EXPLANATORY MEMORANDUM TO

THE PORT OF TYNE HARBOUR REVISION ORDER 2016

2016 No. 877

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 amend provisions which apply in respect of the appointment of members of the Port of Tyne Authority ("the applicant") and to enable to Secretary of State to appoint casual vacancies for a period of no longer than three years to facilitate the effective management of the Port of Tyne ("the Port").

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 and operates under acts and orders dated 1968 to 2008.

4.2 The applicant applied to the MMO on 5 May 2016 for the Port of Tyne 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 which therefore 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 revokes requirements for members of the Port of Tyne Authority ("the Authority") to vacate their office on 30 June following their seventieth birthday and revokes the restriction on a person aged 64 or over from being appointed a member for the first time under the Port of Tyne Reorganisation Scheme 1967 ("the 1967 Scheme").

7.2 Department for Transport's Guide to Modernising Trust Ports (second edition 2009) ("the Guide") chapter 3.6.6 states "there is no age limit or minimum requirement on board membership. The overriding requirement is for the board to be optimally effective, and this is most likely to be achieved with a diverse range of members, in which age should not be a relevant factor, but in which a breadth and depth of skills and experience should be paramount".

7.3 The Guide also states in chapter 3.6. that "trust ports boards should contain an appropriate balance of skills, competencies and experience to control the port effectively and provide it with leadership, motivation and strategic direction"; and in chapter 3.6.2 that "relevant life experience and track record should be considered as important as skills obtained through a conventional career path and professional qualifications".

7.4 It is considered that, in light of the Equality Act, the provisions of the 1967 Scheme that restrict the age of members of the Authority are not only outmoded but conflict with specific Government guidance applying to the Authority.

7.5 The Order provides that the person filling a casual vacancy, as appointed by the Secretary of State, shall do so for the remainder of the term for which the member replaced was appointed, or such other period (not exceeding three years) as the Secretary of State may specify.

7.6 The Port of Tyne Authority (Constitution) Revision Order 1974 required all members of the Authority (other than those appointed to fill a casual vacancy) must be appointed for a term ending 30 June. This was unduly prescriptive and gave rise to difficulties in practice on the occasion where there were delays in appointment.

7.7 The Order is in line with the guidance contained in the Guide issued by the Department for Transport ("DfT") in 2009.

Consolidation

7.8 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 in the Journal (Newcastle) 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 or representations were received within the statutory period of forty-two days provided for in Schedule 3 of the Act. Responses in full support of the application were received from two consultees.

8.4 Full details of the consultation can be found at https://www.gov.uk/government/publications/port-of-tyne-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 its powers.

13. Contact

13.1 Jayne Burns at the Marine Management Organisation Telephone: 0208 225 6439 or email: Jayne.Burns@marinemanagement.org.uk can answer any queries regarding the instrument.