

## Prosecutions 2013

### Fishing vessel collision ends in court

**Defendant:** At Southampton Magistrates' Court

**Date of hearing:** 11 January 2013

**Offence:** Breaches of the International Regulations for Preventing Collisions at Sea 1972 and the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1997.

**Details:** On 10 June 2010, the UK registered FV Miranda was returning from the fishing grounds off the Cleaver Bank in fog, to her usual port of Scheveningen, when it was in collision with the UK registered FV Eventide.

Neither vessel was engaged in fishing at the time and the Miranda's bow struck the port side of the Eventide forward to the port beam.

The Eventide sustained damage of sprung planks and damage to her rigging and mast. Her crew was working on deck at the time. The beam trawler Miranda suffered minor damage to her steel hull and paint work.

The Miranda stood by the Eventide until she was escorted back to Grimsby by the RNLI Humber Lifeboat. The skipper of the Miranda and her crew did not hold the required Certificates of Equivalent Competency to work on a UK registered vessel at the time of the incident, in contravention of UK maritime legislation.

**Penalty:** The company was fined £2550 plus their share of the costs - £6271. The skipper was fined £1200 plus his share of the costs - £3136.

### Turkish chief officer pleads guilty to causing grounding

**Defendant:** At Greenock Sheriff Court

**Date of hearing:** 22 January 2013

**Offence:** Breach of Section 58 of the Merchant Shipping Act 1995.

**Details:** On 2 July 2012 the Antigua and Barbuda registered cargo ship Coastal Isle was en route from Belfast to Greenock when at 05:00 hours it grounded at Garroch point on the southern coast of the Isle of Bute.

There was a crew of 10 onboard the ship but fortunately there were no injuries and there was no pollution. The ship was refloated at around 09:30 hours the same day and proceeded to Greenock where divers found that the ship had suffered serious damage for about one third of its length and the fore peak tank was ruptured.

The Chief Officer admitted leaving the bridge at about 03:00 hours to go to the toilet and has no recollection of events until after the collision when he was found in his cabin by the 2<sup>nd</sup> Officer who had been sent to look for him. The Captain stated that the Chief Officer had been found asleep in his bed.

**Penalty:** Was fined a total of £5,000.

### **Fishing vessel skipper fined after running aground on Lizard Peninsula**

**Defendant:** Gilles Lemaitre at Truro Magistrates' Court

**Date of hearing:** 6 September 2013

**Offence:** Breach of Section 58 of the Merchant Shipping Act 1995 and Collision Regulations.

**Details:** On the afternoon of Wednesday 28 August 2013 the fishing vessel Scuderia sailed from Roscoff in northern France towards fishing grounds off the Lizard Peninsula. At around 22:30 the vessel ran aground at Lankidden Cove between Cadgwith and Coverack.

Falmouth Coastguard was contacted at 23:01 and an emergency response activated, with the Lizard RNLi lifeboat attending together with the Porthoustock Coastguard Rescue Team. None of the 5 crew was injured but the forward tank had been ruptured, with the loss of approximately 10 tonnes of diesel. An anti-pollution and salvage operation was put in place and the vessel was refloated on Monday 2 September 2013.

The 38 year old skipper, Gilles Lemaitre, stated the grounding had been caused by him falling asleep on the bridge after having had little sleep when off-watch and self-prescribing codeine tablets.

**Penalty:** Mr Lemaitre was fined £2,800 for conduct endangering ships, structures and individuals; £2,800 for failing to keep a proper lookout; £5,435 costs and £120 victim surcharge.

The fine levels took into account aggravating factors:

- there were sufficient crew and they were not used
- the skipper took the decision not to use the crew himself
- the offences were likened to those of dangerous driving
- the skipper had sufficient funds to pay the fine levels

The Magistrates also took into account his full cooperation with MCA's investigation and his early guilty plea.

### **Satellite monitoring captures tanker's pollution**

**Defendant:** Maersk Tankers Singapore Pte Ltd at Truro Magistrates' Court

**Date of hearing:** 4 October 2013

**Offence:** Breach of Dangerous or noxious Liquid Substances in Bulk Regulations 1996.

**Details:** On 25 February 2012 a satellite operated by the European Marine Safety Agency (EMSA) detected a ship trailing a slick in the waters between Lands End and the Scilly Isles. A report was made to MCA. The alert level was given as RED i.e. high confidence. The ship was identified as the Singapore registered tanker Maersk Kiera. The slick itself was within 12 miles of land.

