

2011 No. 1693

HARBOURS, DOCKS, PIERS AND FERRIES

The Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011

<i>Made</i> - - - -	<i>7th July 2011</i>
<i>Laid before Parliament</i>	<i>12th July 2011</i>
<i>Coming into force</i> - -	<i>5th August 2011</i>

CONTENTS

PART 1

PRELIMINARY

1. Citation, commencement and duration
2. Interpretation
3. Incorporation of the 1997 Order

PART 2

HARBOUR REGULATION

4. Jurisdiction
5. General functions of the Company
6. Environmental Consultative Committee

PART 3

MISCELLANEOUS AND GENERAL

7. Limitations on the powers under this Order
8. Saving

The Portland Harbour Authority Limited has applied to the Marine Management Organisation in accordance with section 14(2)(a) of the Harbours Act 1964(a) for a harbour revision order under section 14.

(a) 1964 c.40; section 14 was amended by the Transport Act 1981 (c.56), section 18 and Schedule 6, paragraphs 2 to 4(1) and 14 and section 40 and Schedule 12 (Part II); by the Transport and Works Act 1992 (c.42), section 63(1) and Schedule 3, paragraph 1; by S.I.2006/1177, regulation 2 and the Schedule (Part I); by the Planning Act 2008 (c.29), section 36 and Schedule 2, paragraphs 8 and 9; and by S.I.2009/1941, article 2 and Schedule 1, paragraph 12. Section 54 (orders and regulations) was amended by the Transport Act 1981 (c.56), sections 18 and 40 and Schedules 6 and 12 (Part II) and by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(2).

The Secretary of State, as the appropriate Minister for the purposes of section 14, has by an Order(a) under section 42A(b) delegated the functions of the appropriate Minister under section 14(c) to the Marine Management Organisation(d).

The Marine Management Organisation, being satisfied as mentioned in section 14(2)(b) and in exercise of the powers conferred by section 14(1) and (3), makes the following Order.

PART 1

PRELIMINARY

Citation, commencement and duration

1.—(1) This Order may be cited as the Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 and shall come into force on 5th August 2011.

(2) This Order shall cease to have effect on the Olympic termination date.

Interpretation

2.—(1) In this Order —

“the Act of 1887” means the Weymouth and Melcombe Regis Corporation Act 1887(e);

“the additional area” means the sea area to landward of a line drawn between positions 50 degrees 31.26’N, 02 degrees 26.56’W, 50 degrees 31.26’N, 02 degrees 23.36’W, 50 degrees 34.88’N, 02 degrees 15.00’W and 50 degrees 37.02’N, 02 degrees 15.00’W (based on WGS 84 datum) that is not within Portland harbour or Weymouth harbour;

“the Authority” means the Weymouth and Portland Borough Council;

“the 1993 Order” means the Weymouth and Portland Harbour Revision Order 1993(f);

“the 1997 Order” means the Portland Harbour Revision Order 1997(g);

“the Company” means Portland Harbour Authority Limited (which is registered in England and Wales with the number 3002686);

“the Olympic commencement date” means the 16th July 2012;

“the Olympic period” means the inclusive period from the Olympic commencement date to the Olympic termination date, during which the sailing and windsurfing events forming part of the London 2012 Olympic and Paralympic Games will be conducted in Portland harbour, the Weymouth outer harbour and the additional area;

“the Olympic termination date” means 9th September 2012;

“Portland harbour” means the harbour, as defined in the 1997 Order;

“the proposed Weymouth Order” means an order to be made under section 14 of the Harbours Act 1964 that would have the effect of causing the Authority to cease to be the harbour authority for the Weymouth outer harbour and to have any duties, powers, rights, privileges or authorities in respect of it, during the Olympic period;

(a) S.I.2010/674

(b) Section 42A was inserted, in relation to England and Wales, by the Marine and Coastal Access Act 2009 (c.23), section 315 and Schedule 21, paragraphs 1 and 3(1).

(c) For the definition of “the Minister” (mentioned in section 14(7)), see section 57(1).

(d) The Marine Management Organisation was established by the Marine and Coastal Access Act 2009 (c.23), section 1.

(e) 1887 c.cliii.

(f) S.I.1993/1027

(g) S.I.1997/2949

“Weymouth harbour” means the harbour of Weymouth and Melcombe Regis, as defined by section 8 of the Act of 1887 and extended by the 1993 Order;

“Weymouth outer harbour” means that part of Weymouth harbour that is to seaward of a line drawn by the outer piers or breakwaters referred to in section 8 of the Act of 1887 that are located in positions 50 degrees 36.59’N, 02 degrees 26.63’W and 50 degrees 36.58’N, 02 degrees 26.49’W respectively (based on WGS 84 datum); and

“WGS 84” means the World Geodetic System, revised in 1984 and further revised in 2004, and references to general and special directions are to general and special directions under articles 16 and 18 of the 1997 Order applied by article 3(1) and (2).

