved in the search and rescue operation shall ensure as far as practicable the use of common procedures by search and rescue units established for maritime purposes and those established for aeronautical purposes.

26. EQUIPMENT OF SEARCH AND RESCUE UNITS.

(1) Each search and rescue unit shall be provided with equipment appropriate to its task.

(2) Containers and packages containing survival equipment for dropping to survivors shall have the general nature of their contents indicated by markings in accordance with standards adopted under the SAR Convention.

PART VI. – CO-OPERATION BETWEEN PAPUA NEW GUINEA AND OTHER STATES.

27. CO-OPERATION BETWEEN PAPUA NEW GUINEA AND OTHER STATES.

(1) Papua New Guinea shall whenever necessary co-ordinate search and rescue operations with neighbouring States.

(2) Unless otherwise agreed between Papua New Guinea and the other State, that State shall not authorize, immediate entry into or over Papua New Guinea's territorial sea or territory of rescue units solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties unless so authorised by the applicable national laws, rules or regulations.

(3) To give effect to Subclause (2), search and rescue operations shall, as far as practicable, be co-ordinated by the appropriate rescue co-ordination centre of the State concerned which has authorized entry, or such other authority as has been designated by that State.

(4) Unless otherwise agreed between Papua New Guinea and another State, the State which wishes its rescue units to enter into or over the territorial sea or territory of the other State solely for the purpose of searching for the position of maritime casualties and rescuing the survivors of such casualties, shall transmit a request, giving full details of the projected mission and the need for it, to the rescue co-ordination centre of the other State, or to such other authority as has been designated by that State.

(5) The rescue co-ordination centre or other responsible authorities of a State shall:

(a) immediately acknowledge the receipt of such a request given under Subclause (4); and

(b) as soon as practicable indicate the conditions, if any, under which the projected mission may be undertaken.

(6) Papua New Guinea shall enter into agreements with neighbouring States setting forth the conditions for entry of each other's rescue units into or over their respective territorial sea or territory, and such agreements shall also provide for expediting entry of such units with the least possible formalities.

(7) Each party to the agreement in Subclause (6) shall authorize its rescue co-ordination centres:

- (a) to request from other rescue co-ordination centres such assistance, including vessels, aircraft, personnel or equipment, as may be needed;
- (b) to grant any necessary permission for the entry of such vessels, aircraft, personnel or equipment into or over its territorial sea or territory; and
- (c) to make the necessary arrangements with the appropriate customs, immigration, health or other authorities with a view to expediting such entry; and
- (d) to ensure that its rescue co-ordination centres provide, when requested, assistance to the other State's rescue co-ordination centres, including assistance in the form of vessels, aircraft, personnel or equipment.

(8) Papua New Guinea shall enter into agreements with other States, where appropriate, to strengthen search and rescue co-operation and co-ordination, and shall authorize its responsible authority to make operational plans and arrangements for search and rescue co-operation with responsible authorities of other States.

(9) Papua New Guinea shall co-ordinate and co-operate with other States to ensure that masters of ships providing assistance embarking persons in distress at sea are released from their obligations with minimum further deviation from the ships intended voyage, provided that releasing the master of the ship from the obligations does not further endanger the safety of life at sea.

(10) To give effect to Subclause (10), the State responsible for the search and rescue region in which such co-ordination and co-operation occur, so that survivors assisted are disembarked from the assisting ship and delivered to a place of safety, taking into account the particular circumstances for the case and the guidelines developed by the concerned State consistent with the SAR Convention.

(11) In such cases prescribed under Subclause (10), the relevant State shall arrange for such disembarkation to be effected as soon as reasonably practicable.

PART VII.- OPERATING PROCEDURES.

28. PREPARATORY MEASURES.

(1) The Director of MSAR shall 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.

(2) The rescue co-ordination centre and rescue sub-centres shall have ready access to information regarding the position, course and speed of vessels within each provincial boundary which may be able to provide assistance to persons, vessels or other craft in distress at sea, and regarding how to contact them, which information shall either be kept in the rescue co-ordination centre or be readily obtainable when necessary.

