

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN MARITIME AND AERONAUTICAL SEARCH AND RESCUE AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 75); explanatory summary of
Bill published in Government Gazette No. 35580 of 10 August 2012)
(The English text is the official text of the Bill)*

(MINISTER OF TRANSPORT)

[B 28—2012]

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[] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

To amend the South African Maritime and Aeronautical Search and Rescue Act, 2002; so as to insert a definition; to effect certain technical corrections; to expand the composition of the South African Search and Rescue Organisation (SASAR); to provide for the management committee and sub-committees of SASAR; to provide for SASAR to perform its functions outside the Republic's search and rescue regions in accordance with the Conventions; to provide for the head of SASAR to appoint a designate to preside over any meeting of SASAR; to provide for the head of SASAR to determine the time and place of the first meeting of the sub-committees of SASAR; to delete certain obsolete provisions; to compel all licence holders of aerodromes, airfields, heliports or helistops to file emergency plans with the aeronautical rescue co-ordination centre; to provide for the head of SASAR to publish the contact details of the places where a person can report an aircraft or a vessel that is in distress; and to provide for matters connected therewith.

Amendment of section 1 of Act 44 of 2002

Amendment of section 2 of Act 44 of 2002

Amendment of section 4 of Act 44 of 2002

3. Section 4 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

“Establishment and [object] objective of South African Search and Rescue Organisation”; and

- (b) by the substitution for subsection (2) of the following subsection:

“(2) (a) The **[object]** objective of SASAR is to ensure a co-ordinated and effective maritime and aeronautical search and rescue service within the South African search and rescue regions.

(b) Any person appointed in terms of this Act or **[concerned]** involved with the carrying out of the provisions thereof must perform his or her functions pursuant to the **[object]** objective of SASAR.”. 5

Substitution of section 5 of Act 44 of 2002

4. Section 5 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 10

“(1) SASAR **[is made up]** consists of representatives from **[those government departments and commercial and voluntary organisations which are signatories to the SASAR manual, contemplated in section 15, and which are able to contribute services and facilities for use by SASAR, including representatives of]**— 15

- (a) the Department;
- (b) the South African Maritime Safety Authority;
- (c) the South African Civil Aviation Authority;
- (d) the Air Traffic and Navigation Services Company Limited;
- (e) the South African National Defence Force; 20
- (f) the South African Police Service;
- (g) the National Ports Authority;
- (h) the Department of **[Provincial and Local Government]** Cooperative Governance and Traditional Affairs;
- (i) the Department of International Relations and Cooperation; 25
- (j) the Department of Home Affairs;
- (k) the Department of Environmental Affairs;
- (l) the Department of Health; and
- (m) the South African Weather Service.”; 30

- (b) by the insertion after subsection (1) of the following subsection: 30

“(1A) Commercial and voluntary organisations which are signatories to the SASAR manual contemplated in section 15, may also be members of SASAR.”;

- (c) by the substitution for subsection (2) of the following subsection:

“(2) SASAR **[has—]** consists of the following committees and sub-committees: 35

- (a) An executive committee;
- (aA) a management committee;
- (b) a maritime **[committee]** sub-committee; and
- (c) an aeronautical **[committee]** sub-committee.”; 40

- (d) by the deletion in subsection (4) of the word “and” at the end of paragraph (a);

- (e) by the substitution in subsection (4) for paragraph (b) of the following paragraph:

“(b) determine the size and composition of the **[other committees]** management committee and sub-committees of SASAR, depending on the areas of **[speciality]** expertise of the different members of SASAR[.]; and”;

- (f) by the addition to subsection (4) of the following paragraph:

(c) make recommendations to the Minister with regard to the governance of SASAR.; 50

- (g) by the substitution for subsection (5) of the following subsection:

“(5) The maritime and the aeronautical **[committees]** sub-committees must **[assess]** regularly review the operational policy of SASAR and make recommendations to the **[executive]** management committee **[whenever any change is necessary].**”; 55

- (h) by the substitution in subsection (7) for paragraphs (a), (b) and (c) of the following paragraphs, respectively:

“(a) the head of SASAR, who is the chairperson of the executive committee and responsible for search and rescue **[operations]** services by SASAR; 60

- (b) the head of aeronautical search and rescue operations, who is the chairperson of the aeronautical **[committee]** sub-committee; and
- (c) the head of maritime search and rescue operations, who is the chairperson of the maritime **[committee]** sub-committee.”;
- (i) by the substitution for subsection (8) of the following subsection: 5

“(8) The different heads contemplated in subsection (7) must ensure that search and rescue operations are conducted in accordance with laid down standards and recommended practices as reflected in the SASAR Manual and **[as considered the norm in terms of international agreements]** the Conventions.”; and 10
- (j) by the addition of the following subsection:

“(9) The Department is the custodian of SASAR.”.

