EXPLANATORY MEMORANDUM TO

THE LYMINGTON HARBOUR REVISION ORDER 2014

2014 No. 1076

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 modernise and extend the existing powers vested in the Lymington Harbour Commissioners ("the Applicant"). In particular, it defines the limits of Lymington Harbour in modern terms, confers powers on the Applicant to give general directions to vessels and provides other powers considered necessary to ensure the efficient and economical management of the harbour.

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 Lymington Harbour and operates under orders dated 1951 to 2014.

4.2 The Applicant applied to the Marine Management Organisation ("MMO") on 18 June 2013 for the Lymington 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 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. 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 does not amend primary legislation no statement is required.

7. Policy background

7.1 The Order defines the limits of Lymington Harbour in modern terms, confers powers on the Applicant to give general directions to vessels and provides other powers considered necessary to ensure the efficient and economical management of the harbour.

7.2 The Port Marine Safety Code ("the code") published by the Department for Transport in October 2009 applies to the Applicant.

7.3 The introduction to the code explains that it *"establishes the principle of a national standard for every aspect of port marine safety, and aims to enhance safety for those who use or work in ports, their ships, passengers and the environment. It applies to port marine operations the well-established principles of risk assessment and safety management systems. It provides a measure by which harbour authorities can be accountable for the legal powers and duties which they have to run their harbours safely and help to discharge their obligations effectively"*.

7.4 The code identifies a number of matters which harbour authorities must do in order to comply with the code. These matters include reviewing and being aware of their existing powers under local and national legislation, and the code 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 3.4 of the code states *"Harbour Authorities would be well advised to secure powers of general direction to support the effective management of vessels in their harbour waters, if they do not have them already"*.

8. Consultation outcome

8.1 In accordance with paragraph 10 of Schedule 3 to the Act a notice was placed in the London Gazette, The Lymington Times and the Lymington Advertiser 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 minor.

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 minor.

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 Mark Kirby at the Marine Management Organisation email: Mark.Kirby@marinemanagement.org.uk