The vessel was contacted by Falmouth Coastguard to query whether they were carrying out tank cleaning operations as they had satellite imagery of oil traces in the track of the Maersk Kiera. The Master confirmed to Falmouth Coastguard that tank cleaning and associated discharge following a cargo of palm oil was indeed being undertaken, but that they were complying with International requirements.

Under the Dangerous or Noxious Liquid Substances In Bulk Regulations 1996 (SI 3010) discharge of palm oil slops is permissible subject to certain conditions. One of those conditions is that the discharge is over 12 miles from the nearest land.

Communications between the operators of the Maersk Kiera and MCA took place. Initial contact on 11 May 2012 with the owners Maersk stating that the vessel had been cleaning tanks, but stopped before the vessel was within 12 miles of land.

Eventually a breach of UK Pollution legislation was admitted by the owners.

**Penalty:** Maersk Tankers Singapore Pte Ltd was fined £15,000, £7,404.88 costs and £120 victim surcharge. The fine levels took into account the fact that there had been, in the estimation of the Chairman of the Bench, little real mitigation offered by the defence and it was considered a medium to high risk case.

### **Fine for operating fishing boat without safety certificate**

**Defendant:** Trevor Brooker at Weymouth Magistrates' Court

**Date of hearing:** 14 October 2013

**Offence:** Breach of the Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001.

**Details:** The UK registered fishing vessel Boy Michael (Official No. A15669) CK 109 is a 10 metre long fishing vessel based at Weymouth. She is owned and skippered by Trevor Brooker, who lives in the town.

During a visit to Weymouth by Maritime and Coastguard Agency (MCA) officials on 13 June, 2012, the Boy Michael was observed to be landing fish. Checks showed that she had been due for a survey/inspection by 1 September, 2011, when her safety certificate expired. MCA wrote to Brooker in July 2012 and September 2012 advising him of the need to have the vessel surveyed. No response was received.

On 8 November, 2012, a Prohibition Notice was issued which stopped the vessel from fishing commercially. Later that day, Brooker approached an MCA Surveyor on Weymouth Quay and asked to be surveyed on that day. He was informed about the Prohibition Notice. He was also informed that the Surveyor already had a full day and that he should contact Southampton Marine Office to make an appointment. No response was received – however, Brooker did stop fishing.

As no contact had been received from Brooker, the process of de-registering the Boy

Michael began. A '30-day notice' was sent out by the Registry of Seaman and Shipping on 8 November, 2012. No response was received. Subsequently, a final notice was despatched on 19 December, 2012. No response was received. The vessel was therefore formally de-registered on 27 December, 2012.

Brooker could have had his vessel inspected at any time during this 37-day process, which would have stopped the de-registration process.

The file was passed to Enforcement on 11 December, 2012. Despite several efforts to contact Brooker no response was received. Brooker has now had the vessel surveyed and the Boy Michael has been re-registered.

**Penalty:** Mr Brooker was fined £1,500, plus £3,500 costs and £120 victim surcharge. The fine levels took into account the fact that there had been little or no contact from Mr. Brooker to resolve the issues and comply with the safety rules.

### **Cowes Week yacht skipper fined for crashing into tanker**

**Defendant:** Roland Wilson at Southampton Magistrates' Court

**Date of hearing:** 25 October 2013

**Offence:** Breaches of the Collision Regulations - Failing to keep a proper lookout, impeding a vessel constrained by its draft, and, crossing a narrow channel thereby impeding a vessel constrained by her draft.

**Details:** On 6 August 2011, the yacht 'Atlanta of Chester' was taking part in the first day of racing at Cowes Week. Heading towards Southampton Docks was the tanker 'Hanne Knutsen'.

Skipper Roland Wilson, who at the time was a Royal Navy Lieutenant, said he spotted the red tanker when it was 5 miles away. However, the yacht sailed into the moving exclusion zone protecting the 'Hanne Knutsen'. Fearing for his safety, a crew member on board the yacht then jumped overboard moments before they collided with the front of the tanker.

The yacht's rigging then got caught up on the tanker's anchor causing the mast to collapse

onto to the head of one of the crew. He later was taken to hospital but wasn't seriously injured.

[A reconstruction video of the collision](#)

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**Penalty:** Mr. Wilson was fined £3,000, plus £100,056.68 costs and £15 victim surcharge.

