EXPLANATORY MEMORANDUM TO

THE PORT OF TYNE HARBOUR REVISION ORDER 2026

2026 No. 1088

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 Elysia McCaffrey, Chief Executive Officer at the MMO, confirms that this Explanatory Memorandum meets the required standard.

2.2 Trudi Clarke, Director of Marine Development 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The instrument consolidates and modernises the statutory framework governing the Port of Tyne ("the Port") by replacing outdated powers, to support effective management of the Port. The instrument grants the Statutory Harbour Authority for the Port, the Port of Tyne Authority ("the Authority"), powers to give general and special directions, manage harbour operations and governance, undertake dredging and carry out commercial activities connected with the Port.

4.2 This instrument also clarifies the limits of the Port and its premises.

4.3 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?

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

4.5 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. 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.

5.2 The Port is one of the UK's major trust ports and is responsible for maintaining safe and efficient navigation, supporting commercial shipping and other marine activities, and managing port infrastructure. The Authority operates under a complex body of local legislation accumulated over more than a century. Much of this legislation is outdated and no longer reflects modern harbour operations.

5.3 The Authority therefore conducted a review of the Port's legislation and identified a need for additional powers to support the management of the Port in compliance with the Ports & Marine Facilities Safety Code ("the Code"), issued by the Department for Transport ("the DfT"). The Code is available to view online[1] and a hard copy of the Code is available for inspection on application to the DfT[2].

5.4 The Code identifies a number of tasks which harbour authorities are expected to undertake in order to comply with the Code, including reviewing and being aware of existing statutory powers. It specifically highlights that harbour authorities should consider obtaining general direction or harbour direction powers to support the effective management of vessels in their waters.

5.5 This instrument therefore consolidates and updates the statutory framework applicable to the Port. It modernises the Authority's governance arrangements, clarifies the port limits, and provides modern powers for harbour management, regulation, charging, navigation safety and port development. These changes require legislation because they involve amending and replacing statutory powers that cannot be achieved through administrative action alone.

5.6 The legislation affects the Authority, port users, statutory undertakers and other stakeholders with an interest in the operation of the Port.

5.7 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[3], and a hard copy of the PGGG is available for inspection on application to the DfT.

[1] Ports & Marine Facilities Safety Code 2025: https://assets.publishing.service.gov.uk/media/67fd175bed87b81608546666/port-marine-safety-code.pdf.
[2] Department for Transport, Maritime Navigation Safety & Wrecks, Great Minster House, 33 Horseferry Road, London SW1P 4DR.
[3] The Ports Good Governance Guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918508/ports-good-governance-guidance.pdf.

5.8 The instrument therefore also includes measures to manage surplus funds and the finances of the Port effectively, in accordance with the governance requirements of the PGGG.

5.9 In accordance with Section 58 (decisions affected by marine policy documents) of the Marine and Coastal Access Act 2009 (c.23), the MMO considered the North East Marine Plan ("the Marine Plan") when determining this application and concluded that the proposal is compliant with the relevant marine plan policies. The Marine Plan is available to view online[4] and a hard copy of the Marine Plan is available for inspection on application to MMO[5].

5.10 The MMO's assessment of the application is available on the Harbour Orders public register[6].

What was the previous policy, how is this different?

5.11 This instrument does not introduce new policy requirements or change the policy framework. This instrument is necessary to ensure the continued compliance of the Port with existing policy which states that statutory harbour authorities should have sufficient statutory powers to discharge their responsibilities for safe navigation and effective harbour management. The instrument gives effect to that existing policy by modernising and consolidating the Authority's legislative framework, replacing outdated local legislation and conferring updated powers considered necessary for the efficient, economical and safe management of the Port.

6. Legislative and Legal Context

How has the law changed?

6.1 The Authority operated under a complex framework of local Acts and Orders dating from 1829 onwards. These legislative provisions have accumulated over time and contain a mixture of governance arrangements, harbour management powers, charging powers, navigation controls and commercial powers. This instrument modernises and consolidates that framework by replacing a large number of historic enactments with a single harbour revision order made under section 14 of the Act. It revokes or repeals numerous outdated local Acts and previous harbour revision orders, while preserving and amending only those provisions that remain necessary for the operation of the Port.

