

Prosecutions 2011

Fishing skipper pleads guilty for failure to keep a proper lookout

Defendant: Jack Abry II

Date of Hearing: 2 February 2011

Date of Offence: 31 January 2011

Offence: Contravening the Merchant Shipping (Distress Signals and prevention of Collisions) Regulations 1996 and Section 58 of the Merchant Shipping Act 1995

Details: On 31 January 2011 at around 11:20 p.m. the French registered fishing vessel JACK ABRY II, with a crew of 14 on board, grounded on the north west coast of Rhum off the west coast of Scotland.

A full emergency was declared and Mallaig lifeboat and Rescue 100, the Coastguard helicopter based in Stornoway, were dispatched to assist.

The seas were too rough to evacuate the crew onto the lifeboat and so they were winched to safety by the helicopter and flown to Stornoway.

Penalty: The skipper was fined a total of £3000.

Two unsafe yacht operators sunk

Defendant: At Southampton Crown Court

Date of Hearing: 4 February 2011

Date of Offence: Dates in 2008/2009

Offence: Contravening Section 100 of the Merchant Shipping Act 1995

Details: The two separate operators had taken advantage of the growth in demand for trans-Atlantic sail training. Both used the internet to sell training courses for those wanting to go from novice to Yachtmaster Ocean. They ran inclusive costly courses but did not have vessels equipped to the minimum levels of lifesaving equipment.

It was shown that one had sent students on a voyage from Cowes to St Lucia with a skipper who was not properly qualified on a yacht that had only the basic equipment to operate no more than 60 miles from a safe haven.

The yacht 'Quay Three' had only one valise life raft stowed in a locker and the only means of distress alerting was by a VHF radio (of limited range) and an EPIRB. The vessel had no qualified mate.

Events on the voyage included collision with a whale and defective steering. The parents of one of the students were horrified at the lack of safety. They had financed the cost of their daughter attending by renting out their home and living on a small yacht throughout a hard winter.

The other was endeavouring to try and get his yacht, 'Summer Breeze of Haslar' ,up to the required coding to legally do trans-Atlantic crossings from Gibraltar to the Caribbean, but could not get the vessel through the required stability test.

He had already taken bookings from students and sailed without a qualified mate and with only one life raft. Although an experienced Yachtmaster, he did not have the required qualifications to take an uncoded yacht across the Atlantic.

As soon as the RYA learned of these matters, they suspended their recognition of In2Sail and Straits Sailing.

Penalty: The first defendant was fined a total of £16,000 including costs and the second was fined a total of £17,549. Both were given a default prison sentence of 6 months if the fines were not paid within 6 months.

Trawler takes the wrong route in the Strait of Dover

Defendant: At Folkestone Magistrates' Court

Date of Hearing: 15 February 2011

Date of Offence: 22 March 2009

Offence: Contravening Rule 10 (d) of the International Regulations for the Prevention of Collisions at Sea

Details: On 22 March 2009 the Belgian trawler De Zwerver was on passage from Milford Haven to Belgium when the vessel was detected by the Dover Channel Navigation Service (CNIS) using the English Inshore Traffic Zone off Brighton. Its progress up the English Inshore Traffic Zone was continually monitored by Dover CNIS.

The De Zwerver was still using the English Inshore Traffic Zone when, off the Port of Dover, it had a near-miss incident with a cross-Channel ferry. The ferry had to take

action to avoid De Zwerver. The Master of the ferry reported the incident to Dover CNIS.

De Zwerver continued to transit the English Inshore Traffic Zone. Throughout its transit attempts were made to call the De Zwerver by radio but no response was received.

Efforts were made to contact the owner and skipper of the De Zwerver after the incident but, again, no response was received.

Penalty: The skipper was fined a total of £400, plus costs of £600 plus £15 tax. The company was fined £1,500 plus costs of £3,733 and £15 tax.

Two drivers found guilty of contravening The Merchant Shipping (Dangerous Goods and Marine Pollutant) Regulations 1997

Defendant: At Folkestone Magistrates' Court.

Date of Hearing: 8 April 2011

Date of Offence: 3 February 2011

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

Details: On Thursday 03 February 2011, a British national employed by Edington Logistics and driving their vehicle, a white Mercedes Sprinter van attempted to take passage on one of the DFDS ferries from Dover to Dunkerque.

