EXPLANATORY MEMORANDUM TO

THE POOLE HARBOUR REVISION ORDER 2026

2026 No. 724

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 His Majesty.

1.2 This memorandum contains information for the Secondary Legislation Scrutiny Committee.

2. Declaration

2.1 Trudi Clarke, Director of Marine Development (Domestic and International) at the MMO, confirms that this Explanatory Memorandum meets the required standard.

2.2 Leanne Stockdale, Head of Marine Licensing Service Delivery at the MMO, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Morris at the MMO can be contacted by email at the following address with any queries regarding the instrument: harbourorders@marinemanagement.org.uk. Alternatively, the MMO can be contacted by telephone: 0300 123 1032.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this instrument is to grant Poole Harbour Commissioners ("the Commissioners") power as the Statutory Harbour Authority to modernise and consolidate the statutory harbour powers applying to Poole Harbour ("the Harbour") to support the effective management of the Harbour. The instrument includes provisions relating to constitution of the Commissioners, the establishment of advisory bodies, commercial activities, dredging, control of certain operations and works, bunkering and provides clarification of the Harbour's premises.

4.2 The role of the Statutory Harbour Authority is to manage, regulate and maintain a harbour to ensure safe, efficient and environmentally responsible navigation and use.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. Policy Context

What is being done and why?

5.1 The MMO is the regulatory authority responsible for determining applications for harbour revision orders under the Harbours Act 1964 (c. 40) ("the Act"). The MMO must review, consult on, and decide whether to approve, modify, or reject proposed changes to harbour powers or boundaries, ensuring they are legal, justified, and in the public interest.

5.2 The Harbour is a trust port and is governed by its own local legislation.

5.3 At the time of the Commissioners' application for this instrument, the relevant published guidance was the Port Marine Safety Code[1] ("the PMSC") issued by the Department for Transport ("the DfT"), which set out a national standard for all aspects of port marine safety.

5.4 In April 2025, the DfT published an updated PMSC, entitled the Ports & Marine Facilities Safety Code ("the Code"). The Code is available to view online[2] and a hard copy of the Code is available for inspection on application to the DfT[3]. The Code provides updated policy guidance that continues to uphold and reinforce the core principles of the PMSC.

5.5 The MMO has reviewed the Code and is satisfied that it remains consistent with the established safety and operational standards promoted by the PMSC. Accordingly, the MMO considers that the changes made by the Commissioners align with the updated Code and the decision to make this instrument is appropriate and justified.

5.6 The PMSC identified 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. It advised that harbour authorities should seek additional powers if their existing powers are insufficient to meet their obligations to provide safe navigation. In particular, paragraph 2.5 of the PMSC stated that:

"*… 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*".

5.7 This instrument sets out the Commissioners' functions in respect of the Harbour and authorises the Commissioners to improve, maintain, regulate, manage, mark and light the Harbour and provide facilities; carry out various activities related to works, structures and equipment at the Harbour to facilitate the proper operation, improvement, development and future viability of the Harbour to be compliant with the Code.

5.8 This instrument also consolidates, modernises and extends the powers of the Commissioners for the Harbour. It includes powers in relation to updating their existing general directions to apply to activities ashore, byelaws and control of

[1] Port Marine Safety Code 2016: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1032153/port-marine-safety-code.pdf.
[2] Ports & Marine Facilities Safety Code 2025: https://assets.publishing.service.gov.uk/media/67fd175bed87b81608546666/port-marine-safety-code.pdf.
[3] Department for Transport, Maritime Navigation Safety & Wrecks, Great Minster House, 33 Horseferry Road, London SW1P 4DR.

bunkering in the Harbour to ensure the safe and economical management of activities within the Harbour, to be compliant with the Code.

5.9 This instrument modernises those powers to give special directions to vessels to meet the obligations for navigational safety under the Code.

5.10 The Ports Good Governance Guidance ("the PGGG") published by the DfT sets out principles of openness, accountability and fitness for purpose in managing harbours in the broad public interest. The PGGG is available to view online[4], a hard copy of the PGGG is available for inspection on application to the DfT. The instrument's inclusion of measures to manage surplus funds and to allow the Commissioners to enter into commercial agreements with customers is in accordance with the governance requirements of the PGGG.

5.11 In accordance with Section 58(3) (decisions affected by marine policy documents) of the Marine and Coastal Access Act 2009 (c. 23), the MMO must also ensure that proposals align with the relevant marine plan. The South Marine Plan ("the Marine Plan") was considered as the appropriate marine policy when making a determination on this application. The Marine Plan is available to view online[5] and a hard copy of the Marine Plan is available for inspection on application to the MMO[6].

5.12 The MMO's assessment of the application in relation to the policies of the Marine Plan, and its conclusion that this application is compliant with the Marine Plan, is available to view on the Harbour Orders public register[7].