(3) The rescue co-ordination centre and rescue sub-centre shall have detailed plans of operation for the conduct of search and rescue operations, where appropriate, these plans shall be developed jointly with the representatives of those who may assist in providing, or who may benefit from, the search and rescue services.

(4) The rescue co-ordination centre or sub-centres shall be kept informed of the state of preparedness of the search and rescue units.

29. INFORMATION CONCERNING EMERGENCIES.

(1) Papua New Guinea shall ensure that it is capable on a 24-hour basis of promptly and reliably receiving distress alerts from equipment used for this purpose within its search and rescue region.

(2) Any alerting post receiving a distress alert shall:

(a) immediately relay the alert to the rescue co-ordination centre or the appropriate rescue sub-centre, and then assist search and rescue communications as appropriate; and

(b) if practicable, acknowledge the alert.

(3) The Director of MSAR shall, where appropriate, ensure that effective arrangements are in place for the registration of communication equipment and for responding to emergencies, to enable any rescue co-ordination centre or sub-centre within the maritime search and rescue region is accessed pertinent to registration information quickly.

(4) Any authority or element of the search and rescue service having reason to believe that a person, a vessel or other craft is in a state of emergency shall forward as soon as practicable all available information to the rescue co-ordination centre or rescue sub-centre concerned.

(5) The rescue co-ordination centre and rescue sub-centres shall, immediately upon receipt of information concerning a person, a vessel, or other craft in a state of emergency, evaluate such information and determine the phase of emergency in accordance with Clause 31 and the extent of operations required.

30. INITIAL ACTION.

A search and rescue unit receiving information of a distress incident shall initially take immediate action if in the position to assist and shall in any case without delay, notify the rescue co-ordination centre or rescue sub-centre in whose area the incident has occurred.

31. EMERGENCY PHASE.

To assist in determining the appropriate operating procedures, the following emergency phases shall be distinguished by the rescue co-ordination centre or sub-centre concerned:

(a) Uncertainty phase:

- (i) when a person has been reported as missing, or a vessel or other craft is overdue; or
- (ii) when a person, a vessel or other craft has failed to make an expected position or safety report.

(b) Alert phase:

- (i) when, following the uncertainty phase, attempts to establish contact with a person a vessel or other craft have failed and inquiries to other appropriate sources have been unsuccessful; or
- (ii) when information has been received indicating that the operating efficiency of a vessel or other craft is impaired, but not to the extent that a distress situation is likely.

(c) Distress phase:

- (i) when positive information is received that a person, a vessel or other craft is in danger and in need of immediate assistance; or
- (ii) when, following the alert phase, further unsuccessful attempts to establish contact with a person, a vessel or other craft and more widespread unsuccessful inquiries point to the probability that a distress situation exists; or
- (iii) when information is received which indicates that the operating efficiency of a vessel or other craft has been impaired to the extent that a distress situation is likely.

32. PROCEDURES TO BE FOLLOWED BY RESCUE CO-ORDINATION CENTRES AND RESCUE SUB-CENTRES DURING EMERGENCY PHASES.

(1) Upon the declaration of the uncertainty phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall initiate inquiries to determine the safety of a person, a vessel or other craft, or shall declare the alert phase as in Clause 31.

(2) Upon the declaration of the alert phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall extend the inquiries for the missing person, vessel or other craft, alert appropriate search and rescue services and initiate such action, as is necessary in the light of the circumstances of the particular case.

(3) Upon the declaration of the distress phase, the rescue co-ordination centre or rescue sub-centre, as appropriate, shall proceed as prescribed in its plans of operation, as required by Clause 31.

(4) In the event of an emergency phase being declared for a search object whose position is unknown the following shall apply:

- (a) when an emergency phase exists, the SAR Co-ordinator shall, unless he is aware that other sub-centres are taking action, assume responsibility for initiating suitable action and confer with the concerned sub-centre with the objective of designating that sub-centre to assume responsibility.
- (b) unless otherwise decided by agreement between the sub-centres concerned, the centre to be designated shall be the centre responsible for the area in which the search object was according to its last reported position; and

(5) After the declaration of the distress phase, the rescue co-ordinating centre co-ordinating the search and rescue operations shall, if appropriate, inform other sub-centres of all the circumstances of the emergency and of all subsequent developments.

