EXPLANATORY MEMORANDUM TO

THE GREAT YARMOUTH PORT AUTHORITY (CONSTITUTION) HARBOUR REVISION ORDER 2015

2015 No. 1395

1. This explanatory memorandum has been prepared by the Marine Management Organisation and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend the constitution of the Great Yarmouth Port Authority ("the applicant") facilitating the efficient and economical management of the Port. The instrument would reduce the number of board members required to 7 and create a new appointment process in line with best practice detailed in Modernising Trust Ports [Second Edition].

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

3.1 None

4. Legislative Context

4.1 The applicant is the statutory harbour authority for the Port of Great Yarmouth ("the Port"). It operates under Acts and Orders 1866 to 2005.

4.2 The applicant applied to the Marine Management Organisation ("MMO") on 11 September 2014 for The Great Yarmouth Port Authority (Constitution) Harbour 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 authorise a project for the purposes of Council Directive 85/337/EEC which is codified by Council Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. Accordingly an environmental statement was not required to support the application.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and the only effect on primary legislation is the repeal of sections 35(2) and 36(2) of the Great Yarmouth Port and Haven Act 1911 no statement is required.

7. Policy background

7.1 The Great Yarmouth Port Authority Harbour Revision Order 1989 ("the 1989 Order") provides that the applicant shall consist of 10 members and a Chief Executive. The members being appointed by various bodies specified in the 1989 Order.

7.2 The Port is situated in the County of Norfolk on the eastern seaboard of the United Kingdom with the closest sea routes to the northern European coastal ports.

7.3 The history of the Port has been diverse and in the 20th century the port developed from a major fishing port to a North Sea Gas support base with interests in general, bulk and project cargoes.

7.4 In the early 1980's the applicant concluded that the future sustainability of the Port could be guaranteed by having the ability to accept longer and deeper drafted vessels. Following extensive modelling and research the applicant embarked on a project to fund and build an outer harbour to supplement and enhance the facilities available in the River Port. The applicant subsequently promoted the Great Yarmouth Outer Harbour Act 1986 ("the 1986 Act").

7.5 In 2004 the applicant, in partnership with Norfolk County Council and Great Yarmouth Borough Council formed a joint procurement company (Eastport Great Yarmouth Ltd) to attract the necessary investment to achieve the construction of the Outer Harbour.

7.6 In 2007 commercial agreements were concluded with International Port Holdings Eastport resulting in the construction of the Outer Harbour which opened for business in 2010.

7.7 In 2007 and as part of the commercial agreements the applicant transferred the assets, business and operation of the Port to the Great Yarmouth Port Company ("the GYPC") by virtue of the 1986 Act. The statutory powers of the applicant as a harbour authority were not transferred although the majority of the functions were delegated to the GYPC.

7.8 Since 2007 the applicant has had limited role in the management of the Port. The applicant meets throughout the year to exercise its non-delegable duties.

7.9 The reconstitution addresses the need to reduce the number of board members in the context of the delegation of functions and ensure the board size and the appointment process is consistent with relevant policy. The Order is considered necessary to facilitate the efficient and economical management of the Port.

8. Consultation outcome

8.1 In accordance with paragraph 10 of Schedule 3 to the Act a notice was placed in London Gazette and in the Yarmouth Mercury detailing the application for the Order and how any objections or representations may be registered. The MMO received one objection to the Order within the statutory period of forty-two days provided for in Schedule 3 of the Act.

9. Guidance

9.1 The MMO does 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.

10. Impact

10.1 The MMO considers the impact on business, charities or voluntary bodies to be nil.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument. The MMO considers the impacts to be nil.

11. Regulating small business

11.1 The legislation does not apply to small business.

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 its powers.

13. Contact

13.1 Andrew Watson at the Marine Management Organisation email: Andrew.watson@marinemanagement.org.uk