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INTERNATIONAL MARITIME LAW INSTITUTE

THE SEARCH AND RESCUE ACT (2001)

LEGISLATIVE DRAFTING PROJECT

DANIEL AQUILINA - MALTA
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Tutor: Mr. Norman Martinez

INTRODUCTORY NOTE

Philosophical Background

The notion of rescue has always been subject of debate and interest, in particular the philosophical foundations of a duty to rescue. Two main views always stood supreme; that propounded by Kant establishing that there is a moral obligation to help those in distress and the utilitarian view advocated by Bentham and Mill, that there is a duty to rescue at least in those cases where rescue promotes the greatest happiness of the greatest number. Many argue that the nature of the moral obligation is one of virtue that cannot be externally compelled however it is a principle established by legal positivism that moral obligations can always, in principle, be made into legal ones.

The role of IMO

IMO has played a vital role in concentrating efforts to develop a global integrated system to respond swiftly and effectively to shipping emergencies. This fact is clearly evident through the International Convention on Maritime Search and Rescue itself as well as the Global Maritime Distress and Safety System, GMDSS.¹ The latter is an integrated communications system using satellite and terrestrial radio communications to ensure that, no matter where a ship is in distress, aid can be dispatched.

A revised annex to the International Convention on Maritime Search and Rescue came into force just over a year ago, the 1st January 2000. The Convention had been originally adopted under the auspices of the IMO, in Hamburg, Germany in 1979 but had only come into force six years later. The revision to the Convention was deemed necessary due to the low number of acceptances and the slow pace of implementation.

¹ Fully operational on 1st February, 1999

It must be said that prior to the existence of this Convention, the obligation of ships to go to the assistance of ships and persons in distress was already resolutely established in principle, in tradition, and in other international treaties. However, the lack of harmonization of search and rescue plans led to unnecessary duplication of efforts and wasteful use of resources and facilities.

The revised Convention aimed and succeeded at clarifying the responsibilities of Governments and puts greater emphasis on the regional approach and co-ordination between maritime and aeronautical search and rescue operations. This latter phenomenon is also reflected in the efforts of the Joint Working Group on the harmonization of aeronautical and maritime search and rescue operations that led to the replacement of the earlier Merchant Ship Search and Rescue Manual (MERSAR) and the IMO Search and Rescue Manual (IMOSAR). This is embodied in the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual, published in three volumes and dealing with 'organization and management', 'mission co-ordination' and 'mobile facilities' respectively.

IMO was also active in organizing a series of conferences and seminars with the aim of preparing and finalizing search and rescue plans for the oceans' 13 search and rescue areas. Furthermore, IMO also adopted guidelines for the avoidance of wasted efforts and expenses caused by the extremely common occurrence of false distress alerts.²

Other Conventions

As mentioned above, other treaties dealt with search and rescue organization. Art. 12 of the Geneva Convention on the High Seas of 1958 is one example; a provision later unchanged and mirrored in the 1982 Convention on the Law of the Sea. In fact, Art. 98 of the 1982 Convention establishes that every state shall require the master of a ship

² Resolution A.814(19)

flying its flag³, in so far as he can do so without serious danger to the ship, the crew or the passengers:

- (a) to render assistance to any person found at sea in danger of being lost;*
- (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him;*
- (c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call.*

2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements co-operate with neighbouring States for this purpose.

Furthermore, SOLAS 1974 encourages parties to:

“...ensure that any necessary arrangements are made for coast watching and for the rescue of persons in distress round its coasts. These arrangements should include the establishment, operation and maintenance of such maritime safety facilities as are deemed practicable and necessary”.

The Maltese perspective

To date, Malta did not ratify the International Convention on Maritime Search and Rescue. It is submitted that the amended Convention is comprehensive and effective in providing a sensible framework for state co-operation and organized operations

³ “Strictly speaking the State itself is not required to undertake the rescue”, The Duty to Rescue, Pg.176

and thus the incorporation of the Search and Rescue Convention into Maltese law is desirable.

Search and Rescue is not specifically dealt with anywhere under national legislation notwithstanding the fact that the Maltese islands' geographical position alone is enough to expose the necessity of legislation with respect to search and rescue operations.

