EXPLANATORY MEMORANDUM TO

THE DOVER HARBOUR (CONSTITUTION) REVISION ORDER 2016

2016 No. 250

1. Introduction

1.1 This explanatory memorandum has been prepared by the Marine Management Organisation ("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 alter the constitution of Dover Harbour Board ("the applicant") and provide powers considered necessary to facilitate the effective management of the Port of Dover ("the Port").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The applicant is the statutory harbour authority for the port and operates under orders dated 1954 to 2016.

4.2 The applicant applied to the Marine Management Organisation ("MMO") on 6 January 2015 for the Dover Harbour (Constitution) Revision Order ("the Order") to be made under Section 14 of the Harbours Act 1964 ("the Act").

4.3 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 functions under Section 14 to the MMO except in relation to specified applications.

4.4 The proposed Order does not constitute or authorise a project for the purposes of Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment does not apply to the proposal. Accordingly an environmental statement was not required to support the application.

5. Extent and Territorial Application

5.1 The extent of this instrument is England only.

5.2 The territorial application of this instrument is England only.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

7.1 On 9 April 2014 the Parliamentary Under-Secretary for Transport, Stephen Hammond MP ("the Minister"), delivered a speech at the Port which laid out the steps he considered were required to "ensure an enduring and shared future for the Port and the local community". Those steps included community involvement, commercial development and regeneration.

7.2 The applicant was successful in obtaining a harbour revision order in 2014 to provide modern and flexible financial powers which enable them to improve and expand further maximising the potential of the Port and community and contribute to regeneration.

7.3 The Order continues the implementation of the Minister's plan and would modernise the applicant's constitution facilitating the appointment of two directors who will be appointed as having particular knowledge or experience of, or ability in, the position of the port within the local community and local economy ("the community directors").

7.4 More specifically, the Order provides for the applicant to consist of a body of nine members with experience in relevant matters. Three members will be appointed by the Secretary of State one of whom will be appointed as the chair. Four members will be appointed by the applicant, two of whom will be appointed as having particular knowledge or experience of, or ability in, the position of the port within the local community and local economy. The remaining two members will be the chief executive and one other senior officer.

7.5 Provision is also made for the applicant to consult the two advisory bodies known as the Port & Community Forum and the Dover Port Users Group.

7.6 The Order is consistent with the plan of the Minister and is also in line with the guidance contained in Modernising Trust Ports [second edition] ("MTP2") issued by the Department for Transport ("DfT") in 2009.

Consolidation

7.7 None

8. Consultation outcome

8.1 In accordance with paragraph 10 of Schedule 3 to the Act a notice was placed in the London Gazette and in the Dover Express detailing the application for the Order and how any objections or representations may be registered.

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

8.3 Five objections to the Order and four representations were received within the statutory period of forty-two days provided for in Schedule 3 of the Act. Two of the four representations were supporting representations.

8.4 Following modifications to the Order a number of objections and representations were subsequently withdrawn. Two objections and a single representation remained for consideration by the MMO in its determination. Full details of the consultation, objections and representations can be found at https://www.gov.uk/government/publications/the-dover-harbour-revision-constitution-order-2015

9. Guidance

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

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

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

12. Monitoring & review

12.1 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 it powers.

13. Contact

13.1 Mark Kirby at the Marine Management Organisation Telephone: 0191 376 2563 or email: mark.kirby@marinemanagement.org.uk can answer any queries regarding the instrument.