(6) Whenever possible, the rescue co-ordination centre or the rescue sub-centre responsible for search and rescue operations shall forward to the person, a vessel or other craft for which an emergency phase has been declared, information on the search and rescue operations it has initiated.

33. CO-ORDINATION WHEN TWO OR MORE STATES ARE INVOLVED.

For search and rescue operations involving more than one State, each State shall take appropriate action in accordance with the plans of operation referred to in Clause 23, when so requested by the rescue co-ordination centre of the region.

34. ON-SCENE CO-ORDINATION OF SEARCH AND RESCUE ACTIVITIES.

(1) The activities of search and rescue units and other facilities engaged in search and rescue operations shall be co-ordinated on-scene to ensure the most effective results.

(2) When multiple facilities are about to engage in search and rescue operations, and the rescue co-ordination centre or rescue sub-centre considers it necessary, the most capable person shall be designated as on-scene co-ordinator as early as practicable and preferably before the facilities arrive within the specified area of operation.

(3) Specific responsibilities shall be assigned to the on-scene co-ordinator taking into account the apparent capabilities of the on-scene co-ordinator and operational requirements.

(4) If there is no responsible rescue co-ordination centre or, for any reason, the responsible rescue co-ordination centre is unable to co-ordinate the search and rescue mission the facilities involved shall designate an on-scene co-ordinator by mutual agreement.

35. TERMINATION AND SUSPENSION OF SEARCH AND RESCUE OPERATIONS.

(1) Search and rescue operations initiated by Papua New Guinea and other States shall continue, when practicable, until all reasonable hope of rescuing survivors has passed.

(2) The responsible rescue co-ordination centre or rescue sub-centre concerned shall normally decide when to discontinue search and rescue operations, and if no such centre is involved in co-ordinating the operations, the on-scene co-ordinator may take this decision.

(3) When the rescue co-ordination centre or rescue sub-centre considers on the basis of reliable information, that a search and rescue operation has been successful, or that the emergency no longer exists, it shall terminate the search and rescue operation and promptly so inform any authority, facility or service which has been activated or notified.

(4) If search and rescue operation on-scene becomes impracticable and the rescue co-ordination centre or rescue sub-centre concludes that survivors might still be alive, the centre may temporarily suspend the on-scene activities pending further developments, and shall promptly so inform any authority, facility or service which has been activated or notified.

(5) In the event that Subclause (4) is invoked, information subsequently received shall be evaluated and search and rescue operations resumed when justified on the basis of such information.

PART VIII.- THE MSAR UNIT

36. DIRECTOR OF MSAR.

(1) The head of the agency responsible for coordinating maritime search and rescue services or operations shall be the Director of MSAR.

(2) The Director of MSAR shall –

- (a) receive and implement directions from and report to the Committee as required;
- (b) be the functional head of the Secretariat; and
- (c) generally, manage and supervise the work of the Manager of MRCC.

(3) The Director of MSAR shall at least once a year and when required by the Committee, furnish the Committee with a report on the activities of the MRCC.

(4) In the absence of the head of the agency responsible for coordinating maritime search and rescue, the acting head of the agency shall be the Director of MSAR.

(5) Notwithstanding Clause 20(1) the Director of MSAR may at any time call an emergency or special meeting when circumstances dictate.

(6) In the event the Director of MSAR calls an emergency or special meeting under Subclause (5), the requirement of a quorum under Clause 20(6) does not apply.

(7) If the emergency or special meeting is called because of a maritime or aeronautical incident where loss of lives is imminent all protocols of the Committee under Clause 20 in relation to meetings are inoperable.

37. MARITIME SEARCH AND RESCUE REGION.

(1) The maritime search and rescue region within which search, and rescue services shall be provided are as prescribed in the ***Maritime Zones Act 2015***.

(2) In the event, the boundaries or the area of the search and rescue is varied, the Minister shall by notice in the National Gazette publish the boundaries or the area of the revised maritime search and rescue region.