Currently, search and rescue operations in Maltese waters are co-ordinated and directed by the Armed Forces of Malta using the Standing Operating Procedures, the first edition of which was printed in March 1998. Though these procedures are praise-worthy, it must be remembered that they are mere guidelines and have no force of law. For this reason, an Act that would impose legally binding obligations on the parties involved in the operations is necessary.

The legislation that follows was drafted with the present Armed Forces of Malta guidelines in mind so as not to depart, to any considerable degree, from the standard operating procedures as well as to be in harmony with the intensive training programmes that the Armed Forces of Malta personnel have already followed. Due attention was also given to the limited facilities available locally, a fact which elucidates and highlights the importance of assistance agreements with neighbouring states as encouraged by the provisions of the Convention itself.

It is also relevant to note that Act XXII of 2000 by virtue of which the Merchant Shipping Act, Chapter 234 of the Laws of Malta was amended, introduces a new provision to the Act. Section 375 (1) in fact, lays down that the Government of Malta is empowered to ratify or accede to the treaties or conventions, (including protocols, annexes and appendices thereto); as listed therein. The International Convention on Maritime Search and Rescue is listed accordingly. The section also specifically allows the Minister to make regulations with respect to the provisions of the Convention being adhered to.

It is in the light of this particular provision too, that this draft includes regulations.

The ultimate object of this Draft is therefore to incorporate the updated Search and Rescue Convention into Maltese legislation as well as to regulate its implementation in the Republic of Malta. The regulations made through a Legal Notice in the form of Subsidiary Legislation were drafted specifically in order to aid the implementation process of the Convention into Maltese law and in the light of the above mentioned recently-introduced provision. The regulations, like the draft itself, also include certain aspects of Search and Rescue procedures in Malta, some of which existed in the Armed Forces of Malta Standing Operating Procedures but which are now given force of law.

DEDICATION

To my brother, **MATTHEW AQUILINA**, who went missing in the early hours of the 3rd December 1995 as a passenger on board the Piper Lance 9H-ABU. Search and Rescue Operations started six hours after the aircraft disappeared. Standard next of kin notifications were never made.

ACKNOWLEDGEMENTS

I extend my sincere thanks to my lecturer and tutor **Mr. Norman Martinez** for his constant valuable guidance and assistance.

My appreciation also goes to my IMLI colleague and friend **Capt. Reuben Lanfranco** for having patiently answered all my queries regarding the Armed Forces of Malta Standing Operating Procedures.

A special thanks also goes to my lecturer **Dr. Ivan Vella** for his advice relating to Maltese legislative drafting methods and other valued tips.

ARRANGEMENT OF SECTIONS

1. Short title and commencement
2. Interpretation
3. Ratification of Conventions
4. Provisions of the International Convention on Maritime Search and Rescue given force of law in Malta
5. Procedure
6. Power to make regulations
7. Revision or Amendments of provisions of the Schedule
8. Language of Schedule

FIRST SCHEDULE

Text of the 1979 International Convention on Maritime Search and Rescue as amended by Resolution MSC.70(69) of 1998.

ANNEX “A”

Malta Search and Rescue Region

SUBSIDIARY LEGISLATION

Legal Notice, Search and Rescue Regulations

I assent.

GUIDO DE MARCO
President

SEARCH AND RESCUE ACT, 2001

AN ACT to provide for Malta's accession to the 1979 International Convention on Maritime Search and Rescue as amended by Resolution MSC.70(69) of 1998, and for the implementation of the provisions of this Convention to become and be, enforceable as part of the Law of Malta.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled and by the authority of the same, as follows:-

Short title and commencement.

1. (1) This Act may be cited as the Search and Rescue Act, 2001.

(2) This Act shall come into force on such date as the Minister responsible for shipping may, by notice in the Gazette, appoint, and different dates may be so appointed for different provisions and different purposes thereof.

Interpretation

2. (1) In this Act, unless the context otherwise requires;

"Convention" means the 1979 International Convention on Maritime Search and Rescue as amended by Resolution MSC.70 (69) of 1998

"Minister" means the Minister responsible for shipping;

“On-scene co-ordinator” means the person specifically appointed for each individual case by the Armed Forces of Malta, responsible for the organisation, co-ordination and direction of the mission from the time assigned until the conclusion, using all resources available.