(2) In the definitions of “the additional area” and “Weymouth outer harbour” in paragraph (1) all measurements shall be construed as if the words “or thereabouts” were inserted after each measurement.

Incorporation of the 1997 Order

3.—(1) Subject to paragraph (2) the 1997 Order (except articles 11, 13, all of Part IV, articles 42, 43, 44, 45, 48, 49 and 51), so far as applicable to the purposes and not inconsistent with the provisions of this Order, is hereby incorporated in this Order (subject to the modification in article 4(5)) and shall apply to the Weymouth outer harbour and the additional area during the Olympic period.

(2) In addition to its incorporation and application by paragraph (1) for all purposes during the Olympic Period, article 16 of the 1997 Order shall be incorporated and apply as from the date of coming into force of this Order for the purpose only of consulting the Chamber of Shipping before the Olympic commencement date on any general direction under that article to come into force on or after that date that relates to the Weymouth outer harbour or the additional area, or any part or parts of those areas (whether or not relating also to an area or areas within Portland harbour).

(3) The application of the 1997 Order to Portland harbour at all times shall remain unaffected by this Order.

PART 2

HARBOUR REGULATION

Jurisdiction

4.—(1) Subject to article 8, no general or special direction may, to the extent that it relates to the Weymouth outer harbour or the additional area, take effect at any time other than during the Olympic period, and any such direction shall cease to have effect on the Olympic termination date.

(2) On the Olympic commencement date, when under the proposed Weymouth Order the Authority ceases to be the harbour authority for the Weymouth outer harbour, the Company shall become the harbour authority for the Weymouth outer harbour and the additional area.

(3) Subject to article 8, on the Olympic termination date, when under the proposed Weymouth Order the Authority reverts to being the harbour authority for the Weymouth outer harbour, the Company shall cease to be the harbour authority for the Weymouth outer harbour and the additional area and to have any duties, powers, rights, privileges or authorities in respect of them.

(4) On the Olympic termination date the Company shall continue to be the harbour authority for Portland harbour.

(5) The 1997 Order shall remain in full force and effect at all times to the intent that the Company shall exercise jurisdiction as a harbour authority during the Olympic period in respect of Portland harbour, the Weymouth outer harbour and the additional area subject to the provisions of the 1997 Order and this Order, and accordingly on the Olympic commencement date, for the purposes of the provisions of the 1997 Order incorporated in this Order and applied by article 3, save where the context otherwise requires, the definition of “the harbour” in article 2(1) of that Order shall be extended to include the Weymouth outer harbour and the additional area until the Olympic termination date, and, pursuant to that jurisdiction, the powers of the harbourmaster may be exercised within the aforesaid areas.

General functions of the Company

5. During the Olympic period, the Company may, subject to the provisions of the 1997 Order and this Order, take all such steps from time to time as they may consider necessary or desirable for the maintenance, operation, management and improvement of the Weymouth outer harbour and the additional area, and for the conservation of their flora, fauna and geological and physiological features of special interest.

Environmental Consultative Committee

6.—(1) The Company shall establish a committee, to be known as the Environmental Consultative Committee, which they shall consult, during the Olympic period, on all matters substantially affecting the conservation of the flora, fauna and geological and physiological features of special interest within Portland harbour, the Weymouth outer harbour and the additional area.

(2) Subject to the provisions of this article, the Company shall appoint the following members of the Environmental Consultative Committee –

- (a) two nominated by the Authority;
- (b) one nominated by the London Organising Committee of the Olympic Games and Paralympic Games;
- (c) one nominated by Natural England;
- (d) one nominated by the Centre for Environment, Fisheries and Aquaculture Science;
- (e) one nominated by the Inshore Fisheries Conservation Authority;
- (f) one nominated by the Marine Management Organisation;
- (g) one nominated by English Heritage;
- (h) one nominated by the Environment Agency;
- (i) one nominated by Dorset County Council; and
- (j) up to four chosen by the Company to represent persons interested in Portland harbour, the Weymouth outer harbour or the additional area, other than those mentioned in the preceding sub-paragraphs,

but the Committee shall be properly constituted if there are no fewer than eight members including the person appointed under paragraph (8) to chair the Committee.

(3) If it appears to the Company in the case of any of the nominations referred to in sub-paragraphs (a) to (i) of paragraph (2) that the body by whom the nomination is to be made has refused or failed to nominate a person for appointment as a member within a reasonable time of being requested by the Company to do so, or if the body by whom any of the said nominations is to be made has ceased to have an identifiable existence, the appointment in question may be made by the Company after consultation with the persons (if any) appearing to the Company to be representative of the interests represented, or formerly represented, by the nominating body specified in the relevant sub-paragraph of paragraph (2).