He arrived at the freight check in booth at 19:23 and was advised that the 20:00 sailing was already fully booked but he might be forward shipped if there was space for a small vehicle. He declared to the check in clerk that he was carrying 500kg of aircraft parts and passed over a CMR to that effect. He did not pass over the other paperwork including the dangerous goods notes and manifest.

DFDS later received a fax from Eurotunnel advising that this vehicle had been refused shipment due to consignment of UN2911 Radioactive declared in the paperwork.

Luckily this was received before the vehicle was loaded and a subsequent search revealed all the correct paperwork including several other parcels of dangerous goods.

The driver admitted that when checking in at the Dover DFDS ferry terminal that he only handed the check in clerk his passport, weigh bridge ticket and CMR which did not mention any dangerous goods. He further admitted that he did not tell the clerk about the dangerous goods he knew he was transporting, nor did he produce the relevant paperwork which he had in his possession and had produced at the Channel Tunnel when attempting to check in there.

He stated that he had made a very silly assumption that he did not need to declare the dangerous goods at the check in booth because they were limited quantities and only declared when questioned that he had aircraft parts which they were.

Penalty: He was fined £750.00 and ordered to pay full costs of £2,090.60.

Two drivers found guilty of contravening The Merchant Shipping (Dangerous Goods and Marine Pollutant) Regulations 1997

Defendant: At Folkestone Magistrates' Court.

Date of Hearing: 8 April 2011

Date of Offence: 28 January 2011

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

Details: At 20:15 on Friday 28 January 2011 a British Mercedes car was stopped at a routine customs inspection at Dover Eastern Docks after arriving on a ferry from France.

The driver, a Lithuanian national, stated he had been to see family in Lithuania and was now returning to the UK. A search of the car revealed nine Mercedes airbag modules in the boot.

When asked if he had declared these airbag modules to Seafrance before boarding the ferry he admitted that he had not.

He confirmed that he purchases these airbags in Europe from scrap car dealers and sells them in the UK on eBay.

He had been stopped by Port of Dover Police on several occasions prior to this incident and found to be carrying live airbags. The Port of Dover Police had warned him on each occasion that he must declare these goods to the ferry company.

MCA, in cooperation with the Port of Dover Police, brought this prosecution because he had not heeded the previous warnings.

Penalty: He was fined £2,000.00 and ordered to pay the full costs of £2,100.00 and £15.00 Victim Support.

Court hearing follows collision with Brixham breakwater

Defendant: At Torquay Magistrates' Court

Date of Hearing: 6 May 2011

Date of Offence: 23 September 2010

Offence: Contravening Rule 5 of the International Regulations for the Prevention of Collisions at Sea and Section 58 of the Merchant Shipping Act 1995.

Details: On 23 September 2010 the FV Angelena was returning to Brixham harbour. The owner / skipper of the Anglena was alone in the wheelhouse at the time of the incident.

The weather had deteriorated previously so after the last haul a catch had been left in the cod end for the start of the trip back to Brixham.

Once the vessel was inside Berry head the sea calmed down and he called out the crewman to sort, clean and gut the catch. When the crewman had completed this he climbed back up on deck from the fish hold.

As he was getting his bearings the Angelena hit the breakwater at full speed.

The grounding was observed by a member of the public who informed the Coastguard. He got the Angelena off the rocks and proceeded into Brixham harbour for examination.

When interviewed he admitted he had fallen asleep after several days of working long hours.

Penalty: Was fined £10,000 for both charges, which was reduced to £7,000 for his early guilty plea plus costs of £4,858.31

Too many passengers lead to magistrates' court

Defendant: At Plymouth Magistrates' Court

Date of Hearing: 23 May 2011

Date of Offence: 1 July 2009 and between 17 June and 3 July 2009

Offence: Contravening the Merchant Shipping (Life – Saving Appliances for Passenger Ships of Classes III to VI(A)) Regulations 1999 and the Merchant Shipping (Survey and Certification) Regulations 1995.

Details: The Kathleen and May is a wooden three-masted barque built in 1900. Kathleen and May is coded under Code of Practice for Small Commercial Sailing Vessels by the Jersey Ship Registry.

The Kathleen and May is permitted to carry up to a maximum of 24 persons, including a maximum of 12 passengers. The vessel's documentation showed that the vessel had life rafts for 26 persons and lifejackets for 24 persons.

On 1 July 2009 the vessel departed Plymouth for a short cruise to Dartmouth. On arrival, the Kathleen and May was boarded by an MCA Surveyor who subjected the vessel to a General Inspection, which included an examination of the logbooks and certificates.