Amendment of section 6 of Act 44 of 2002

5. Section 6 of the principal Act is hereby amended—
- (a) by the substitution for subsection (4) of the following subsection: 15

“(4) SASAR must perform its functions in a manner which **[promotes efficient, economic and]** is effective, **[use of all resources]** efficient and economical.”;
 - (b) by the deletion of subsection (5); and
 - (c) by the substitution for subsection (6) of the following subsection: 20

“(6) SASAR may perform its functions outside the **[Republic]** Republic’s search and rescue regions in accordance with the Conventions.”.

Amendment of section 7 of Act 44 of 2002

6. Section 7 of the principal Act is hereby amended by the addition to subsection (2) 25 of the following paragraph:
- “(b) The head of SASAR may appoint a designate to preside over any meeting of SASAR if he or she is unable to preside over that meeting.”.

Amendment of section 8 of Act 44 of 2002

7. Section 8 of the principal Act is hereby amended— 30
- (a) by the substitution for the heading of the following heading:

“**Meetings of committees and sub-committees of SASAR**”;
 - (b) by the insertion after subsection (1) of the following subsection:

“(1A) The first meeting of any sub-committee of SASAR must be held at such time and place determined by the head of SASAR and all meetings thereafter must be held at such times and places as the sub-committee may determine.”; and 35
 - (c) by the substitution for subsections (2), (3), (4), (6) and (7) of the following subsections, respectively:

“(2) The chairperson of a committee or a sub-committee of SASAR may at any time call a special meeting of the committee or a sub-committee, as the case may be, to be held at the time and place determined by the chairperson. 40

(3) All members of a committee or a sub-committee must be notified in writing of any meeting of that committee or sub-committee, as the case may be. 45

(4) (a) A majority of the total number of members forms a quorum at any meeting of a committee **[and a]** or a sub-committee.

(b) A decision agreed on by a majority of the members present at a duly constituted meeting of a committee or a sub-committee is a decision 50 of that committee or sub-committee, as the case may be.

(6) The chairperson of a committee or a sub-committee must designate a person to act as chairperson if he or she is unable to act as chairperson.

(7) Each committee or sub-committee must meet at least twice a year.”. 55

Amendment of section 11 of Act 44 of 2002

8. Section 11 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) done in accordance with **[an]** a service agreement reached with the applicable organisation or institution; and”;
- (b) by the substitution for subsections (4) and (5) of the following subsections, respectively:

“(4) Each chief of a rescue co-ordination centre or rescue subcentre must establish and preside over an operational committee to **[discuss, evaluate and effect]** ensure continuing effectiveness of operational procedures.

(5) Operational committees must consist of **[persons representing organisations]** representatives of the organisations controlling the resources available to that rescue co-ordination centre or rescue subcentre.”.

Amendment of section 12 of Act 44 of 2002

9. Section 12 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) A chief of a rescue co-ordination centre or any person authorised by him or her is responsible for co-ordinating the best resources available **[resources]** for the purpose of searching, assisting and, where appropriate, effecting a rescue operation in its search and rescue region.”.

Amendment of section 13 of Act 44 of 2002

10. Section 13 of the principal Act is hereby amended by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:

- “(a) human life is in **[immediate]** imminent and grave danger; and
- (b) there are insufficient or no other means available to conduct the operation.”.

Amendment of section 15 of Act 44 of 2002

11. Section 15 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading:

“SASAR [manual,] manuals and responsibilities of signatories thereto”; and
- (b) by the substitution for subsection (1) of the following subsection:

“(1) SASAR must compile **[a manual]** manuals regarding search and rescue services and operations and matters connected therewith and keep **[that manual]** those manuals up to date.”.