(3) In an emergency situation, if the Minister is out of reach or immediately unavailable or contactable, the Chairperson of the Committee established under Clause 10 or his authorized representative shall publish the notice prescribed under Subclause (2).

38. MARITIME RESCUE COORDINATION CENTRE.

(1) The National Maritime Safety Authority shall operate as the Maritime Rescue Coordination Centre.

(2) The MRCC shall generally promote efficient organization of search and rescue services and coordinate search and rescue operations within Papua New Guinea, as mandated under Section 4 of the ***National Maritime Safety Authority Act 2003***.

(3) As and where required, the MRCC shall participate in bilateral and regional SAR related activities.

(4) The MRCC shall be equipped with such personnel, facilities and equipment as required in order for it to perform effectively its functions, including coordination with neighboring SAR authorities and external SAR service providers.

39. FUNCTIONS OF MRCC.

(1) The Maritime Rescue Coordination Centre shall –

- (a) receive, acknowledge and relay notifications of distress from alerting posts;
- (b) coordinate maritime search response with SRR in Papua New Guinea; and
- (c) where applicable, coordinate maritime rescue responses and delivery of survivors to a place of safety.

(2) For avoidance of doubt, the duties of the MRCC do not extend to salvage of ships in distress.

(3) The MRCC shall perform its functions in a manner that promotes efficient, economic, and effective use of all internal and external resources and shall –

- (a) coordinate all participating search and rescue units and facilities within the area of responsibility;
- (b) conform to the search and rescue procedures as prescribed under the IAMSAR Manual and MSAR Plan;

- (c) establish close liaison and enter into agreements with any organization or entity having any search and rescue responsibilities;
- (d) propose to the Committee, international agreements or arrangements of a practical nature with neighboring States or external SAR service providers.
- (e) take immediate action to provide assistance or to initiate search and rescue operations; and
- (f) carry out such other functions as conferred upon it by this Bill and the MSAR Plan.

40. MANAGER OF MRCC.

(1) The MRCC shall be headed by the Manager of MRCC who shall be accountable to the Director of MSAR, and shall, at least once every six months and, when required by the Director of MSAR, furnish a report to the Director of MSAR on activities of the MRCC.

(2) The Manager of MRCC shall –

- (a) develop, coordinate, administer, review and evaluate plans, policies, procedures, standards and training requirements for SAR cooperation and coordination and recommend to the Committee for approval;
- (b) provide or arrange for use of SAR facilities;
- (c) maintain SAR plans, manuals and other SAR directives;
- (d) supervise SAR program training;
- (e) work nationally and internationally to establish recognized SAR regions;
- (f) establish and maintain liaison with appropriate SAR contacts nationally, regionally and internationally;
- (g) ensure compliance with the SAR provisions of International Maritime Organization and International Civil Aviation Organization Conventions and the relevant international instruments and agreements;
- (h) appoint SAR mission coordinators and designate on-scene commanders; and
- (i) carry out any other tasks as required by the Director of MSAR or to ensure full and effective implementation of this Bill, the MSAR Plan, policies, directives or international obligations and Conventions to which Papua New Guinea is a Party.

41. RESCUE SUB-CENTRES.

(1) The Director of MSAR may, acting on the advice of the Manager of MRCC, establish rescue sub-centres in other provinces where he considers that local control of SAR operations shall be more effective.

(2) The MRCC may assist provincial disaster offices to improve maritime SAR activities in the provinces by way of training, capacity development and coordination of maritime SAR activities and operations which and maybe identified as the rescue sub-centers.

42. MARITIME SEARCH AND RESCUE PLAN.

(1) The Committee may amend the MSAR Plan to give effect to the provisions of this Bill regarding the demarcation of roles of relevant entities in the SAR system in Papua New Guinea and the coordination of maritime search and rescue services.

(2) The MSAR Plan shall be consistent with the State's obligations under the SOLAS Convention and the SAR Convention and shall follow guidelines published in the IAMSAR Manual as updated from time to time.

(3) The amendment of the MSAR Plan shall reflect:

- (a) any changes made to the SAR Convention, the SOLAS Convention and the IAMSAR Manual expressed in Clause 5; or
- (b) any changes proposed for the system for SAR operations in Papua New Guinea.

