EXPLANATORY MEMORANDUM TO

THE HARBOUR DIRECTIONS (DESIGNATION OF HARBOUR AUTHORITIES) (AMENDMENT) ORDER 2016

2016 No. 821

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This order amends the description of Mostyn Docks Harbour in the Schedule to the Harbour Directions (Designation of Harbour Authorities) Order 2015 (S.I. 2015/573) (the "2015 Order") which designated the harbour authority for Mostyn Docks with the power to give harbour directions.

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 negative resolution 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 Harbours Act 1964 ("the 1964 Act") was amended by section 5 of the Marine Navigation Act 2013 which inserted new sections 40A to 40D. The new provisions provide a mechanism by which the Secretary of State may, by order, designate harbour authorities with the power to give harbour directions for the regulation of ships within their harbours in respect of movement, mooring, equipment and manning. The harbour authority for Mostyn Docks was one of an initial eleven harbour authorities designated by the 2015 Order which came into force on 6th April 2015. The Mostyn Docks Harbour Revision Order 2016 (S.I. 2016/75) (the "2016 Order"), applied for under section 14 of the 1964 Act, extended the relevant harbour authority's limits of jurisdiction to include the area described in paragraphs (a) and (b) of Article 3(1) of the 2016 Order with effect from 1st March 2016. A consequential amendment now needs to be made to the harbour description for Mostyn Docks Harbour in the Schedule to the 2015 Order so that the harbour directions power can be applied to the added area.

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain.

5.2 This instrument applies specifically to the harbour authority for Mostyn Docks, a non-fishery harbour in Wales.

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 At present the description of the harbour authority's limits of jurisdiction at Mostyn Docks (referenced in paragraph 9 of the 2015 Order) consists of the docks and a small area of water on the approach to them, as described in article 4 of the Mostyn Docks Harbour Empowerment Order 1988 (S.I. 1988/1677). Mostyn Docks harbour is situated on the western side of the Dee Estuary in Flintshire, Wales.

7.2 The 2016 Order was subsequently made and came into force on 1 March 2016. Article 3(1) of the 2016 Order extends the harbour authority's limits of jurisdiction at Mostyn Docks through the addition of an "added area". The "added area" is separate from the jurisdictional area of the docks and follows the narrow seaward navigation channel from the seaward limits of jurisdiction of Natural Resources Wales (as harbour authority for the Dee Estuary Conservancy) round westwards to the position of the former Rhyl buoy. This Order will amend paragraph 9 of the Schedule to the 2015 Order to include reference to article 3(1) of the 2016 Order so that the harbour directions power can be exercised in the "added area" as well as in the waters surrounding the dock.

Consolidation

7.3 The Department does not consider that consolidation is necessary.

8. Consultation outcome

8.1 The current harbour authority for Mostyn Docks (Mostyn Docks Ltd) undertook a month-long consultation in November/December 2015 with local stakeholders, and with the Royal Yachting Association who had commented on that harbour authority's original application to be designated, notifying its wish to extend the harbour directions power to "the added area" of jurisdiction once the harbour revision order came into force.

8.2 One response was received from the harbour master of Dee Estuary Conservancy wholeheartedly supporting the application of the harbour directions power to "the added area" (Mostyn Docks lies on the Welsh side of the Dee Estuary). This instrument effects an amendment to Mostyn Docks Harbour description in the 2015 Order to apply the harbour directions power to "the added area".

9. Guidance

9.1 The Department issued *Harbour Directions Guidance*[1] in November 2013. This is non-statutory guidance but is aimed at providing assistance to harbour authorities as to the requirements of the Secretary of State before an authority is included in a harbour directions designation order.

[1] https://www.gov.uk/government/publications/harbour-directions

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 No impact assessment was considered necessary. However, the original designation of the harbour authority at Mostyn Docks with the power to give harbour directions was the subject of a full impact assessment[2] which covered all applications for the power.

11. Regulating small business

11.1 The legislation applies to the harbour authority for the harbour referred to in paragraph 2 of this Order. It has no additional impact on small business.

12. Monitoring & review

12.1 A National Directions Panel (NDP) has been set up comprising the representative organisations of both harbour authorities and harbour users. It will act as focal point for issues arising from the granting and use of harbour direction powers and will oversee and make recommendations on the conduct of harbour authorities exercising the power. The Department attends NDP meetings.

12.2 As the Secretary of State may designate a harbour authority with the power to give harbour directions, it would also be possible for the Secretary of State to revoke the designation if there was sufficient evidence that the harbour authority was not using its power properly.

13. Contact

13.1 Caroline Wall at the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR, tel: 020 7944 6251 or email: caroline.wall@dft.gsi.gov.uk can answer any queries regarding the instrument.

[2] http://www.legislation.gov.uk/ukia/2015/139/pdfs/ukia_20150139_en.pdf