Amendment of section 16 of Act 44 of 2002

12. Section 16 of the principal Act is hereby amended—

- (a) by the substitution in subsection (2) for paragraph (b) of the following paragraph:

“(b) conducted in airspace within which air traffic control services are provided, except for flights crossing **[a route]** an airway at right angles; or”;
- (b) by the addition in subsection (4) of the word “or” at the end of paragraph (a); and
- (c) by the deletion of subsection (5).

Amendment of section 17 of Act 44 of 2002

13. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The owner of any aircraft or vessel required to carry emergency locator beacons in terms of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), or the

[South African Civil Aviation Authority Act, 1998 (Act No. 40 of 1998)] Civil Aviation Act, 2009 (Act No. 13 of 2009), as the case may be, must register such emergency locator beacons with the organisations or institutions designated in terms of section 11(1)(d).”.

Substitution of section 18 of Act 44 of 2002

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14. The following section is hereby substituted for section 18 of the principal Act:

“Filling of [disaster management and] aerodrome emergency plans

18. [(1) All aerodrome managers] Any licence holder of aerodromes, airfields, heliports or helistops must file [their] emergency plans and any amendments thereto with the aeronautical rescue co-ordination centre. 10

[(2) All heads of disaster management agencies established in terms of any law providing for the management of disasters must file their emergency plans in respect of aircraft incidents, and any amendments thereto, with the aeronautical rescue co-ordination centre.]”.

Amendment of section 19 of Act 44 of 2002

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15. Section 19 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) Any person who knows or has reason to believe that an aircraft or vessel is in distress must report the occurrence at the police station, rescue co-ordination centre, port centre or airport nearest to that person [or at such other office or facility or to a dedicated emergency number as the executive committee may determine]. 20

(2) The [Minister] head of SASAR must publish the addresses and telephone numbers of the offices or facilities contemplated in subsection (1)[—

(a) by notice in the *Gazette*; and 25

(b)] by means of the [printed] print and electronic media so as to ensure wide publicity of the contact details.”.

Amendment of section 20 of Act 44 of 2002

16. Section 20 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading: 30

“Co-operation between aeronautical [rescue co-ordination centre] and maritime rescue co-ordination [centre] functionaries.”;

(b) by the substitution for subsection (1) and (2) of the following subsections, respectively:

“(1) The aeronautical and maritime rescue co-ordination [centre and the maritime rescue coordination centre] functionaries must exchange information freely and regularly to ensure effective and efficient provision of a search and rescue service. 35

(2) (a) The aeronautical and maritime rescue co-ordination functionaries must hold joint exercises at least once a year and report to the management committee. 40

(b) The objective of the joint exercises must be to—

(i) foster and maintain close co-operation between the aeronautical and maritime co-ordination functionaries; and

(ii) test SASAR’s capability to deal with search and rescue operation.”; and 45

(c) by the substitution for subsection (4) of the following subsection:

“(4) The head of SASAR must ensure that the exercises contemplated in [subsection] subsections (2) and (3) are organised in conjunction with both the aeronautical [rescue co-ordination centre] and the maritime rescue co-ordination [centre] functionaries.”. 50

Amendment of section 22 of Act 44 of 2002

17. Section 22 of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading:
 “**Reports**”; and
 - (b) by the substitution for subsection (1) of the following subsection: 5
 “(1) SASAR must furnish the Minister with—
 (a) a report on its activities at least once a year in terms of the Public
 Finance Management Act, 1999 (Act No. 1 of 1999); and
 (b) any other report requested by the Minister.”.

Substitution of section 23 of Act 44 of 2002 10

18. The following section is hereby substituted for section 23 of the principal Act:

“Regulations

23. The Minister may by notice in the *Gazette*, make regulations regarding the following matters:
- (a) Search and rescue standards and practices; 15
 - (b) search and rescue governance, co-ordination and oversight;
 - (c) search and rescue procedures and processes;
 - (d) search and rescue communications and associated technological developments; and
 - (e) generally any other ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.”. 20

Substitution of certain expression in Act 44 of 2002

19. The principal Act is hereby amended—
- (a) by the substitution for the expression “maritime committee”, wherever it occurs, of the expression “maritime sub-committee”; and 25
 - (b) by the substitution for the expression “aeronautical committee”, wherever it occurs, of the expression “aeronautical sub-committee”.

