EXPLANATORY MEMORANDUM TO

THE PORTS OF FLEETWOOD AND SILLOTH (TRANSFER OF UNDERTAKING) HARBOUR REVISION ORDER 2026

2026 No. 404

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.

2. Declaration

2.1 Michelle Willis, Chief Strategy Officer at the MMO confirms that this Explanatory Memorandum meets the required standard.

2.2 Trudi Wakelin, Director of Marine Development (Domestic and International) 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 department 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 transfer all powers, duties, undertakings and contracts from Associated British Ports ("ABP"), the current Statutory Harbour Authority ("the SHA") for both the Port of Fleetwood and the Port of Silloth (together "the Ports") to FJ Ports (Fleetwood) Ltd. (in respect of the Port of Fleetwood) and FJ Ports (Silloth) Ltd. (in respect of the Port of Silloth).

4.2 FJ Ports (Fleetwood) Ltd. and FJ Ports (Silloth) Ltd. will be established as the two new SHAs for the Ports.

4.3 The role of a SHA 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 Ports are currently managed by ABP using the existing local legislation.

5.2 Following a strategic review of its core business, ABP concluded that continued ownership of the Ports no longer aligned with its commercial objectives, by offering limited growth potential and contributing minimally to ABP's performance while requiring disproportionate management resources. ABP therefore resolved to transfer ownership of the Ports to FJ Ports (Fleetwood) Ltd. and FJ Ports (Silloth) Ltd., companies which it considers better placed to pursue future development opportunities for the Ports.

5.3 At the time of ABP's 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 the national standard for all aspects of port marine safety.

5.4 In April 2025, the DfT published an updated PMSC, entitled 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 transfer by ABP to FJ Ports (Fleetwood) Ltd. and FJ Ports (Silloth) Ltd. aligns with the Code and the decision to make this instrument is appropriate and justified.

5.6 This instrument ensures that the two new SHAs will operate in compliance with the Code.

5.7 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.

5.8 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 North West 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[4] and a hard copy of the Marine Plan is available for inspection on application to the MMO[5].

5.9 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[6].

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[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.

[4] MMO North West Marine Plan: https://www.gov.uk/government/collections/north-west-marine-plan.

[5] Marine Management Organisation, 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-ports-of-fleetwood-and-silloth-harbour-revision-order.

What was the previous policy, how is this different?

5.10 There have been no substantive changes to existing policy apart from the Code replacing the PMSC referred to in 5.4 above. This instrument does not introduce new policy requirements or change the policy framework. This instrument is necessary to ensure continued compliance of the Ports with existing policy.

6. Legislative and Legal Context

How has the law changed?

6.1 ABP applied to the MMO on 20th March 2025 for The Ports of Fleetwood and Silloth (Transfer of Undertaking) Harbour Revision Order 2026.

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 transfers all the existing statutory and other powers and duties of ABP to the two new SHAs.

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 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 this application was placed in the London Gazette on 16th April 2025, as well as in the Fleetwood Weekly News on 16th April 2025 and 23rd April 2025 and in the Cumberland News (for the Port of Silloth) on 18th April 2025 and 25th April 2025. 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 ABP's offices in both Ports, Fleetwood[7], Silloth[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 16th April 2025 to 2nd June 2025, made up of the statutory 42-day period under Schedule 3 to the Act, with an additional six days allowed to account for four public holidays and the two-day difference between the

[7] The Port of Fleetwood, Port and Marina Office, Fleetwood, Lancashire FY7 6PP.
[8] The Port of Silloth, Port Office, Silloth, Wigton, Cumbria CA7 4JQ.
[9] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/the-ports-of-fleetwood-and-silloth-harbour-revision-order.

public advertisements in the Fleetwood Weekly News and in the Cumberland News (for the Port of Silloth).

7.5 No objections to the proposed instrument were received during the statutory consultation period.

7.6 The MMO received a representation from Trinity House. Trinity House had concerns regarding the wording of Article 14 saving for Trinity House. The wording in the article was amended and Trinity House confirmed they were content.

7.7 In determining the application, the MMO considered the responses received from consultees, ABP's replies to those responses, 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 effective management of the Ports by the two new SHAs.

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 for this instrument[10] are sufficient to understand the effects and implementation of this instrument. Additionally, ABP 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 because the instrument falls outside of the scope of the Better Regulation Framework[11]. Although the instrument affects ABP and the newly formed companies, it reflects a change initiated by those businesses under powers afforded to them through the Act. The provisions of this instrument are intended to facilitate the transfer of control of the Ports to enable management by the two new SHAs, without introducing any material changes to the operation of the Ports.

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 transfer of the Ports to the two new SHAs and do not introduce any material changes to the operation of the Ports.

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 transfer of the Ports to the two new SHAs and do not introduce any material changes to the operation of the Ports.

[10] MMO Harbour Orders Public Register: https://www.gov.uk/government/publications/the-ports-of-fleetwood-and-silloth-harbour-revision-order.
[11] Better Regulation Framework: https://www.gov.uk/government/publications/better-regulation-framework

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 statutory powers.

10.2 The instrument does not include a statutory review clause. The two new SHAs in their management of the Ports are required to conduct reviews of their existing powers periodically to ensure 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 None.

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