

## Prosecutions 2010

### **British trawler prosecuted for going wrong way in traffic separation scheme**

**Defendant:** At Folkestone Magistrates' Court

**Date of Hearing:** 27 August 2010

**Date of Offence:** 9 January 2009

**Offence:** Breach of Rule 10 of the International Regulations for Preventing Collisions at Sea 1974.

**Details:** On the morning of 9 January 2009 the Netherlands Coastguard observed on radar an unidentified vessel steaming the wrong way down the northbound lane of the Off Texel Traffic Separation Scheme.

About 40 minutes later, the vessel was observed by the Netherlands Coastguard passing within one cable of a northbound vessel.

An aircraft operated by the Netherlands Coastguard was sent to identify the vessel, which it did, as the UK registered fishing vessel Wilhelmina (LT60). The Wilhelmina was fishing at the time of the incident.

The incident was initially investigated by the North Sea Unit of the Netherlands Water Police.

Investigations showed that the incident occurred in International Waters and the matter was therefore reported to MCA for further investigation.

**Penalty:** Was fined £3,500 plus £3,752.20 costs.

### **Master of large tanker fined for failing to complete a breath test**

**Defendant:** At Lyndhurst Magistrates' Court

**Date of Hearing:** 9 September 2010

**Date of Offence:** 8 September 2010

**Offence:** Failing to supply a specimen.

**Details:** In the early hours of Wednesday 8 September 2010 Nord Fast, a 176m long tanker with a displacement of 48,983 tonnes was proceeding in to Fawley oil refinery jetty with the assistance of a pilot.

The Pilot became concerned about the state of the Captain and subsequently the Police attended the vessel and he was breathalysed. He failed that test and so was arrested and taken to the police station for further tests.

At the police station he recorded a reading of 78 but then failed to undertake a second test which is required by procedures.

**Penalty:** Was fined £1,600 plus £85 costs and £15 victim support charge

**Shipping company fined for employing master without ticket**

**Defendant:** At Ipswich Magistrates' Court

**Date of Hearing:** 13 September 2010

**Offence:** Breach of Regulation 4 of The Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997 and s85 and s86 Merchant Shipping Act 1995

**Details:** The company pleaded guilty to employing a Master without a valid Certificate of Competence.

The Master forgot to renew his certificate, which he is required to do every 5 years, and continued to sail as master without a certificate from 2005 to 2009.

The company failed to notice that their employee no longer had a current certificate.

**Penalty:** Was fined £3,000 plus £4,000 in costs

**Owner of Brixham fishing vessel appears at court in Folkestone**

**Defendant:** At Folkestone Magistrates' Court

**Date of Hearing:** 9 September 2010

**Date of Offence:** 17 September 2008

**Offence:** Breach of Rule 10 (b) (i) of the Collision Regulations

**Details:** On 17 September 2008 the UK registered fishing vessel Emilia M Emiel (BM10) travelled the wrong way through the Dover Straits Traffic Separation Scheme for a period of just over 2 hours.

The Emilia M Emiel was identified by the Coastguard aircraft. Throughout the incident the vessel was not engaged in fishing.

Subsequent enquiries proved to be difficult and time consuming, because of the need to correctly identify who had been on board the vessel at the time of the incident and to establish their roles whilst on board.

The investigation involved a large number of interviews including those with a Director of the company which owned the vessel.

What emerged from the interviews was a large degree of confusion between individuals on board as to who was the effective skipper of the vessel at the relevant time.

This was a manifest failure on the part of the company to ensure that these matters were clear to all concerned before the vessel was put to sea.

**Penalty:** The company was fined £2,000 plus £3,000 costs

### **Lorry drivers plead guilty at last moment**

**Defendant:** At Canterbury Crown Court

**Date of Hearing:** 11 October 2010

**Date of Offence:** 30 April 2010

**Offence:** Contravening the Merchant Shipping (Dangerous Goods & Marine Pollutants) Regulations 1997

**Details:** On 30 April 2010 at Dover, the lorry drivers, both Polish nationals, were stopped for a routine Customs check at Dover Ferry Port after arriving from Dunkerque.

