EXPLANATORY MEMORANDUM TO

THE CHICHESTER HARBOUR REVISION ORDER 2025

2025 No. 705

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Marine Management Organisation ("the MMO") and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Michelle Willis, acting Chief Executive Officer at the MMO can confirm that this Explanatory Memorandum meets the required standard.

2.2 Trudi Wakelin, Director of Marine Development (Domestic and International) at the MMO can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Morris at the MMO can be contacted with any queries regarding this instrument. Address: Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH. Telephone: 0208 026 5175. Email: harbourorders@marinemanagement.org.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this instrument is to grant the Chichester Harbour Conservancy ("the Conservancy") power as the Statutory Harbour Authority to modernise the powers applying in relation to Chichester Harbour ("the Harbour"), so that they are conducive to the efficient and economical operation, maintenance, management and improvement of the Harbour.

4.2 The role of the Statutory Harbour Authority is to manage, regulate and maintain a harbour to ensure safe, efficient and environmentally responsible navigation and use.

4.3 In addition, this instrument extends the limits of the Harbour to include those parts of the harbour premises currently outside the existing harbour limits.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The Harbour is currently managed by the Conservancy using the existing local legislation.

5.2 The Conservancy conducted a review of its local legislation and identified a need to clarify the definition of harbour limits to expressly include the harbour premises and to confer additional powers on itself to assist in the management of the Harbour.

5.3 The Port Marine Safety Code[1] ("PMSC") published by the Department for Transport set out a national standard for all current aspects of port marine safety and was the relevant published guidance when the application for this instrument was made by the Conservancy.

5.4 In April 2025, the Department for Transport published an updated PMSC, Ports & Marine Facilities Safety Code ("the Code"). The Code is available to view online[2] and a hard copy of the Code is available for inspection on application to the Department for Transport, Maritime Navigation Safety & Wrecks, Great Minster House, 33 Horseferry Road, London SW1P 4DR. The Code provides updated policy guidance that continues to uphold and reinforce the core principles of the PMSC. The MMO has reviewed the Code and is satisfied that it remains consistent with the established safety and operational standards promoted by the PMSC. Accordingly, the MMO considers that the changes made by the Conservancy align with the updated Code and the decision to make this instrument is appropriate and justified.

5.5 The PMSC identified a number of tasks which harbour authorities should undertake in order to comply with the PMSC, including reviewing and being aware of existing powers based on local and national legislation. It advised that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation. In particular, paragraph 2.5 of the PMSC stated that:

"*… harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already*".

5.6 The Conservancy conducted a review of its local legislation and identified a need to confer additional powers on itself to assist in the management of the Harbour in compliance with the PMSC.

5.7 In addition, the Harbour Master appointed by the Conservancy will have updated powers to issue special directions to vessels to meet the obligations for navigational safety under the PMSC.

5.8 This instrument also sets out the consequences of failing to comply with a general or special direction and this will enable the Conservancy to meet its statutory duties and obligations for environmental protection and safety of navigation under the PMSC.

5.9 Illustrative plans ("the plans") accompany this instrument, as the Conservancy is clarifying the limits of the Harbour. The Conservancy can exercise its statutory harbour powers within the area outlined with green and blue lines on the plans. This is necessary to assist in the management of the Harbour in compliance with the PMSC.

5.10 The role of the MMO in determining applications for Harbour Revision Orders is to act as the regulatory authority responsible for reviewing, consulting on, and deciding whether to approve, modify, or reject proposed changes to harbour powers or

[1] Port Marine Safety Code 2016: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1032153/port-marine-safety-code.pdf.

[2] Ports & Marine Facilities Safety Code 2025: https://assets.publishing.service.gov.uk/media/67fd175bed87b81608546666/port-marine-safety-code.pdf.

boundaries under the Harbours Act 1964, ensuring they are legal, justified, and in the public interest.