Short title

20. This Act is called the South African Maritime and Aeronautical Search and Rescue Amendment Act, 2012. 30

**MEMORANDUM ON THE OBJECTS OF THE SOUTH AFRICAN
MARITIME AND AERONAUTICAL SEARCH AND RESCUE
AMENDMENT BILL, 2012**

1. BACKGROUND

- 1.1 The South African Search and Rescue Organisation (“SASAR”) was established by the South African Maritime and Aeronautical Search and Rescue Act, 2002 (Act No. 44 of 2002) (“the Act”), as an authority responsible for the coordination of maritime and aeronautical search and rescue operations within South Africa’s search and rescue regions. The Act provides for the requisite legal framework for the provision of a search and rescue service in South Africa. The Act also incorporates the International Convention on Maritime Search and Rescue, 1979, and Annex 12 to the Convention on International Civil Aviation, 1944.

2. PURPOSE OF BILL

- 2.1 The Bill seeks to amend the Act and give effect to the structural changes introduced to SASAR since the Act came into operation.

3. DISCUSSION OF BILL

- 3.1 **Clause 1** of the Bill seeks to amend section 1 of the Act by the insertion of the definition of “**regulations**”.
- 3.2 **Clauses 2 and 3** seek to amend sections 2 and 4 by effecting certain technical corrections.
- 3.3 **Clause 4** seeks to amend section 5 by substituting the former names of departments with the current names. Clause 4 also seeks to amend section 5 by providing for the establishment and composition of the management committee and sub-committees of SASAR.
- 3.4 **Clause 5** seeks to amend section 6 by providing for SASAR to perform its functions outside the Republic’s search and rescue regions in accordance with the Conventions.
- 3.5 **Clause 6** seeks to amend section 7 by providing for the designate of the head of SASAR to preside over any meeting of SASAR if he or she is unable to preside over that meeting.
- 3.6 **Clause 7** seeks to provide for the head of SASAR to determine the time and place of the first meeting of the sub-committees of SASAR. Clause 7 also seeks to amend section 8 by the substitution of subsections (2), (3), (4) and (7) to provide for the determination of the time and place of the meetings of the sub-committees of SASAR.
- 3.7 **Clauses 8, 9, 10 and 11** seek to amend sections 11, 12, 13 and 15 by effecting certain technical corrections.
- 3.8 **Clause 12** seeks to amend section 16 by the deletion of subsection (5), which provides for the authorisation that must be obtained from the head of SASAR prior to the commencement of search and rescue operation contemplated in section 16(4) of the Act. Clause 12 also seeks to effect certain technical corrections.
- 3.9 **Clause 13** seeks to amend section 17 by providing for the substitution for the South African Civil Aviation Authority Act, 1962 (Act No. 40 of 1998), of the Civil Aviation Act, 2009 (Act No.13 of 2009). The South African Civil Aviation Authority Act has been repealed by section 166(2) of the Civil Aviation Act.

- 3.10 **Clause 14** seeks to amend section 18 by compelling licence holders of aerodromes, airfields, heliports or helistops to file emergency plans and any amendments thereto with the aeronautical rescue coordination centre. Clause 14 also seeks to delete section 18(2) of the Act.
- 3.11 **Clause 15** seeks to amend section 19 by providing for a person who believes that an aircraft is in distress to report the occurrence at the rescue coordination centre, port centre or airport. Clause 15 also imposes a duty upon the head of SASAR to publish the contact details of the office or facilities to which a person can report an aircraft or vessel that is in distress.
- 3.12 **Clause 16** seeks to amend section 20 by the substitution for the heading of section 20. Clause 16 also seeks to provide for the aeronautical and marine rescue coordination functionaries to report to the management committee.
- 3.13 **Clause 17** seeks to amend section 22 by imposing a duty upon SASAR to furnish the Minister with any report, other than the report contemplated in section 22(1)(a) of the Act.
- 3.14 **Clause 18** seeks to amend section 23 by extending the scope of regulations to be made by the Minister.
- 3.16 **Clause 19** seeks to provide for the substitution of certain expressions wherever they occur in the Act.

4. CONSULTATION

The draft Bill is currently published for comments and will be circulated to all relevant stakeholders for comments.

5. FINANCIAL IMPLICATIONS

None.

6. IMPLICATION FOR PROVINCES

None.

7. IMPLICATIONS FOR MUNICIPALITIES

None.

8. PARLIAMENTARY PROCEDURE

- 8.1 The State Law Advisers and the Department of Transport are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.
- 8.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.