It was noted that on occasions the vessel had carried more passengers than permitted.

Investigations also showed that on 1 July 2009, the Kathleen and May had sailed on a voyage without providing sufficient life raft capacity and lifejackets for each person on board the vessel. They also showed that between 17 June 2009 and 3 July 2009, carried more than the permitted twelve (12) passengers on at least three occasions.

Penalty: Was fined £6,000 for both charges, plus costs of £4,000.

Fishing vessel skipper found guilty for failure to keep a proper lookout

Defendant: At Kilmarnock Sheriff Court

Date of Hearing: 17 June 2011

Date of Offence: 23 July 2009

Offence: Contravening the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996.

Details: The Fishing Vessel AVALON II, registered in Campbeltown (CN690) was reported steaming round in circles in Machrie Bay on the west side of the Isle of Arran in the Firth of Clyde.

A full emergency was declared and two lifeboats and a helicopter dispatched to assist.

Two local fishing vessels, the Dunanstar and Kelly Emm, were able to get quite close alongside, but could see no-one on deck or in the wheelhouse. The AVALON II continued going round in circles at full speed, gradually getting closer and closer to the shore.

They went as close as they dared and shouted and whistled until a figure who they recognised as the skipper appeared in the wheelhouse. He steered the boat away from the shore.

Penalty: Was fined £2,000.

Fisherman fined following collision with sail training vessel

Defendant: At Southampton Magistrates' Court

Date of Hearing: 30 June 2011

Date of Offence: 20 August 2010

Offence: Contravening Section 58 of the Merchant Shipping Act 1995.

Details: On the 20th August 2010 the Andrea had finished fishing and was returning to port in the Netherlands. The skipper and rest of the crew were below leaving one person alone on the bridge in sole charge of the vessel. The Andrea is a 36.5 metre beam trawler registered in the UK but is based in the Netherlands

The Alexander von Humboldt was returning to Germany after a training voyage with a crew of fifty nine (59) consisting of thirty three (33) trainees and twenty six (26) full time crew. She is a large three masted sail training vessel registered in Germany.

The visibility on the day was good (10 Km +), wind was southerly force 5-6 with weather being grey and overcast.

During the afternoon of the 20th August 2011 the Alexander von Humboldt detected the Andrea on a steady bearing on its port side.

The Andrea was not fishing and was the give way vessel. The Alexander von Humboldt started sounding its whistle. The Andrea failed to give way.

The Alexander von Humboldt also tried to contact the Andrea by VHF radio but had no response.

The Andrea claims to have gone hard to starboard and when within 15-20 metres of the Alex von Humboldt, the Andrea was seen to go full astern.

The Andrea struck the port quarter of the Alexander von Humboldt. It was a fairly low speed collision. Apart from some scratched paintwork, the Andrea was undamaged.

The Alexander von Humboldt was lucky to suffer only some dented shell plating, with associated damage to internal wooden bulkheads and deck planking, together with bent or buckled handrails.

It was very fortunate that no harm came to the crew of the Alexander von Humboldt and that its rigging and watertight integrity remained intact.

Penalty: Was fined £1,700 plus costs of £6,435

Passenger vessel master fined

Defendant: At Bournemouth Magistrates' Court

Date of Hearing: 22 July 2011

Date of Offence: 7 August 2010

Offence: Contravening Section 52 of the Merchant Shipping Act 1995 and Rule 5 of the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996.

Details: On the 7th August 2010 the passenger vessel Solent Scene was en route from Poole to Swanage. As part of the trip the vessel stopped off Old Harry Rocks (Handfast Point) to allow a funeral party to scatter ashes.

The Master of Solent Scene decided to close the beach in order to get some shelter from a North Westerly wind. He stopped the vessel alongside some fishing marks in order to have a reference point so as to monitor the vessel's position.

He had assigned a member of crew to monitor the funeral party which was scattering the ashes over the stern of the Solent Scene from the main deck. However he decided to check out the progress of the ceremony himself. He did this by leaving the wheelhouse and going to the after end of the top deck and looking over the stern.

How long he was there is uncertain but the next thing he realised was that the vessel had grounded. An attempt to get the Solent Scene off the rocks using the vessel's engines failed.

The passengers and crew were safely evacuated by the Poole RNLI Lifeboat. The Solent Scene was successfully towed off the rocks by the Lifeboat and towed safely into Poole.