(4) The Committee shall forward the amendments of the MSAR Plan made under Subclause (1) to the Minister for his approval.

(5) The Minister may request the Committee to advice on any SAR Plan and in the event that the Minister refuses to act on the recommendations of the Committee made under Subclause (1) to amend the MSAR Plan the Minister shall give his reasons with alternative policy direction to the Committee.

43. JOINT RESCUE COORDINATION CENTRE.

(1) The Committee may when appropriate promote for the establishment of a joint rescue operating centre to incorporate both aviation and maritime search and rescue operations in Papua New Guinea.

(2) If in the event the Committee desires to establish a joint rescue operating centre as expressed under Subclause (1), such functions shall be maritime search and rescue centre activities until such a time the search and rescue agencies propose a separate approach to collaboration in search and rescue activities in Papua New Guinea.

(3) The aviation and maritime agencies shall be responsible to promote a collaborative approach to the search and rescue services and operations in Papua New Guinea, including sharing of but not limited to:

- (a) manpower resources
- (b) trainings and exercises
- (c) infrastructure and communication facilities; and
- (d) systems and technologies.

44. CO-OPERATION WITH OTHER RESCUE COORDINATION CENTRES IN THE REGION.

(1) The Maritime Rescue Coordination Centre shall exchange information freely and cooperate with other rescue coordination centres in the Pacific Island region including Australia and New Zealand.

(2) With the prior approve of the Director of MSAR, the MRCC may hold joint exercises with other rescue coordination centers in order to:

- (a) foster and maintain close cooperation; and
- (b) ensure that the MRCC and other rescue coordination centers in the Pacific Island region have the several and joint capability to deal with search and rescue operations of any nature.

(3) The exercises in Subclause (2) may include external SAR service providers or any other relevant external persons.

PART IX- ADMINISTRATION.

45. BUDGET.

(1) The Minister shall ensure that an allocation is provided within the Ministry's annual budgetary estimate to finance the maritime search and rescue assets, operations, training and related activities.

(2) Any allocation provided under Subclause (1) shall be based on the Committee's resolution of the annual budgets and finances required for maritime search and rescued assets, operations, training and related activities.

(3) Apart from the funding support from the State under Subclause (1), the Maritime Search and Rescue Centre is encouraged to generate incomes to supplement its budget including operating search and rescue stores and selling search and rescue equipment such as life rafts and communication gadgets, and such like.

(4) Money's earned under Subclause (3) shall be remitted to the MSR Trust Fund.

46. ESTABLISHMENT OF MARITIME SEARCH AND RESCUE TRUST FUND.

The Maritime Search and Rescue Trust Fund is hereby established and shall vest in the National Maritime Safety Authority.

Division 1. - Application of Public Finances (Management) Act 1995.

47. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

The *Public Finances (Management) Act 1995* (as amended) applies to this Bill.

48. PAYMENTS FROM THE MARITIME SEARCH AND RESCUE TRUST FUND.

(1) All payments from the Maritime Search and Rescue Trust Fund shall only be approved by the Committee for –

- (a) expenditure incurred or to be incurred in maritime search and rescue services or operations;
- (b) the acquisition of maritime search and rescue equipment such as folding stretches, inflatable stretchers, neck braces, rescue hammers, emergency blankets, including the Leader Usar equipment range made up of the following complementary apparatus: Listening equipment (vibration or seismic detectors, also known as geostereo phones or life detector), search cameras to view victims, radar movement detectors and such like;
- (c) Personal equipment of rescue personnel such as helmet, protective clothing, protective boots, respiration appliances, safety belt, rope, etc., and fire equipment such as fire extinguisher, flame retardant, special fire engines and simple fire-fighting tools, etc.;
- (d) any search and rescue related training to equip personnel involved in SAR operations; and
- (e) the payment of any charges or expenses incidental to or arising from carrying out of any of the purposes referred to in Paragraphs (a), (b), and (c) including operational expenses of any public body or corporation for engagement in accordance with Clause 52 of this Bill.