“Organization” means the International Maritime Organization.

“Rescue Co-ordination Centre” means the Operations Centre at the Head Quarters of the Armed Forces of Malta, charged with the responsibility for co-ordinating and directing search and rescue operations within the Malta search and rescue region.

“Place of safety” means a safe haven, being a place that can accommodate the rescued persons or that will accept the safe mooring of the vessel, and has available a means of communication, normally a telephone.

“Search and Rescue Region” means the Malta Search and Rescue Region being the area illustrated in Annex ‘A’.

“Search and Rescue Facility” means any mobile resource, whether local or foreign, including designated search and rescue units, used to conduct search and rescue operations.

“Search and Rescue Unit” means a unit composed of trained personnel of the Armed Forces of Malta or other Armed Forces of Malta recognized and monitored participants that are provided with equipment suitable for the expeditious conduct of search and rescue operations;

"Territorial sea" shall have the same meaning as is assigned to the term in the Territorial Waters and Contiguous Zone Act.

(2) In this Act and in any regulations made thereunder, if there is any conflict between the English and Maltese text, the English text shall prevail.

Ratification of Convention

3. For the purposes of any law thereto applicable the Government of Malta is hereby duly authorised to accede to the Convention.

Provisions of the Convention given force of law in Malta

4. (1) Notwithstanding the provisions of any other law, the provisions of the Convention, which articles are reproduced in the First Schedule to this Act, shall form part of and be enforceable as part of the Law of Malta.

Procedure

5. (1) Where any action is brought in Malta in terms of the provisions of the Convention, the relevant Court or other competent authority, shall in each case be deemed to be the Court of Magistrates (Malta).

(2) Notwithstanding the provisions of any other law, the Court of Magistrates (Malta) shall have jurisdiction to try and determine cases and actions that in accordance with this Act are to be brought before it.

Power to make regulations etc.

6. (1) Without prejudice to the powers conferred by the foregoing provisions of this Act, the Minister may make such regulations, rules or orders, or give such directions, as appear to him to be necessary or expedient for the purpose of carrying into operation any of the provisions of this Act.

(2) Any power conferred on the Minister by this Act to make regulations, rules or orders, or to give directions, shall include power –

- (a) to vary, alter or revoke any such regulation, rule, order or direction, without prejudice to the making of a new regulation, rule or order, or the giving of a new direction;
- (b) subject to such limitations or other express provision contained in this Act, to provide for fines (multa) not exceeding ten thousand liri or imprisonment not exceeding six months, or both, and for such other sanction as the Minister may deem appropriate;
- (c) to make such transitional or other incidental or supplementary provision as may appear to the Minister to be appropriate.

(3) Regulations, rules and orders made, and directions given, under any of the provisions of this Act, may be made or given in the English language only.

Revision or Amendments of provisions of the Schedule

7. (1) The Minister may by regulations amend, add to, vary, revoke or substitute the hereunder attached Schedule, as he deems fit and proper, in order to conform with any amendments to the Convention, made in accordance with the said Convention and accepted by the Government of Malta.

(2) Nothing in any amendment, addition, variation, revocation or substitution made in accordance with subsection (1) of this section shall affect any rights and liabilities arising out of any action or legal process done before the day on which the alteration, amendment, omission or modification comes into force.

Language of Schedules

8. The Schedules to this Act shall be in the English language only, and such text shall apply also to the Maltese text of this Act.

FIRST SCHEDULE

Text of the 1979 International Convention on Maritime Search and Rescue as amended by Resolution MSC.70 (69) of 1998.

CHAPTER 1

TERMS AND DEFINITIONS

1.1 "Shall" is used in the annex to indicate a provision, the uniform application of which by all Parties is required in the interest of safety of life at sea.

1.2 "Should" is used to indicate a provision, the uniform application of which by all Parties is recommended in the interest of safety of life at sea.