### **Lowestoft man convicted of using forged seaman certificates**

**Defendant:** Benjamin Helmer at Lowestoft Magistrates' Court

**Date of hearing:** 11 November 2013

**Offence:** Using a False Instrument in breach of the Forgery and Counterfeiting Act 2006

**Details:** Mr. Helmer was able to secure employment in December 2012 on the Marineco Dignity, operating from the Netherlands, by producing a forged AB (Able Bodied) Seaman certificate and a fire fighting training certificate.

However, it was recognized by the other crew that he lacked the necessary knowledge and skills expected of a professional seaman.

Enquiries by the Master of the vessel with MCA confirmed that Helmer had not been issued with the certificates. He was dismissed from the ship after two weeks, as soon as the forgeries came to light.

Helmer was subsequently arrested by Suffolk Police and admitted to using the forged documents to secure employment.

**Penalty:** Mr. Helmer was sentenced to a month's imprisonment suspended for 12 months.

### **RHIB owner fined for crashing into yacht**

**Defendant:** Ralph Carson at Downpatrick Magistrates' Court

**Date of hearing:** 15 November 2013

**Offence:** Breaches of Section 58 of the Merchant Shipping Act 1995 and the International Regulations for Preventing Collisions at Sea 1972.

**Details:** The 28 foot yacht Charlotte-Anne was moored at Killyleagh, in Northern Ireland, when the RHIB Red Rubber crashed into its side. Mr. Carson, from Killyleagh, who owned the RHIB and was navigating at the time of the incident, was found guilty on 3 charges: failing to take reasonable steps to ensure that it was operated in a safe manner, failing to navigate it safely, and failing to keep a lookout.

**Penalty:** Mr. Carson was fined £500 for each of the 3 charges and was ordered to pay an offender's charge of £15.

### **Suspended sentence for fishing at sea without navigation lights**

**Defendant:** Dean James Rollason at Truro Crown Court

**Date of hearing:** 23 October 2013

**Offence:** Five Breaches of the Merchant Shipping (Distress Signal and Prevention of Collisions) Regulations 1996 by failing to comply with Rule 23 of the International Regulations for Preventing Collisions at Sea 1972.

**Details:** Between 8 January 2013 and 3 June 2013 Rollason was observed on 5 occasions operating a fishing vessel without navigation lights at night. The incidents occurred in the Fowey River, River Camel estuary, Penryn River and off Looe in Cornwall. Several agencies reported the sightings to MCA, who instigated legal action after reviewing the evidence. Four of the offences were committed in a small fishing vessel, Top Dog, owned by Rollason.

Rollason, of Plymouth, had pleaded guilty at an earlier Magistrates' Court hearing to 5 breaches of the Collision Regulations. However, the Magistrates' Court felt it had insufficient powers and passed the matter to Crown Court for sentencing. The Court heard that Rollason had previously received two Police warnings and been prosecuted on two other occasions for failure to show navigation lights.

**Penalty:** Mr. Rollason was handed a 28 day prison sentence, suspended for two years, and ordered to pay £500 in costs. This took into account his guilty plea, but also the seriousness of the offence and the fact it was not a first offence.

### **Boat skipper fined for misuse of flares**

**Defendant:** Matthew Yeoman at Torquay Magistrates' Court

**Date of hearing:** 30 October 2013

**Offence:** Breach of the Merchant Shipping (Distress Signal and Prevention of Collisions) Regulations 1996 by firing a rocket distress flare when not in need of immediate assistance

**Details:** A red distress rocket flare was fired just before the boat torch light procession at this year's Salcombe Harbour Festival, popular with participants and spectators, landing on heathland, whilst still burning.

Harbour Master Ian Gibson identified and spoke to the culprit Matthew Yeoman, a 50 year old from Salcombe, and owner of the converted fishing boat Etoile, as it was clear he was not in need of assistance.

Two further rocket flares were fired out into the harbour amongst moored boats. This resulted in calls to Brixham Coastguard and a response from the Hope Cove and Salcombe lifeboats.

Yeoman was spoken to by the lifeboat crews on his boat and admitted to firing the further flares, though not in need of assistance. The flares used by Yeoman had expired in December 2004. When interviewed about the matter, he admitted to firing the flares during the event on 8 August 2013.

**Penalty:** Mr. Yeoman was fined £750 for the offence, ordered to pay £3000 in costs and a victim surcharge of £75. This took into account his full cooperation with MCA and his early guilty plea, but also the seriousness of the offence given he was a professional seaman.