EXPLANATORY MEMORANDUM TO

THE PORT OF IPSWICH HARBOUR REVISION ORDER 2012

2012 No. 3129

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 authorise Anglo-Norden Forest Products Limited ("the applicant") to close specified parts of a restricted byway in the Ipswich Wet Dock temporarily when ships are being discharged on adjacent quays in compliance with Health and Safety Executive ("HSE") requirements.

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

3.1 None

4. Legislative Context

4.1 The Applicant applied to the Marine Management Organisation ("MMO") on 26 May 2011 for The Port of Ipswich Harbour Revision Order ("the Order") to be made under Section 14 of the Harbours Act 1964 ("the Act").

4.2 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 Organisation except in relation to specified applications.

4.3 The Proposed Order is not one which would directly, or indirectly, authorise a project for the purposes of paragraph 3 of Schedule 3 to the Act and consequently no environmental statement was required to accompany 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 Applicant is a timber importer operating from its own premises in the Ipswich Wet Dock. The premises comprise of two private quays at the southern end of the dock and a 4.5 acre open storage and warehouse facility situated near the dock entrance, the quays are separated from the storage facilities by Helena Road.

7.2 The Applicant has discharged cargo on its quays and transported the timber across Helena Road into storage for in excess of 20 years. During discharging the road has almost invariably been closed to all traffic for reasons of public safety.

7.3 On 29 July 2009 the Suffolk County Council ("SCC") promulgated the Suffolk County Council (County Borough of Ipswich Definitive Map and Statement) (Restricted Byway 36) Modification Order 2009 ("the modification order"). The modification order acknowledged Helena Road as a public right of way in the form of a "restricted byway".

7.4 The modification order was the subject of an appeal heard by public inquiry in December 2010. On 4 March 2011 an Inspector appointed by the Secretary of State confirmed the modification order subject to certain amendments. SCC published notice of the confirmation on 11 May 2011.

7.5 The modification order conflicts with the Applicant's use of its private quays. RB36 cannot now be closed during discharging in line with Health and Safety Executive (HSE) requirements without contravening the general requirement of the Highways Act 1980 that public highways must be kept open at all times.

7.6 The Applicant applied to the MMO as a person with 'substantial interest' in the harbour. The purpose of the Order is to empower the Applicant to close specified sections of RB36 temporarily while cargo is discharged from ships docking at the private quays. The Applicant considers that this will enable the continued operation of its business and thus facilitate the effective management of the harbour and the efficient and economical transport of goods by sea.

8. Consultation outcome

8.1 In accordance with the Act a notice was placed in the London Gazette and in the East Anglian Daily Times detailing the application for the Order and how any objections or representations may be registered. The MMO received three objections to the Order within the statutory period of forty-two days provided for in Schedule 3 of the Act. Two additional objections were received outside of the statutory period referred to above and as such the MMO considered these to be late representations.

8.2 Two of the three objections to the Order within the statutory period were subsequently withdrawn.

8.2 The MMO has given consideration to the remaining objection and two representations made outside of the statutory period and is satisfied the Order should be made.

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 to be minor and does not foresee any impact on charities or voluntary bodies.

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 confers rights with attendant duties on certain small businesses but does not regulate them.

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