1.3 The terms listed below are used in the Annex with the following meanings:

1 "Search". An operation, normally coordinated by a rescue coordination centre or rescue sub-centre, using available personnel and facilities to locate persons in distress;

2 "Rescue". An operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety;

3 "Search and rescue service". The performance of distress monitoring, communication, coordination and search and rescue functions, including provision of medical advice, initial medical assistance, or medical evacuation, through the use of public and private resources including cooperating aircraft, vessels and other craft and installations;

4 "Search and rescue region". An area of defined dimensions associated with a rescue coordination centre within which search and rescue services are provided;

5 "Rescue coordination centre". A unit 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;

6 "Rescue sub-centre". A unit subordinate to a rescue coordination centre established to complement the latter according to particular provisions of the responsible authorities;

7 "Search and rescue facility". Any mobile resource, including designated search and rescue units, used to conduct search and rescue operations;

8 "Search and rescue unit". A unit composed of trained personnel and provided with equipment suitable for the expeditious conduct of search and rescue operations;

9 "Alerting post". Any facility intended to serve as an intermediary between a person reporting an emergency and a rescue coordination centre or rescue sub-centre;

10 "Emergency phase". A generic term meaning, as the case may be, uncertainty phase, alert phase or distress phase;

11 "Uncertainty phase". A situation wherein uncertainty exists as to the safety of a person, a vessel or other craft;

12 "Alert phase". A situation wherein apprehension exists as to the safety of a person, a vessel or other craft;

13 "Distress phase". A situation wherein there is a reasonable certainty that a person, a vessel or other craft is threatened by grave and imminent danger and requires immediate assistance;

14 "On-scene coordinator". A person designated to coordinate search and rescue operations within a specified area;

15 "Secretary-General". The Secretary-General of the International Maritime Organization.

CHAPTER 2

ORGANIZATION AND CO-ORDINATION

2.1 Arrangements for provision and co-ordination of search and rescue services

2.1.1 Parties shall, as they are able to do so individually or in cooperation with other States and, as appropriate, with the Organization, participate in the development of search and rescue services to ensure that assistance is rendered to any person in distress at sea. On receiving information that any person is, or appears to be, in distress at sea, the responsible authorities of a Party shall take urgent steps to ensure that the necessary assistance is provided.

2.1.2 Parties shall, either individually or, if appropriate, in cooperation with other States, establish the following basic elements of a search and rescue service:

.1 legal framework;

.2 assignment of a responsible authority;

.3 organisation of available resources;

.4 communication facilities;

.5 coordination and operational functions; and

.6 processes to improve the service including planning, domestic and international cooperative relationships and training.

Parties shall, as far as practicable, follow relevant minimum standards and guidelines developed by the Organization.

2.1.3 To help ensure the provision of adequate shore-based communication infrastructure, efficient distress alert routing, and proper operational coordination to effectively support search and rescue services, Parties shall, individually or in cooperation with other States, ensure that sufficient search and rescue regions are established within each sea area in accordance with paragraphs 2.1.4 and 2.1.5. Such regions should be contiguous and, as far as practicable, not overlap.

2.1.4 Each search and rescue region shall be established by agreement among Parties concerned. The Secretary-General shall be notified of such arrangements.

2.1.5 In case agreement on the exact dimensions of a search and rescue region is not reached by the Parties concerned, those Parties shall use their best endeavours to reach agreement upon appropriate arrangements under which the equivalent overall coordination of search and rescue services is provided in the area. The Secretary-General shall be notified of such arrangements.

2.1.6 Agreement on the regions or arrangements referred to in paragraphs 2.1.4 and 2.1.5 shall be recorded by the Parties concerned, or in written plans accepted by the Parties.

2.1.7 The delimitation on the regions or arrangements referred to in paragraphs 2.1.4 and 2.1.5 shall be recorded by the parties concerned, or in written plans accepted by the Parties.

2.1.8 Parties should seek to promote consistency, where applicable, between their maritime and aeronautical search and rescue services while considering the establishment of maritime search and rescue regions which shall be established by agreement in accordance with paragraph 2.1.4 or the reaching of agreement upon appropriate arrangements in accordance with paragraph 2.1.5.

2.1.9 Parties having accepted responsibility to provide search and rescue services for a specified area shall use search and rescue units and other available facilities for providing assistance to a person who is, or appears to be, in distress at sea.