(2) Notwithstanding the Committee's powers prescribed in Subclause (1), in the event of an emergency the Director of MSAR or in his absence the Manager of MRCC shall approve funding to be drawn from the MSR Trust Fund.

(3) The Committee shall determine the threshold limit of the funding to be approved by the Director of MSAR and the Manager MRCC.

49. ESTABLISHMENT OF TRUST ACCOUNT.

(1) In accordance with Section 15 of the **Public Finances (Management) Act 1995** (as amended) a Trust Account shall be established within the MSR Trust Fund.

(2) In accordance with Section 16 of the **Public Finances (Management) Act 1995** (as amended), there shall be paid to the credit of the Trust Account –

- (a) all moneys appropriated for the purpose of the Account; and
- (b) all moneys received from any dealing with any articles purchased or produced, or work paid for, with moneys standing to the credit of the Account; and
- (c) all moneys paid by any person for the purposes of the Account;

- (d) all amounts appropriated as Government contribution for purposes of search and rescue services and operations; and
- (e) all amounts appropriated as Government contribution for a project which is partly funded by an international agency, whether by way of loan or grant, and
- (f) all moneys paid by NMSA as contribution from the levies it collects in PART 6 (Charges and Levies) of the **National Maritime Safety Authority Act 2003** and other Acts, namely –
 - (i) maritime safety regulatory functions levy as prescribed in Section 41; and
 - (ii) carriage levy under the **Protection of the Sea Act**; and
 - (iii) aids to navigation levy (NMSA regulatory functions levy); and
 - (iv) other levies or charges collected by NMSA.

(3) For avoidance of doubt, the levies paid by NMSA to the Trust Fund under Subclause (2)(f) are for the purpose of supporting SAR services and operations.

50. REPORT.

(1) The Committee shall, at least once a year or, when required by the Minister, furnish to the Minister a report which shall contain, *inter alia*, the following-

- (a) activities of the Committee;
- (b) operational activities of MRCC;
- (c) an audited statement of accounts prepared in accordance with generally accepted accounting principles as adopted by the PNG Institute of Chartered Accountants;
- (d) such other information as may be required by the Minister.

(2) The Minister shall ensure that the report furnished pursuant to Subclause (1) is tabled in Parliament within 30 days from the date such report is received by the Minister.

(3) The Director of MSAR shall furnish to the International Maritime Organization such reports or information as required under the appropriate Convention and or any other relevant instrument related to maritime search and rescue.

51. EXEMPTION FROM LIABILITY.

Any person performing a role or discharging a responsibility in accordance with this Bill, the MSAR Plan or any Regulation made under this Bill shall not be liable for any injury or loss sustained by any other person, unless such loss or injury is caused by or arises from a negligent act or omission of the person.

52. REQUEST FOR ASSISTANCE OF AIRCRAFT AND SHIPS.

(1) Subject to Subclause (2), the Manager of MRCC may for purposes of any maritime search and rescue operations –

- (a) request any civil aircraft or vessel; or
- (b) where necessary, request assistance of any military aircraft or vessel; or
- (c) request any holder of a PNG aircraft flight crew licence or master of a ship to assist in a SAR operation.

(2) In a case where the Manager of MRCC contemplates requesting a civilian aircraft or vessel or instructing a civilian holder of a Papua New Guinea flight crew licences or master of a vessel, the Manager of MRCC may do so only if-

- (a) human life is in immediate and grave danger; and
- (b) there are no other means available to conduct the SAR operation.

(3) The owner of a civilian aircraft or vessel that has been specifically hired by the MRCC to participate in a maritime SAR operation may be reimbursed of all reasonable expenses that it has incurred in the operation.

53. RECOVERY OF CERTAIN EXPENSES.

If any search and rescue operation is carried out in response to any occurrence caused by the unlawful act or omission of any person, the Minister may recover from that person the whole or any portion of the expenses incurred in connection with that operation.

