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CRIMINALISATION OF SEAFARERS - LOOKING AFTER THE CREW

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CRIMINALISATION OF SEAFARERS



CASUALTIES IN TERRITORIAL WATERS

IF:

- Personal injury and/or loss of life
- Significant pollution

THERE WILL BE:

- Investigations by the local authorities
 - maritime safety administrations
 - maritime police

CRIMINALISATION OF SEAFARERS

INVARIABLY AN OFFENCE HAS BEEN COMMITTED

In most countries:

- Breach of the COLREGS is an offence
- Causing death or personal injury is an offence
- Causing damage to property is an offence
- Causing pollution is an offence

CRIMINAL OFFENCES AND THE LAW

CRIMINAL LAW VARIES AROUND THE WORLD

- Need specialist advice
 - what offences have been committed?
 - what are the punishments for such offences?
 - what powers do the maritime police have?
 - how will the police investigation be conducted?
 - can the crew be taken into custody before trial?
 - how will the criminal proceedings be conducted?
 - how long will the criminal proceedings take?

MARITIME POLICE INVESTIGATIONS

LOCAL MARITIME POLICE HAVE:

- Wide powers of investigation
 - to interview the crew
 - to seize original documents for examination
 - to carry out inspections on board the ship
- Little to no concern for:
 - the ship's operational requirements
 - the owners repair schedule

MARITIME POLICE INVESTIGATIONS

EXPECT:

- Lengthy delays and disruption
- Prolonged interviews of the crew
 - arrange replacements
 - provide support facilities ashore

DO NOT EXPECT:

- Fair treatment
- the application of natural justice
 - both are relative terms

MARITIME POLICE INVESTIGATIONS

GENERALLY 2 TYPES OF INTERVIEW:

- “Witness” interviews
 - first stage
 - as a witness to relevant events
 - legal representation not guaranteed
- “Suspect” interviews
 - second stage
 - as a suspect (offender)
 - legal representation usually guaranteed

CRIMINAL CHARGES

THE ROLE OF THE PROSECUTOR

- Maritime police report to Prosecutor
- Prosecutor determines if offence committed
 - evidence sufficient to secure conviction
 - further investigation and interviews
- Prosecutor makes the charges
- Prosecutor decides if seafarer is to be arrested
- Prosecutor brings the case against the seafarer

CRIMINAL DEFENCE

ISSUES TO CONSIDER:

- What, when and who to tell the seafarer?
- Bail
- Support arrangements (on bail or in jail)
- Evidence (factual & expert)
- Law
- Industry support

THOUGHT FOR THE DAY...

WHO IS GOING TO PAY?



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