2.1.10 Parties shall ensure that assistance be provided to any person in distress at sea. They shall do so regardless of the nationality or status of such a person or the circumstances in which that person is found.

2.1.11 Parties shall forward to the Secretary-General information on their search and rescue service, including the:

- .1 nationality authority responsible for the maritime search and rescue services;
- .2 location of the established rescue coordination centres or other centers providing search and rescue coordination, for the search and rescue region or regions and communications therein;
- .3 limits of their search and rescue region or regions and the coverage provided by their shore based distress and safety communication facilities; and
- .4 principal types of available search and rescue units.

Parties shall with priority, update the information provided with respect to any alterations of importance. The Secretary-General shall transmit to all Parties the information received.

2.1.12 The Secretary-General shall notify all Parties of the agreements or arrangements referred to in paragraphs 2.1.4 and 2.1.5.

2.2 Development of national search and rescue services

2.2.1 Parties shall establish appropriate national procedures for overall development, coordination, and improvement of search and rescue services.

2.2.2 To support efficient search and rescue operations, Parties shall:

- .1 ensure the coordinated use of available facilities; and
- .2 establish close cooperation between services and organizations which may contribute to improve the search and rescue service in areas such as operations, planning, training, exercises and research and development.

2.3 Establishment of rescue co-ordination centres and rescue sub-centres

2.3.1 To meet the requirements of paragraph 2.2, Parties shall individually or in cooperation with other States establish rescue coordination centres for their search and rescue services and such rescue sub-centres as they consider appropriate.

2.3.2 Each rescue coordination centre and rescue sub-centre, established in accordance with paragraph 2.3.1, shall arrange for the receipt of distress alerts originating from within its search and rescue region. Every such centre shall also arrange for communications with persons in distress, with search and rescue facilities, and with other rescue coordination centres or rescue sub-centres.

2.3.3 Each rescue coordination centre shall be operational on a 24-hour basis and be constantly staffed by trained personnel having a working knowledge of the English language.

2.4 Coordination with aeronautical services

2.4.1 Parties shall ensure the closest practicable coordination between maritime and aeronautical services so as to provide for the most effective and efficient search and rescue services in and over their search and rescue regions.

2.4.2 Whenever practicable, each Party should establish joint rescue coordination centres and rescue sub-centres to serve both maritime and aeronautical purposes.

2.4.3 Whenever separate maritime and aeronautical rescue coordination centres or rescue sub-centres are established to serve the same area, the Party concerned shall ensure the closest practicable coordination between the centres or sub-centres.

2.4.4 Parties shall ensure as far as is possible the use of common procedures by search and rescue units established for maritime purposes and those established for aeronautical purposes.

2.5 Designation of search and rescue facilities

Parties shall identify all facilities able to participate in search and rescue operations, and may designate suitable facilities as search and rescue units.

2.6 Equipment of search and rescue units

2.6.1 Each search and rescue unit shall be provided with equipment appropriate to its task.

2.6.2 Containers and packages containing survival equipment for dropping to survivors should have the general nature of their contents indicated by markings in accordance with standards adopted by the Organization.

CHAPTER 3

CO-OPERATION BETWEEN STATES

3.1 Co-operation between States

3.1.1 Parties shall coordinate their search and rescue organizations and should, whenever necessary, coordinate search and rescue operations with those of neighbouring States.

3.1.2 Unless otherwise agreed between the states concerned, a Party should authorize, subject to applicable national laws, rules and regulations, immediate entry into or over its territory of rescue units of other Parties solely for the purpose of searching for the position of maritime casualties. In such cases, search and rescue operations shall, as far as practicable, be co-ordinated by the appropriate rescue co-ordination center of the Party which has authorized entry, or such authority as has been designated by that Party.

3.1.3 Unless otherwise agreed between the states concerned, the authorities of a party which wishes its rescue units to enter into or over the territorial sea or territory of another party 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 center of that other party, or to such other authority as has been designated by that Party.

3.1.4 The responsible authorities of Parties shall:

- .1 immediately acknowledge the receipt of such a request; and
- .2 as soon as possible indicate the conditions, if any, under which the projected mission may be undertaken.