6.2 The principal legal changes include updating the constitution and governance arrangements of the Authority, clarifying the statutory limits of the Port and the Authority's jurisdiction, introducing modern powers to give general and special directions to regulate navigation and port operations, updating charging and financial powers, providing modern powers relating to moorings, dredging, works licensing, wreck removal, harbour management and establishing stakeholder advisory arrangements. The instrument also updates enforcement provisions and aligns penalties with modern legislative practice.

6.3 The legislative context for these changes is the Government's policy, reflected in the Code, that harbour authorities should possess sufficient statutory powers to discharge

[4] MMO North East Marine Plan: https://www.gov.uk/government/publications/the-north-east-marine-plans-documents.
[5] Marine Management Organisation Harbour Orders Team, Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne NE4 7AR.
[6] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/the-port-of-tyne-harbour-revision-order.

their responsibilities for safe navigation and effective harbour management. The Authority reviewed its statutory framework and concluded that aspects of the existing legislation were no longer fit for purpose and that additional modern powers were required. The Order therefore updates the legal framework while maintaining continuity of essential harbour functions.

Why was this approach taken to change the law?

6.4 This approach is the sole legal mechanism available to implement the necessary changes to the Port's existing legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with paragraph 10(1) of Schedule 3 to the Act, a notice of the Port of Tyne Harbour Revision Order application was placed in the London Gazette on 15th March 2024 as well as in the Chronicle and The Journal on the 15th of March 2024 and the 22nd of March 2024. 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[7] and the MMO's office, by prior appointment. The documents were also published on the MMO's website[8].

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 ran from 15th March 2024 until 27th April 2024, the statutory period of 42 days provided for in Schedule 3 to the Act. The MMO was agreeable to consider consultation responses received up to 3 days beyond the statutory period of 42 days as the consultation period ran across two public holidays.

7.5 One representation was received during the statutory period of 42 days. The representation was not an objection but sought clarification regarding the extent of the Port's limits and jurisdiction. The Authority agreed to provide the requested clarification and the representation was resolved.

7.6 The MMO received one objection from the Royal Yachting Association ("the RYA"). The RYA raised concerns regarding the drafting of Article 36 relating to the boarding of vessels and vehicles. Following discussions with the applicant, the provision was amended in line with wording suggested by the RYA and the objection was resolved.

7.7 In determining the application, the MMO considered the responses received from consultees, the Authority's 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 Port.

[7] Port of Tyne Authority, Maritime House, Tyne Dock, South Shields, Tyne and Wear, NE34 9PT.
[8] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/the-port-of-tyne-harbour-revision-order

8. Applicable Guidance

8.1 No guidance on the effects of this instrument is being issued. Details of the existing legislative framework and documents published on the MMO's public register remain sufficient to understand the effects of this instrument. The Authority will continue to operate in accordance with the relevant national guidance for harbour authorities, namely the Code, published by the DfT. Additionally, the Authority will publish particulars of this instrument in accordance with paragraph 24 of Schedule 3 to the Act.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as the instrument falls outside the scope of the Better Regulation Framework[9] because as an independent regulator, with exercising statutory legislation making powers, the MMO is not required to produce an Impact Assessment for harbour revision orders.

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 Port.

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 Port.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The responsibility for the exercise of the powers rests with the Authority, and the instrument does not create a new regulatory regime requiring ongoing monitoring by the MMO.

10.2 The instrument does not include a statutory review clause. The Authority is required to conduct periodic reviews of its existing powers periodically to ensure that it meets its 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[10] noted The Lyme Regis, Bridport (West Bay) and Weymouth Harbour Revision Order (SI 2026/62) as being an instrument of interest due to the 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.

[9] Better Regulation Framework: https://www.gov.uk/government/publications/better-regulation-framework.
[10] 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.

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