

Book Review

COLLISIONS AT SEA VOLUME 1: LIABILITY AND THE COLLISION REGULATIONS¹

By Harry Hirst

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1 The task of determining the apportionment of liability for a collision at sea can be daunting. Apart from marshalling a wide array of evidence ranging from electronic data to expert's reports, one must also navigate the intricacies of the International Regulations for Preventing Collisions at Sea 1972² ("the Collision Regulations") and its relevant case law, all of which encompass a unique set of underlying principles. Hence, the maritime industry would find it welcoming to have a book which not just sets out the law in relation to collisions but also sets out a comprehensible framework for the reader to understand how collision liability is apportioned. *Collisions at Sea Volume 1: Liability and the Collision Regulations* ("the Book") is one such book.

2 The Book's author has planned for two volumes. The first, with which this review is concerned, sets out the basis of apportionment of liability and examines the various rules and corresponding scenarios under the Collision Regulations. It ends off with a suggested practical approach of how liability should be apportioned. The second volume, which has not been published, examines reported collision cases which are grouped according to particular scenarios and rules of the Collision Regulations.

3 In this first volume, the Book goes beyond a mere compilation of the latest state of the law in relation to collision liability. The Book's chapters are structured in a manner that allows the reader to understand and appreciate how the apportionment of liability works. For example, the Book begins with two very important introductory chapters. The first chapter looks at how liability in a collision is determined and apportioned. In particular, important concepts like the degree of fault and causative potency are explained with examples from case law. Such concepts are

1 Xlibris Publishing, 2019.

2 20 October 1972; entry into force 15 July 1977. See also Merchant Shipping (Prevention of Collisions at Sea) Regulations (Cap 179, Rg 10, 1990 Rev Ed).

easy to follow because the key principles are worded concisely, and they are immediately substantiated with quotes and holdings from the relevant cases. This allows for a swift reading of the introductory chapters which sufficiently immerses the reader with a requisite understanding of how collision liability is apportioned before the reader embarks on the other chapters of the Book.

4 Moving on to the second chapter, the Book explains the purpose and structure of the Collision Regulations. In particular, this chapter assists the reader with the familiarisation of the Collision Regulations by categorising the rules therein into “navigating rules” and “manoeuvring rules”. The former are rules which embody the customary good navigational practices of seafarers wherever they are sailing, whilst the latter refers to rules pertaining to how vessels are expected to manoeuvre to avoid collision. The rules of the Collision Regulations can potentially be unintuitive to the uninitiated and such categorisation arguably assists the reader to have a better grasp of the rules in the Collision Regulations.

5 An exposition on the various navigation and manoeuvring rules is then provided in the third and fifth chapters. Once again, the contents are concisely worded and are interspaced with relevant citations from case law, thereby allowing for easy reading and comprehension. The Book also makes references to diagrams in its appendix to assist the reader to visualise various key scenarios under the Collision Regulations.

6 Important concepts within the Collision Regulations are singled out and given a chapter of their own for further exposition. The fourth, sixth, seventh, eighth and ninth chapters of the Book expand on the concepts of risk of collision, restricted visibility, narrow channels, traffic separate schemes and good seamanship respectively. These concepts, especially risk of collision, can be quite technical in nature. As such, having a chapter to specifically focus on the said concepts would greatly assist the reader’s understanding. References to diagrams in the appendix are again provided at appropriate junctures. A summary of the key points is provided at the end of each chapter to allow the reader to have a quick recap before proceeding on to the next chapter.

7 The Book concludes with a final chapter which suggests a practical approach for the apportionment of liability. This methodology was proposed by the author to assist mariners and marine lawyers to apply the obligations imposed by the Collision Regulations and to reach a conclusion on the issue of liability. Whilst such a method is not endorsed by case law, it does provide a logical and streamlined thought process for the user to adopt in an exercise to determine collision liability. A flow chart summarising the approach is also provided in the appendix.

8 With regard to feedback and improvement for the Book, there are only two minor suggestions. First, it is humbly suggested that future editions of the Book (or its second volume) should include numbered paragraphs for easy reading and referencing. Second, to assist the reader in his further research or reading, it would be helpful if the Book could have pinpoint citations for the case law cited. At the very least, crucial cases setting out important holdings and definitions for the various concepts under the Collision Regulations should have such pinpoint citations.

9 With the advent of collision cases heard by the Singapore courts in recent years,³ the Book (and hopefully its subsequent volume) would no doubt be a useful reference material for practitioners, arbitrators⁴ and judges when dealing with issues of collision liability. Further, by reason of the Book's structure and brevity, it is also suited for law students and individuals who are unfamiliar with collision liability to embark on their maiden foray into this subject.

3 *The Dream Star* [2018] 4 SLR 473; *The Mount Apo* [2019] 4 SLR 909; *The Tian E Zuo* [2019] 4 SLR 475.

4 Disputes arising out of collisions can be resolved by arbitration. In particular, the Singapore Chamber of Maritime Arbitration ("SCMA") provides a fair, timely and cost-effective means of determining collision liability. See the SCMA Expedited Arbitral Determination of Collision Claims Rules <<https://www.scma.org.sg/rules#seadocc>> (accessed 8 February 2020).