EXPLANATORY MEMORANDUM TO

THE PORT OF TEIGNMOUTH (TRANSFER OF UNDERTAKING) HARBOUR REVISION ORDER 2017

2017 No. 89

1. Introduction

1.1 This explanatory memorandum has been prepared by the Marine Management Organisation ("MMO") and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to transfer all statutory and other powers and duties in relation to the Port of Teignmouth from Teignmouth Quay Company ("the Applicant") to Associated British Ports ("ABP"). The Order transfers the functions, property, byelaws and contracts from the Applicant to ABP and ensures the continuance of legal and other proceedings.

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 the negative 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 Applicant is the statutory harbour authority for the Port of Teignmouth ("the Port") and acts under orders dated 1887 to 2004.

4.2 The Applicant applied to the Marine Management Organisation ("MMO") on 2 September 2016 for The Port of Teignmouth (Transfer of Undertaking) 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 so that directive does not apply to the proposal. Accordingly an environmental statement was not required to support the application.

5. Extent and Territorial Application

5.1 The extent of this instrument is England only.

5.2 The territorial application of this instrument is England only.

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 The Order confers the transfer of all statutory and other powers and duties in relation to the Port from the Applicant to ABP. In particular, the Order transfers the functions, property, byelaws and contracts from the Applicant to ABP and ensures the continuance of legal and other proceedings.

7.2 The Order will prevent a number of operational and administrative inefficiencies.

7.3 The Port currently has its own board comprising of directors who are also ABP board directors. This requires separate board meetings to be held when one meeting would be more efficient and appropriate.

7.4 The Applicant is part of the ABP group ("the Group") and currently holds the Port rather than ABP. This often causes confusion for customers, suppliers and employees, which can lead to administrative inefficiencies if contracts are initially written in the wrong name or if correspondence, cheques etc are written to ABP rather than the Applicant.

7.5 The Group is in the process of a major business transformation project including the implementation of a single universally applicable IT system, however, the separation of the Applicant's business from ABP's business means that additional, and unnecessary, systems processes would need to be created to cater for the fact that Port is not owned directly by ABP.

7.6 The transfer of the Applicant's business to ABP will provide significantly greater financial resource and covenant strength to the Port.

Consolidation

7.7 None

8. Consultation outcome

8.1 In accordance with paragraph 10 of Schedule 3 to the Act a notice was placed in the London Gazette and the Teignmouth Post and Gazette detailing the application for the Order and how any objections or representations may be registered.

8.2 The MMO also consulted with such other bodies it considered to have interest in the Order.

8.3 No objections were received within the statutory period of forty-two days provided for in Schedule 3 of the Act. One response received was in support of the application.

8.4 Following discussions with the Applicant the two responses that raised concerns were subsequently withdrawn. Full details of the consultation, objections and representations can be found at https://www.gov.uk/government/publications/teignmouth-quay-company-limited-harbour-revision-order

9. Guidance

9.1 The MMO does not propose to issue guidance in respect of the effects of the Order. However, the Port will publish particulars, and serve copies, of the Order in accordance with paragraph 24 of Schedule 3 to the Act.

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 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

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 it powers.

13. Contact

13.1 Morwenna See at the Marine Management Organisation Telephone 02080 265 398 or email: ***morwenna.see@marinemanagement.org.uk*** can answer any queries regarding the instrument.