

Criminal liability of shipowners and seafarers

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Corporate criminal liability:

- Corporate criminal liability:
 - Acts of the “directing mind and will” of the company.
- As distinguished from:
 - acts of persons lower down the management structure.



Vessel condition and operation

Merchant Shipping Act 1995

Section 98:	“Dangerously unsafe” vessel (condition).
Section 100:	Vessels to be “operated in a safe manner”.
Summary conviction:	Fine up to £50,000.
Indictment:	Imprisonment up to two years and/or a fine.

Oil pollution

- Section 131 – Merchant Shipping Act 1995

Criminal offence if Owner or Master discharges oil or oil mixture in UK navigable waters.

Oil pollution

- Regs. 12, 13 and 36 – Prevention of Oil Pollution Regs.

Strict liability criminal offence for a UK-flag vessel to discharge oil, and for a foreign-flag vessel to discharge oil in UK waters.

(MARPOL)



Oil pollution

- Water Resources Act 1981

Section 85: an offence to discharge pollutants into “controlled waters” (which include UK territorial waters).

Oil pollution

- MARPOL – recognises a distinction between deliberate (“operational”) discharges and accidental escapes.
- EC Draft Directive: extending the regime to “gross negligence”?

Corporate killing

- Liability of directors: “manslaughter by gross negligence”.
- Requirements:
 - Duty of care
 - Breach of duty
 - Grossly negligent disregard for life.

Corporate manslaughter

- Company criminally liable:
“Directing mind and will” – identification principle.

Corporate manslaughter

- 1996 Law Commission Report (No. 237)
 - Clause 4: Corporate liability – gross carelessness
 - Clause 2: Individual liability – gross carelessness
 - Clause 1: Individual liability – reckless killing

ISM Code

- Regulation 4: Every company has a duty to comply
- Regulation 5: Company must have a Document of Compliance and must ensure that each vessel has an SMC
- Regulation 8: Company to designate a responsible person
- Regulation 19: Penalties for breaches of regulations 4, 5 and 8

The logo features a stylized, upward-pointing chevron shape in a light brown color, positioned above the letter 'N' of the word 'NORTON'.

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