5.11 In determining applications for Harbour Revision Orders, the MMO must ensure that proposals align with the relevant marine plan, in accordance with Section 58(3) (decisions affected by marine policy documents) of the Marine and Coastal Access Act 2009 (c.23). The South Marine Plan ("the Marine Plan") was considered as the appropriate marine policy when making a determination on this application. The Marine Plan is available to view online[3] and a hard copy of the Marine Plan is available for inspection on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.

5.12 The MMO's assessment of the application in relation to the policies of the Marine Plan, and its conclusion that this application is compliant with the Marine Plan, is available to view on the Harbour Orders public register[4].

What was the previous policy, how is this different?

5.13 There have been no changes to existing policy. This instrument is necessary to ensure continued compliance of the Harbour with existing policy.

6. Legislative and Legal Context

How has the law changed?

6.1 The Conservancy applied to the MMO on 13th April 2021 for The Chichester Harbour Revision Order 2025.

6.2 The responsibility for the consideration of the application, and the making of any Harbour Revision Order, passed to the MMO by virtue of the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674) which delegated the Secretary of State's functions under Section 14 (minister's powers, on application of harbour authorities to make orders) of the Harbours Act 1964 (c.40) ("the Act") to the MMO except in relation to specified applications.

6.3 This instrument gives the Conservancy updated powers to issue special directions to vessels and sets out the consequences of failing to comply with a general or special direction.

6.4 This instrument also clarifies the Harbour limits to expressly include harbour premises.

Why was this approach taken to change the law?

6.5 This approach represents the sole legal mechanism available to implement the necessary changes to the existing local legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with paragraph 10(1) of Schedule 3 to the Act, a notice was placed in the London Gazette on 3rd June 2021, as well as in the Chichester Observer on 3rd June 2021 and 10th June 2021 detailing the application for this instrument and how any objections or representations may be registered. The application for this

[3] MMO South Marine Plan: https://www.gov.uk/government/collections/south-marine-plans.
[4] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/chichester-harbour-revision-order.

instrument and all associated documents were made available for inspection at the Conservancy's office and the MMO's office, by prior appointment. The documents were also published on the MMO's website[5].

7.2 The MMO also consulted by email other such organisations it considered to have interest in this instrument. Full details of the consultation and a list of those organisations consulted are set out in the MMO's published decision letter, available to view online[6]. A hard copy of the decision letter is available for inspection on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.

7.3 The consultation ran from 3rd June 2021 to 14th July 2021, the statutory period of forty-two days provided for in Schedule 3 to the Act.

7.4 No objections to this instrument were received within the statutory period of forty-two days.

7.5 The MMO considered the responses submitted by the organisations consulted, the Conservancy's responses and the information supplied in the formal application in its determination of this instrument. The MMO was satisfied that the making of this instrument is desirable in the interests of securing the improvement, maintenance and management of the Harbour.

8. Applicable Guidance

8.1 The MMO does not propose to issue guidance on the effects of this instrument. Existing legislative framework and guidance[7] remain sufficient to understand and implement this instrument. Additionally, the Conservancy will publish particulars of this instrument in accordance with paragraph 24 of Schedule 3 to the Act.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument for the reason that the instrument is out of scope of the Better Regulation Framework[8] as it has no direct impact on businesses and because the provisions of this instrument are updating the powers of the Conservancy to ensure effective management of the Harbour.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies given that the measures in the instrument mainly relate to the management of the Harbour.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector given that the measures in this instrument relate to the management of the Harbour.

[5] Ibid.
[6] Ibid.
[7] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/chichester-harbour-revision-order.
[8] Better Regulation Framework: https://www.gov.uk/government/publications/better-regulation-framework.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The MMO will not actively monitor or review effects of this legislation, but it will consider any representations received and will take these into account in the future exercise of its powers.

10.2 The instrument does not include a statutory review clause. The Conservancy in its management of the Harbour is required to conduct reviews of its existing powers to ensure it meets its obligations in accordance with Ports & Marine Facilities Safety Code and where necessary to seek additional powers to meet its obligations.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 and does not relate to the withdrawal of the United Kingdom from the European Union.