During the search by Customs Officers it was noted that some of the boxes were labelled with dangerous goods placards but the vehicle was not.

Further investigation by MCA Enforcement Unit revealed that although the drivers had presented the correct paperwork for the dangerous goods they had not presented it to the ferry company when boarding the ferry at Dunkerque.

Because of this the ferry was unaware of the exact nature of the load, and it was not stowed in accordance with the safety requirements set out in the International Maritime Dangerous Goods Code (IMDG), nor were the Captain and crew aware of the dangerous nature of the cargo and potential risk to the crew and passengers on board at the time.

**Penalty:** Both were given a conditional discharge for 2 years and a £1,500 contribution each towards costs.

### **Fisherman lost overboard lands skipper in court**

**Defendant:** At Camborne Magistrates' Court

**Date of Hearing:** 26 August 2010

**Date of Offence:** 9 December 2009

**Offence:** Breach of Section 58 of the Merchant Shipping Act 1995 and Section 2 of the Fishing Vessels (Safety Training) (Amendment) Regulations 2004, in employing a crew member who he knew had completed the required safety training courses.

**Details:** A deck hand on the fishing vessel PZ41, OCEAN SPRAY, was involved in an incident on board the vessel on 9 December 2009 at about 19:30 when the vessel was shooting its nets about 18nm SSE of Newlyn.

In shooting the last of the nets, in attempting to solve a problem with the gear, he was taken overboard by the anchor for the nets. He went under and surfaced with the nets while the crew was trying to find him.

He managed to work his way, through the darkness and a moderate swell, along the net line and somehow manage to appear alongside the vessel.

He suffered a fractured rib and soft tissue damage to his legs and arms. He did not say he was wearing a life-jacket. He was recovered on board, suffering from cold immersion and from his injuries.

**Penalty:** The Skipper was fined £1000, which was reduced to £600 in consideration of the guilty plea and £500 costs were awarded.

### **Breach of international regulations places major shipping company in court**

**Defendant:** At Newcastle Magistrates' Court

**Date of hearing:** 25 October 2010

**Date of offence:** September 2009 to February 2010

**Offence:** Contravening the Merchant Shipping (Hours of Work) Regulations 2002

**Details:** In September 2009, MCA conducted an audit on board the MAERSK PATRAS at Bremerhaven. It was noticed that the Captain, Officers and other crew members had not been having the required periods of rest as laid down by international agreements.

The company were informed of these concerns, but failed to correct matters and the breaches of the regulations continued.

On 25 January 2010 MCA issued the company with an Improvement Notice which required them to rectify the position by 28 February 2010. They also failed to comply with that notice.

**Penalty:** The company were fined £18,500 plus costs of £4,439.27.

### **Failure to comply with exemption certificate leads to detention and prosecution**

**Defendant:** Owners of the CAP HENRI and managers of the CAP HENRI

**Date of Hearing:** 1 December 2010

**Date of Offence:** August to September 2009

**Offence:** Non-compliance with Exemption Certificate and breach of the International Safety Management (ISM) Code.

**Details:** At the time of the incident the CAP HENRI was a UK registered container ship.

On 27 August 2009 the starboard lifeboat suffered damage to its bow and stern area during a drill. The matter was reported to MCA.

An Exemption Certificate was issued, which required the CAP HENRI to be temporarily fitted with additional life rafts and Hydrostatic Release Units (HRUs) with an additional capacity of not less than 28 persons. This was to cover for the unserviceable lifeboat.

Also drills and modification to the muster list were to be carried out. Three months were allowed in order to get the lifeboat repaired. The certificate was issued on 28 August 2009.

On 9 September 2009 the CAP HENRI was inspected by Brazilian Port State Control Inspector in Itajai. Unfortunately the terms of the Exemption Certificate had not been complied with and the vessel was detained. Life rafts and HRUs were supplied the next day.

The Brazilians released the vessel on 11 September 2009.

In the 12 days the CAP HENRI operated in breach of the Exemption Certificate, the vessel visited another 2 ports before arriving in Itajai.

**Penalty:** The owners were fined £5,000 plus costs of £5,676, and the managers were fined £5,000 plus costs of £8,589.