PART X.- MISCELLANEOUS

54. REGULATIONS.

The Head of State, acting on advice, may make regulations, not inconsistent with this Bill, prescribing all matters that by this Bill are permitted or required to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Bill and generally for achieving the purposes of this Bill, and without limiting the generality of the foregoing, regulations may be made for –

- (a) the conditions which shall be complied with when an external SAR service provider or any other person from another country which is a Party to the SAR Convention wishes to enter into Papua New Guinea for purposes of any operation or training related to SAR; or
- (b) anything which this Bill requires to be made or prescribed; or
- (c) any other matter that is necessary or expedient to be prescribed for the effective implementation of this Bill or for giving full effect to the obligations of Papua New Guinea under the SOLAS and the SAR Conventions; or

(d) on matters prescribed by this Bill the Committee desires to have regulations.

55.provisions of this Bill TRANSITIONAL PROVISIONS.

(1) Subject to any modifications as may be required to make it compliant with this Bill, the MRCC existing immediately prior to the commencement of this Bill, its staff, facilities and equipment shall continue to exist under this Bill.

(2) Any act that is carried out or obligation that is sustained prior to this Bill coming into force or rendered inoperable under this Bill or any other law shall be regarded as having been done under this Bill.

(3) Any deed, bond, agreement, instrument or arrangement to which the MRCC is a party subsisting immediately prior to the commencement of this Bill shall continue in force and be enforceable by or against the MRCC.

NOTES ON FOURTH DRAFT

1. Every attempt has been made to cover all parts of the DIs of 18 august 2023, DIs on Second Draft and DIs on Third Draft.
2. All parts underlined and shaded yellow are new additions for consistency and parts copied from the SAR Convention and SOLAS Convention have been redrafted to conform to the intent of the Bill as per DIs.
3. All references to Parties inferred in the Bill as Parties to the SAR and SOLAS Conventions have been omitted by redrafting to conform to the intent of the Bill. The clauses adopted from the two Conventions have been redrafted and inferences to Parties (by States) have been omitted.
4. The version forwarded to Ms Yaninen omitted to give the force of law to the Conventions listed in the Bill in Clause 5(1). This version has this provision drafted in Clause 5(2) and (3). Clause 5(3) is drafted to alleviate any uncertainty concerning the IAMSAR Manual since it does not contain the word "Convention".
5. All Clauses referenced in Clause 4 (Interpretation) have been cross-checked and corrected. The clauses underlined & shaded yellow are the correct clauses.

Annexure C

Circular Notices



GENERAL INVITATION TO INTERESTED MEMBERS OF THE PUBLIC

SUBJECT: MARITIME SEARCH & RESCUE LEGISLATIVE FRAMEWORK CONSULTATIONS

The National Maritime Safety Authority (NMSA) invites you to participate in a series of consultations closest to you in selected centres in PNG on a proposed legislative framework developed to provide a comprehensive legislative framework for the role of maritime search and rescue (SAR) coordination in PNG. This SAR coordination role is currently being done administratively within the NMSA per the National Maritime Safety Authority Act 2003. Your attendance and feedback will add value to this legal reform.

Please refer to the consultation details in the following table:

No.	Dates	Centre	Venue
1	3rd - 4th September	Arawa, Autonomous Region of Bougainville	Bovotel Hotel
2	10th - 11th September	Kokopo, East New Britain Province	Gazelle International Hotel.
3	18th - 19th September	Lae, Morobe Province	Lae International Hotel.
4	24th - 25th September	Madang, Madang Province	Madang Resort
5	1st -2nd October	Alotau, Milne Bay Province	Alotau Bay Hotel
6.	8th -9th October	Port Moresby, National Capital District	Crown Hotel

We further advise that the draft legislation, including its concept paper or explanatory notes, will be available online at www.nmsa.gov.pg for your reference.

For further queries or to confirm your Agency's attendance, please contact us by email at legislation@nmsa.gov.pg or call us on this telephone number: 3054600.

Authorised by:

The National Maritime Safety Authority


Mr. Paul M. Unas

General Manager/Chief Executive Officer

30th July, 2024



NATIONAL MARITIME SAFETY AUTHORITY

GENERAL INVITATION TO INTERESTED MEMBERS OF THE PUBLIC

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General Manager/Chief Executive Officer

30th July, 2024