EXPLANATORY MEMORANDUM TO

THE DART HARBOUR AND NAVIGATION HARBOUR REVISION ORDER 2021

2021 No. 129

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 Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to grant the Dart Harbour and Navigation Authority ("the Authority") modern powers of direction to ensure persons, vessels, and vehicles using the harbour facilities do so safely and effectively.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The Authority is the Statutory Harbour Authority and is governed by its own local legislation collectively known as the Dart Harbour and Navigation Act and Orders 1975 and 2021 ("the local legislation"). The Authority is responsible for the administration, maintenance and improvement of Dart Harbour. The applicant is also the Competent Harbour Authority under the Pilotage Act 1987.

6.2 The Authority applied to the MMO on 16 October 2019 for the Dart Harbour and Navigation Harbour Revision Order ("the Order").

6.3 The responsibility for the consideration of the application, and the making of any 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 of the Harbours Act 1964 ("the Act") to the MMO except in relation to specified applications.

7. Policy background

What is being done and why?

7.1 The Port Marine Safety Code ("PMSC") published by the Department for Transport ("DfT") sets out a national standard for all current aspects of port marine safety. The PMSC seeks to enhance safety for everyone who uses or works in the UK port marine environment. The PMSC can be viewed on the link below.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918935/port-marine-safety-code.pdf

7.2 The PMSC identifies 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 and it advises 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 states:

"…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".

7.3 The Authority conducted a review of their local legislation and identified a need to confer additional powers on themselves to assist in the management of the port in compliance with the PMSC.

7.4 The Order includes the premise of general directions applying to vehicles. The PMSC states that general directions apply to vessels. The MMO consulted with DfT who lead on ports policy in England, who were able to confirm on 30 January 2020 that they were content with general directions being used to regulate vehicles in a harbour, they also confirmed that they intend to update accompanying guidance to the PMSC to clarify the application of general directions.

7.5 In addition, the harbour master appointed by the applicant will have updated powers to issue special directions to vessels.

7.6 The Order also sets out the consequences of failing to comply with a general or special direction.

7.7 The Order amends the Dart Harbour and Navigation Authority Act 1975 to bring definitions in line with the Order.

7.8 There was no public or media interest in this application.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 This instrument does not consolidate any legislation.

10. Consultation outcome

10.1 In accordance with paragraph 10 of Schedule 3 to the Act, a notice was placed in the London Gazette on 18 September 2020 and the Western Morning News on 18 and 25 September 2020 detailing the application for the Order and how any objections or representations may be registered.

10.2 The MMO also consulted with other such bodies it considered to have interest in the Order.

10.3 No objections to the Order were received within the statutory period of forty-two days provided for in Schedule 3 to the Act. The consultation ran from 18 September 2020 until 30 October 2020.

10.4 The MMO considered the responses submitted by the bodies consulted, the Authority's responses and the information supplied in the formal application, in its determination of this Order. The MMO was satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour. Details of the consultation can be found in the decision letter at:

https://www.gov.uk/government/publications/dart-harbour-and-navigation-harbour-revision-order-hro201900009

10.5 A hard copy of the consultation is available on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH.

11. Guidance

11.1 The MMO do not propose to issue guidance in respect of the effects of the Order. However, the applicant will publish particulars, and serve copies of the Order in accordance with paragraph 24 of Schedule 3 to the Act.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact predicted on businesses, charities, voluntary bodies or the public sector.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring and review

14.1 Whilst the MMO will not actively monitor the operation of the provisions introduced by the Order, it will consider any representations received in this respect and will take these into account in the future exercise of its powers.

15. Contact

15.1 Daniel Jose at the MMO can answer any queries regarding the instrument. Address: Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH. Telephone: 0208 720 2232. Email: harbourorders@marinemanagement.org.uk.

15.2 Trudi Wakelin, Director for Marine Licensing, at the MMO can confirm that this Explanatory Memorandum meets the required standard.

15.3 Tom McCormack, Chief Executive Officer at the MMO can confirm that this Explanatory Memorandum meets the required standard.