3.1.5 Parties should enter into agreements with neighbouring States setting forth the conditions for entry of each other's search and rescue units into or over their respective territorial sea or territory. These agreements should also provide for expediting entry of such units with the least possible formalities.

3.1.6 Each Party should authorize its rescue coordination centres:

- .1 to request from other rescue coordination centres such assistance, including vessels, aircraft, personnel or equipment, as may be needed;
- .2 to grant any necessary permission for the entry of such vessels, aircraft, personnel or equipment into or over its territorial sea or territory; and

.3 to make the necessary arrangements with the appropriate customs, immigration, health or other authorities with a view to expediting such entry.

3.1.7 Each Party shall ensure that its rescue coordination centres provide, when requested, assistance to other rescue coordination centres, including assistance in the form of vessels, aircraft, personnel or equipment.

3.1.8 Parties should enter into agreements with other States, where appropriate, to strengthen search and rescue cooperation and coordination. Parties shall authorize their responsible authority to make operational plans and arrangements for search and rescue cooperation and coordination with responsible authorities of other States.

CHAPTER 4

OPERATING PROCEDURES

4.1 Preparatory measures

4.1.1 Each rescue coordination centre and rescue sub-centre shall have available up-to-date information especially concerning search and rescue facilities and available communications relevant to search and rescue operations in its area.

4.1.2 Each rescue coordination centre and rescue sub-centre should have ready access to information regarding the position, course and speed of vessels within its area which may be able to provide assistance to persons, vessels or other craft in distress at sea, and regarding how to contact them. This information should either be kept in the rescue coordination centre, or be readily obtainable when necessary.

4.1.3 Each rescue coordination 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.

4.1.4 Rescue coordination centres or sub-centres shall be kept informed of the state of preparedness of search and rescue units.

4.2 Information concerning emergencies

4.2.1 Parties, either individually or in cooperation with other States shall ensure that they are capable on a 24-hour basis of promptly and reliably receiving distress alerts from

equipment used for this purpose within their search and rescue regions. Any alerting post receiving a distress alert shall:

.1 immediately relay the alert to the appropriate rescue coordination centre or sub-centre, and then assist with search and rescue communications as appropriate; and

.2 if practicable acknowledge the alert.

4.2.2 Parties 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 coordination centre or sub-centre to access pertinent registration information quickly.

4.2.3 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 possible all available information to the rescue coordination centre or rescue sub-centre concerned.

4.2.4 Rescue coordination centres 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 paragraph 4.4, and the extent of operations required.

4.3 Initial action

Any 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 coordination centre or rescue sub-centre in whose area the incident has occurred.

4.4 Emergency phases

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

.1 Uncertainty phase:

.1.1 when a person has been reported as missing, or a vessel or other craft is overdue; or

.1.2 when a person, a vessel or other craft has failed to make an expected position or safety report.

.2 Alert phase:

.2.1 when, following the uncertainty phase, attempts to establish contact with a person, a vessel or other craft have failed and inquiries addressed to other appropriate sources have been unsuccessful; or

.2.2 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.

.3 Distress phase:

.3.1 when positive information is received that a person, a vessel or other craft is in danger and in need of immediate assistance; or

.3.2 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

.3.3 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.

4.5 Procedures to be followed by rescue coordination centres and rescue sub-centres during emergency phases

4.5.1 Upon the declaration of the uncertainty phase, the rescue coordination 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.

4.5.2 Upon the declaration of the alert phase, the rescue coordination centre or rescue sub-centre, as appropriate, shall extend 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.

4.5.3 Upon the declaration of the distress phase, the rescue coordination centre or rescue sub-centre, as appropriate, shall proceed as prescribed in its plans of operation, as required by paragraph 4.1.

4.5.4 Initiation of search and rescue operations when the position of the search object is unknown.

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

.1 when an emergency phase exists, a rescue coordination centre or rescue sub-centre shall, unless it is aware that other centres are taking action, assume responsibility for initiating suitable action and confer with other centres with the objective of designating one centre to assume responsibility;

.2 unless otherwise decided by agreement between the 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

.3 after the declaration of the distress phase, the centre coordinating the search and rescue operations shall, as appropriate, inform other centres of all the circumstances of the emergency and of all subsequent developments.