Subsequent investigation showed that the Boat Masters Licence (BML) of the Master was not valid for the area in which the Solent Scene was operating. It also showed he had failed to comply with Company Instructions by being so close to the shore.

Penalty: Was fined £2,000 plus costs of £1,000.

Commercial boat owner pleads guilty

Defendant: At Downpatrick Magistrates' Court

Date of Hearing: 7 November 2011

Date of Offence: 6 June 2008

Offence: Failing to comply with the Code of Practice for the Safety of Small Commercial Vessels and breaching survey and certification regulations.

Details: The vessel Sarah May III is registered in the UK, certificated under the Code of Practice for the Safety of Small Commercial Vessels and licensed to carry no more than 12 passengers.

On 6 June 2008 it carried more than 20 passengers across the Irish Sea from Strangford to Peel, Isle of Man. The vessel was captured on CCTV at both Strangford and Peel as the passengers boarded the vessel.

Penalty: Was fined £800.

Fishing vessel skipper pleads guilty

Defendant: At Downpatrick Magistrates' Court

Date of Hearing: 7 November 2011

Date of Offence: 3 January 2011

Offence: Breaching Section 58 of the Merchant Shipping Act, 1995 and the requirements of the Fishing Vessel Safety Regulations.

Details: On 3 January 2011 the UK fishing vessel Karen was returning from a day's fishing in the Irish Sea when it grounded on the rocks at the north entrance to the port of Ardglass.

The vessel asked for urgent assistance from the Coastguard and the lifeboat from Portaferry was requested to launch to their aid.

Because the weather was fair they were able to bring the crew ashore to Ardglass and to put pumps aboard the stricken vessel.

The boat was later re-floated as the tide rose. However, it had sustained serious damage to the bow and keel.

Penalty: Was fined a total of £600 and ordered to pay £1,250 to the RNLI.

Haulier and driver found guilty for failure to declare dangerous goods

Defendant: At Larne Magistrates' Court

Date of Hearing: 2 December 2011

Date of Offence: 19 February 2008

Offence: Failing to declare a cargo of dangerous goods.

Details: On 19th February 2008 the Stranraer Police were alerted to an unaccompanied freight trailer which had been off loaded from the Larne to Stranraer Ferry. The officers noticed that the trailer was giving off a strange odour and that it was not placarded. They confirmed with the loading terminal at Larne that the content of the trailer was declared as peat.

When the driver arrived at 8 o'clock that evening he told the police that the cargo was aluminium smeltings known locally as 'skulls', a by-product from smelting and that it gave off dangerous gases and could go on fire if it got wet. He gave the police a copy of the manifest which confirmed that the freight was aluminium smeltings.

The shipper was a road haulier who is no longer trading, but was investigated following an incident where an explosion occurred aboard an Irish Sea Ferry on 8th July 2007.

During this earlier investigation it was revealed that there is no need to placard the trailer carrying this material under EU legislation while on the road, however under the International Maritime Dangerous Goods Code it must be declared to the shipping company and the trailer must be placarded for transport by sea.

Penalty: Driver was fined £3000 with contribution to costs of £1000. Company was fined £10000 and costs of £6000.

Tanker owners prosecuted for pollution in Solent

Defendant: At Southampton Magistrates' Court

Date of Hearing: 8 December 2011

Date of Offence: 10 & 11 January 2011

Offence: Breach of UK Maritime Pollution legislation.

Details: Overnight on the 10th and 11th January 2011, yellow waxy balls of an unknown material washed ashore on the beaches of East and West Wittering. Samples were collected by the Environment Agency for analysis.

MCA received information of problems on board a Panamanian registered tanker called 'Pretty Time'. The vessel was boarded and inspected by MCA Port State Control Inspectors on the 25th January 2011.

The inspection showed there had been problems in the handling of a previous cargo of Palm Oil. Small yellow waxy balls of material were seen scattered about the deck. Samples of the cargoes were taken and sent for testing by the Environment Agency. Also taken were copies of the ship's logs and documentation.

A backtrack analysis showed that the Palm Oil that washed up on the beaches of the Solent on the 10/11th January 2011 originated from the Outer Nab Anchorage at a time when the Pretty Time logs showed tank cleaning was in progress. Laboratory analysis showed that samples from the beaches and Pretty Time were the same.

The evidence showed that the tank cleaning residues had not been disposed of in the approved manner.

Penalty: Was fined £20,000 with costs of £75,000.