What was the previous policy, how is this different?

5.13 There have been no substantive changes to existing policy apart from the Code referred to in 5.3 above. This instrument does not introduce new policy requirements or change the policy framework. This instrument is necessary to ensure the continued compliance of the Harbour with existing policy.

6. Legislative and Legal Context

How has the law changed?

6.1 The Commissioners applied to the MMO on 5th September 2022 for the Poole Harbour Revision Order.

6.2 The responsibility for the consideration of the application, and the making of any harbour revision 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 (minister's powers, on application of harbour authorities to make orders) of the Act to the MMO except in relation to specified applications.

6.3 This instrument gives the Commissioners updated powers to issue special directions to vessels and sets out the consequences of failing to comply with general and special directions.

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[4] The Ports Good Governance Guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918508/ports-good-governance-guidance.pdf.

[5] MMO South Marine Plan: https://www.gov.uk/government/collections/south-marine-plans.

[6] Marine Management Organisation Harbour Orders Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR.

[7] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/the-poole-harbour-revision-order.

6.4 This instrument also clarifies the harbour limits to expressly include harbour premises.

Why was this approach taken to change the law?

6.5 This approach is the sole legal mechanism available to implement the necessary changes to the existing local legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with paragraph 10(1) of Schedule 3 to the Act, notice of the Poole Harbour Revision Order application was placed in the London Gazette on 9th August 2023, as well as in the Bournemouth Echo on 9th August 2023 and 16th August 2023. The notices set out details of the application and the process for submitting objections or representations.

7.2 The application and all associated documents were made available for public inspection at offices of the applicant[8] and the MMO's office, by prior appointment. The documents were also published on the MMO's website[9].

7.3 In addition, the MMO consulted by email with other organisations it considered to have interest in the proposed instrument. Full details of the consultation, including a list of consultees are provided in the MMO's published decision letter, available to view online on the MMO's website. A hard copy of the decision letter is available for inspection on application to the MMO.

7.4 The consultation period ran from 9th August 2023 until 19th September 2023, the statutory period of 42 days provided for in Schedule 3 to the Act.

7.5 One objection was received during the statutory period of 42 days. The objection related to the levy of charges and directions in the instrument being applied to the chain ferry and slipways operated by the Bournemouth-Swanage Motor Road and Ferry Company. The objection was withdrawn on 28th November 2024 following discussions between the objector and the Commissioners which resulted in an amendment to the instrument disapplying article 27(3)(a) to the Bournemouth-Swanage Motor Road and Ferry Company.

7.6 In determining the application, the MMO considered the responses received from consultees, the Commissioners' replies, and the information provided in the formal application. The MMO was satisfied that the making of this instrument is desirable in the interests of securing the improvement, maintenance or management of the Harbour.

8. Applicable Guidance

8.1 The MMO does not propose to issue guidance on the effects of this instrument. Details of the existing legislative framework and documents published on the MMO's public register remain sufficient to understand the effects of this instrument. Additionally, the Commissioners will publish particulars of this instrument in accordance with paragraph 24 of Schedule 3 to the Act.

[8] Poole Harbour Commissioners, 20 New Quay Rd, Poole BH15 4AF.
[9] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/the-poole-harbour-revision-order.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the instrument falls outside of scope of the Better Regulation Framework[10] as it has no direct impact on businesses and because the provisions of this instrument are updating the powers of the Commissioners to ensure effective management of the Harbour.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant impact on businesses, charities or voluntary bodies because the measures in this instrument relate to the management of the Harbour.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant impact on the public sector because the measures in this instrument relate to the management of the Harbour.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The MMO will not actively monitor or review effects of this legislation. However, it will consider any representations received and may take these into account in the future exercise of its powers.

10.2 The instrument does not include a statutory review clause. The Commissioners in their management of the Harbour are required to conduct reviews of their existing powers periodically to ensure that they meet their obligations in accordance with the Code and where necessary to seek additional powers to fulfil those obligations.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 The Fifty-First Report of session 2024-2026 of the Secondary Legislation Scrutiny Committee[11] noted The Lyme Regis, Bridport (West Bay) and Weymouth Harbour Revision Order (SI 2026/62) as being an instrument of interest due to current period for progressing harbour orders to be too prolonged. The MMO confirms that it continues to work with the DfT to manage the current case load, to pursue improvements in the process and in progressing the making of regulations for application fees to alleviate current resourcing constraints.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation

[10] Better Regulation Framework: https://www.gov.uk/government/publications/better-regulation-framework.
[11] The Fifty-First Report of session 2024-2026 of the Secondary Legislation Scrutiny Committee https://publications.parliament.uk/pa/ld5901/ldselect/ldsecleg/263/26305.htm.

and Reform) Act 2023 ("relevant European Union Acts") and does not relate to the withdrawal of the United Kingdom from the European Union.