(4) The Company shall not be obliged to appoint a person who is duly nominated in accordance with any of sub-paragraphs (a) to (i) of paragraph (2) but may request the body or bodies who made the nomination to nominate another person.

(5) The term of office of members of the Environmental Consultative Committee shall terminate on the Olympic termination date, whereupon the Environmental Consultative Committee shall be abolished, but a member of the Environmental Consultative Committee may at any time by notice in writing to the Company resign his office.

(6) If a member of the Environmental Consultative Committee resigns his office or if his term of office is terminated by the Company because, in the opinion of the Company, he is no longer able to perform his functions as a member or if for any other reason he ceases to be a member, the Company may appoint a person as a member in his place after consultation with the persons (if any) appearing to the Company to be representative of the interests represented by the former member.

(7) The Environmental Consultative Committee may determine its quorum and procedure.

(8) The Company shall appoint a person to chair the Environmental Consultative Committee with a casting vote, who may, but need not, be one of the persons appointed under paragraph (2).

(9) The Company shall take into consideration any matter, recommendation or representation which may from time to time be referred or made to them by the Environmental Consultative Committee, whether or not it has been consulted by the Company on the matter, recommendation or representation so referred or made.

(10) The terms of reference of the Portland Harbour Consultative Committee, established under article 6 of the 1997 Order, shall be varied during the Olympic period so as to:

- (a) exclude consideration of any matters that properly come within the terms of reference of the Environmental Consultative Committee; and
- (b) extend the area for which the Portland Harbour Consultative Committee is responsible to include the Weymouth outer harbour and the additional area.

PART 3

MISCELLANEOUS AND GENERAL

Limitations on the powers under this Order

7. Subject to articles 3(2) and 8, no powers may be exercised pursuant to this Order outside the Olympic Period and without prejudice to the generality of the foregoing, no general or special direction may have effect outside the Olympic Period to the extent that it relates to the Weymouth outer harbour or the additional area.

Saving

8.—(1) No proceedings or inquiries, whether commenced or continued during or after the Olympic period, in respect of any situation, matter, thing, happening, act, refusal, neglect or failure occurring during that period so far as relating to the Weymouth outer harbour or the additional area, or any part or parts of those areas (whether or not relating also to an area or areas within Portland harbour), including, but without prejudice to the generality of the foregoing, proceedings for an offence committed or penalty incurred, or for the recovery of expenses, rates, dues, fees or charges incurred, during that period, shall be affected by this Order ceasing to have effect on the Olympic termination date, and any such proceedings or inquiries may be commenced, continued and concluded, and any decision, judgment or ruling thereon may be enforced, as if this Order, and any general and special directions, had not ceased to have effect.

(2) Any period of time current in relation to any proceedings or inquiries mentioned in paragraph (1) when this Order ceases to have effect shall not be affected by its ceasing to have

effect and may continue to run as if this Order, and any general and special directions, had not ceased to have effect.

(3) Nothing in this article shall prejudice the operation of sections 15 to 17 of the Interpretation Act 1978^(a) (effect of repeals).

Signed by authority of the Marine Management Organisation

7th July 2011

A Thompson
Acting Chief Executive Officer
An authorised employee of the Marine Management Organisation

(a) 1978 c.30.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order will come into force on 5th August 2011 (article 1(1)) and will cease to have effect on the Olympic termination date (9th September 2012) (article 1(2)).

The relevant provisions of the Portland Harbour Revision Order 1997(S.I.1997/2949) will apply to the Weymouth outer harbour and the additional area (defined in article 2) during the Olympic period (defined in article 2) (article 3(1)) and the Company will become the harbour authority for those areas during that period (article 4(2) and (3)).

The 1997 Order will remain in full force and effect at all times so that the Company will exercise jurisdiction as a harbour authority during the Olympic period (defined in article 2) in respect of Portland harbour (defined in article 2), the Weymouth outer harbour and the additional area (article 4(5)).

During the Olympic period the sailing and windsurfing events forming part of the London 2012 Olympic and Paralympic Games will be conducted in Portland harbour, the Weymouth outer harbour and the additional area.

Once this Order is in force the harbour authority may consult the Chamber of Shipping on any general directions to be given pursuant to this Order on or after the Olympic commencement date (16th July 2012) (article 3(2)) and any general and special directions will cease to have effect on the Olympic termination date (article 4(1)).

Pursuant to the Order the Company is to establish an Environmental Consultative Committee which they will consult during the Olympic period on all matters substantially affecting the conservation of Portland harbour, the Weymouth outer harbour and the additional area (article 6).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen and the impact on business is minimal and has been dealt with satisfactorily.

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STATUTORY INSTRUMENTS

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The Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011

£5.75