4.5.5 Passing information to persons, vessels, or other craft for which an emergency phase has been declared.

Whenever possible, the rescue coordination centre or 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.

4.6 Co-ordination when two or more Parties are involved

4.6.1 For search and rescue operations involving more than one Party, each Party shall take appropriate action in accordance with the plans of operation referred to in paragraph 4.1 when so requested by the rescue coordination centre of the region.

4.7 On-scene co-ordination of search and rescue activities

4.7.1 The activities of search and rescue units and other facilities engaged in search and rescue operations shall be coordinated on-scene to ensure the most effective results.

4.7.2 When multiple facilities are about to engage in search and rescue operations, and the rescue coordination centre or rescue sub-centre considers it necessary, the most capable person should be designated as on-scene coordinator as early as practicable and preferably before the facilities arrive within the specified area of operation. Specific responsibilities shall be assigned to the on-scene coordinator taking into account the apparent capabilities of the on-scene coordinator and operational requirements.

4.7.3 If there is no responsible rescue coordination centre or, by any reason, the responsible rescue coordination centre is unable to coordinate the search and rescue mission, the facilities involved should designate an on-scene coordinator by mutual agreement.

4.8 Termination and suspension of search and rescue operations

4.8.1 Search and rescue operations shall continue, when practicable, until all reasonable hope of rescuing survivors has passed.

4.8.2 The responsible rescue coordination centre or rescue sub-centre concerned shall normally decide when to discontinue search and rescue operations. If no such centre is involved in coordinating the operations, the on-scene coordinator may take this decision.

4.8.3 When a rescue coordination 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.

4.8.4 If a search and rescue operation on-scene becomes impracticable and the rescue coordination 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. Information subsequently received shall be evaluated and search and rescue operations resumed when justified on the basis of such information.

CHAPTER 5

SHIP REPORTING SYSTEMS

5.1 General

5.1.1 Ship reporting systems may be established either individually by Parties or in cooperation with other States, where this is considered necessary, to facilitate search and rescue operations.

5.1.2 Parties contemplating the institution of a ship reporting system should take account of the relevant recommendations of the Organization. Parties should 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 coordination centres to check with multiple reporting systems to determine availability of ships to assist with search and rescue operations.

5.1.3 The ship reporting system should provide up-to-date information on the movements of vessels in order, in the event of a distress incident, to:

- .1 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;
- .2 permit rapid identification of vessels which may be called upon to provide assistance;

.3 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

.4 facilitate the provision of urgent medical assistance or advice.

5.2 Operational requirements

5.2.1 Ship reporting systems should satisfy the following requirements:

.1 provision of information, including sailing plans and position reports, which would make it possible to determine the current and future positions of participating vessels;

.2 maintenance of a shipping plot;

.3 receipt of reports at appropriate intervals from participating vessels;

.4 simplicity in system design and operation; and

.5 use of internationally agreed standard ship reporting format and procedures.

5.3 Types of reports

5.3.1 A ship reporting system should incorporate the following types of ship reports in accordance with the recommendations of the Organization:

.1 Sailing plan;

.2 Position report; and

.3 Final report.

5.4 Use of systems

5.4.1 Parties should encourage all vessels to report their position when travelling in areas where arrangements have been made to collect information on positions for search and rescue purposes.

5.4.2 Parties recording information on the position of vessels should disseminate, so far as practicable, such information to other States when so requested for search and rescue purposes.

ANNEX 'A'

MALTA SEARCH AND RESCUE REGION

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SUBSIDIARY LEGISLATION

SEARCH AND RESCUE REGULATIONS

1st March, 2001

Made by LEGAL NOTICE 1 of 2001.

Short title and commencement

1. (1) The title of these Regulations is “Search and Rescue Regulations”.
- (2) These regulations shall come into force on 1st April 2001

Definitions

2. In these Regulations unless the context otherwise requires;

"Case file" means the Search and Rescue file created for every Operation,

“Narrative Log” means a chronological narrative of the Search and Rescue Case,

“On-scene co-ordinator” shall be construed as having the same meaning as defined in the Principal Act.

“Principal Act” means the Search and Rescue Act, 2001.

