EXPLANATORY MEMORANDUM TO

THE TEESPORT (EXTENSION OF LIMITS) HARBOUR REVISION ORDER 2024

2024 No. 934

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, Acting Chief Executive Officer at the MMO can confirm that this Explanatory Memorandum meets the required standard.

2.2 Trudi Wakelin, Director of Marine Development (Domestic and International), at the MMO can confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 David Morris at the MMO can be contacted with any queries regarding this instrument. Address: Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH. Telephone: 0208 026 5175. Email: harbourorders@marinemanagement.org.uk.

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 extend the limits of the Port of Tees and Hartlepool also known as Teesport, ("the Port") over which PD Teesport Limited ("PDT") exercise their jurisdiction as Statutory Harbour Authority ("SHA") to include an additional area of land, on the south bank of the River Tees which has been developed to form a berth for vessels using the newly constructed South Bank Quay ("Quay"). The extended limits of the Port are shown on the signed added area plan annexed to this instrument and edged in red.

Where does the legislation extend to, and apply?

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

4.3 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 Quay is adjacent to the River Tees and has been constructed as a berth for vessels using the new South Bank development. The Quay is set back into the existing riverbank and is currently outside of the jurisdiction of the Port, meaning the Port would not be able to direct the movement of vessels at the Quay.

5.2 This instrument extends the existing limits of the Port, within which PDT exercise jurisdiction as SHA to include the Quay (shown on the map annexed to this instrument).

5.3 The Port Marine Safety Code ("PMSC") published by the Department for Transport sets out a national standard for all current aspects of port marine safety. The PMSC is available to view online[1] and a hard copy of the PMSC is available for inspection on application to the Department for Transport Ports and Shipping Team, 4th Floor, Zone 4, Great Minster House, 33 Horseferry Road, London SW1P 4DR.

5.4 The PMSC identifies a number of tasks which harbour authorities should undertake in order to comply with the PMSC including reviewing and being aware of existing powers based on local and national legislation. It advises that harbour authorities should seek additional powers if the existing powers are insufficient to meet their obligations to provide safe navigation. In particular paragraph 2.5 of the PMSC states that

"… harbour authorities would be well advised to secure powers of general direction or harbour direction to support the effective management of vessels in their harbour waters if they do not have them already".

5.5 In consequence of the development of the Quay and in considering its operation, PDT reviewed its existing port limits and powers in accordance with its duties under the PMSC and identified the need to extend both the Port's existing limits and its jurisdiction as SHA. This ensures PDT's continued ability to meet its obligations to effectively manage vessels in the Port.

5.6 In determining applications for harbour revision orders, the MMO must have regard to the relevant marine plan, in accordance with Section 58(3) (Decisions affected by marine policy documents) of the Marine and Coastal Access Act 2009 (c. 23). The North East Marine Plan ("Marine Plan") as an appropriate marine policy was considered when making a determination on this application. The Marine Plan is available to view online[2] and a hard copy of the Marine Plan is available for inspection on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.

5.7 The MMO's assessment of the application in relation to the policies of the Marine Plan is available on the Harbour Orders public register[3].

What was the previous policy, how is this different?

5.8 There have been no changes to existing policy. This instrument is necessary to ensure continued compliance of the Port with existing policy.

6. Legislative and Legal Context

How has the law changed?

6.1 PDT applied to the MMO on 6 September 2022 for the Teesport (Extension of Limits) Harbour Revision Order 2024.

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918935/port-marine-safety-code.pdf.

[2] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1004484/FINAL_North_East_Marine_Plan__1_.pdf.

[3] https://www.gov.uk/government/publications/teesport-harbour-revision-order-2023.

6.2 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's functions under Section 14 of the Harbours Act 1964 (c. 40) ("the Act") to the MMO except in relation to specified applications.

6.3 This instrument will bring the newly constructed Quay within the jurisdiction of PDT, allowing vessels using the Quay to be managed by PDT.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with paragraph 10(1) of Schedule 3 to the Act, a notice was placed in the London Gazette on 7th June 2023, and in the Teesside Gazette on 7th June 2023 and 14th June 2023 detailing the application for this instrument and how any objections or representations may be registered. The application for this instrument and all associated documents were made available for inspection at the Port's office and the MMO's office, by prior appointment. The documents were also published on the MMO's website[4].

7.2 The MMO also consulted by email other such bodies it considered to have interest in this instrument. A full list of those bodies consulted is set out in the MMO's published decision letter, available to view online[5]. The consultation ran from 7th June 2023 until 18th July 2023, the statutory period of forty-two days provided for in Schedule 3 to the Act.

7.3 No objections to this instrument were received within the statutory period of forty-two days.

7.4 The MMO considered the responses submitted by the bodies consulted, PDT's responses and the information supplied in the formal application, in its determination of this instrument. The MMO was satisfied that the making of this instrument is desirable in the interests of securing an extension to the Port limits.

7.5 The MMO published details of the consultation online[6]. A hard copy of the consultation outcome is available for inspection on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle upon Tyne NE4 7YH.

8. Applicable Guidance

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

[4] https://www.gov.uk/government/publications/teesport-harbour-revision-order-2023.
[5] Ibid.
[6] Ibid.

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 relates to maintenance of existing regulatory standards.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the purpose of this instrument is to extend the jurisdiction of the Port to a newly constructed Quay.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector as this instrument extends the limits of the Port and the jurisdiction of the Port to the newly constructed Quay.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The MMO will not actively monitor or review the operation of the provisions introduced by this instrument, but it will consider any representations received in this respect and will take these into account in the future exercise of its powers.

10.2 This instrument does not include a statutory review clause as one is not required.

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.