“Rescue Co-ordination Centre” shall be construed as having the same meaning as defined in the Principal Act.

“Search and Rescue Region” shall be construed as having the same meaning as defined in the Principal Act.

“Search and Rescue Unit” shall be construed as having the same meaning as defined in the Principal Act.

“Situation Report” means the communication between the Search and Rescue units and On-Scene co-ordinator used to describe the incident, report the action taken and any recommendation for additional resources and plans.

“Search Action Plan” means those methods used by the On-Scene Co-ordinator to inform search units of their assignments.

Search and Rescue Case files

3. (1) The On-Scene co-ordinator shall be responsible for the creation, compilation, and preservation of a Search and Rescue case file for every Operation.

(2) The contents of the case file shall be of a confidential nature and in no circumstances may be divulged to the public or to the media. The case file shall contain documentation including;

- (a) Narrative Log,
- (b) Checklists,
- (c) Situation Reports,
- (d) Search Action Plan,
- (e) Incoming and outgoing messages.

(3) The Armed Forces of Malta are obliged to present such case file in any court sitting or inquiry as the case may be, and if so requested.

(4) Case files shall be retained at the Rescue Co-ordination Centre for a period of three years from the day of the completion or abandonment of the Operation and then archived at the Records Section of the Operations Centre at the Armed Forces of Malta Headquarters.

(5) Case files shall be numbered in ascending order starting on 1st January of each year.

Tasks of the Rescue Co-ordination Centre

4. (1) The Rescue Co-ordination Centre shall have the following tasks;

- (a) initiation, co-ordination and control of Search and Rescue operations conducted by the Armed Forces of Malta in accordance with the provisions of the principal Act,
- (b) liaise with and support neighbouring Rescue Co-ordination Centres as necessary,
- (c) establish and maintain close liaison with all other agencies, military and non-military that have the capability to assist in Search and Rescue operations in the Malta Search and Rescue region.
- (d) train personnel in Search and Rescue procedures and techniques,

- (e) assign an On-scene co-ordinator for each mission,
- (f) co-ordinate search units,
- (g) closely monitor any private organizations or volunteers participating in the search,
- (h) ensure that Armed Forces of Malta resources assist in non-distress situations but only to the extent that no higher priority mission exists.

Next-of-kin notification

5. The Armed Forces of Malta shall be responsible for next-of-kin notification and communication regarding the extent and developments of search efforts relating to missing persons at sea.

Missing aircraft or Aircraft incidents

6 (1). The Department of Civil Aviation, through the Air Traffic Control, shall be responsible for the initiation of communications searches for overdue aircraft and position reports for aircraft within the Malta Flight Information Region.

(2) The Department of Civil Aviation shall, without unreasonable delay;

- (a) appoint a liaison officer to the Rescue Co-ordination Centre,
- (b) notify the Armed Forces of Malta,
- (c) call in the On-scene co-ordinator on stand-by duty,
- (d) dispatch the fastest response unit to the scene, if known,
- (e) issue an urgent marine broadcast.

Mission Conclusion

7. (1) The final decision to suspend a mission shall be taken by the On-scene co-ordinator based on;

- (a) probability of survival,
- (b) probability of surviving the initial incident,

- (c) probability that the victim was within the computed search area,
- (d) quality and extent of the search mission,
- (e) weather forecasts,
- (f) consensus of several search planners.

BIBLIOGRAPHY

1. **Armed Forces of Malta**, Standing Operating Procedures – Search and Rescue Plan, Luqa, March 1998
2. **IMO** International Convention on Maritime Search and Rescue as amended by Res. MSC 70(69) of 1998.
3. **Thornton C.C.**, “Legislative Drafting”, 3rd edition
4. **Menlowe, Michael A. et al**; “The Duty to Rescue – the jurisprudence of aid”, 1st Edition, Dartmouth Publishing Co. Ltd, United Kingdom, 1993
5. **Focus on IMO:**
 - (a) March, 1999
 - (b) January, 2000
6. **IMO NEWS:**
 - (a) Number 2, 1998
 - (b) Number 1, 1999
 - (c) Number 3, 1999
 - (d) Number 1, 2000
 - (e) Number 4, 2000