

**EXPLANATORY MEMORANDUM TO
THE PORTSMOUTH (CONTINENTAL FERRY PORT BERTH 2 EXTENSION)
HARBOUR REVISION ORDER 2011**

No. 3032

1. This explanatory memorandum has been prepared by the Marine Management Organisation and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The purpose of this instrument is to provide the Portsmouth City Council (“the Applicant”) with powers to construct two mooring dolphins for the purpose of extending the line of the existing Berth 2 of the Continental Ferry Port (formally the Mile End Quay) and provide additional powers to enable the efficient functioning and management of the works.
 - 2.2 The additional powers provided include power:
 - a) to set apart and appropriate all or any part of the Mile End Quay undertaking for the use and accommodation of a particular trade, person, vessel or class of vessel or goods;
 - b) to recover rates which the master of a vessel has neglected or refused to pay;
 - c) to lease, or grant the use or occupation of , parts of the Mile End Quay undertaking for harbour purposes; and
 - d) to prevent the removal or sailing from the authorised works of any vessel until payment of any ship, passenger and goods dues or other charges.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Applicant applied to the Marine Management Organisation (MMO) on 29 July 2011 for the Order to be made under Section 14 of the Harbours Act 1964 (“the Act”).
 - 4.2 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 functions under Section 14 to the Organisation except in relation to specified applications.

- 4.3 The Applicant is the harbour authority for Portsmouth Harbour and operates under powers provided in the Mile End Gardens (Portsmouth) Act 1978 and the Portsmouth Mile End Quay Harbour Revision Orders 1966 to 1999.
- 4.4 In accordance with paragraph 4 of Schedule 3 to the Act the MMO concluded that the project did not relate to a project falling within Annex I of Directive 85/337/EEC on the assessment of certain public and private projects on the environment (as amended by Council Directive 97/11/EC), and in so far as it fell within Annex II of that directive it was not a relevant project requiring an environmental statement (that is a project which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location).

5. Territorial Extent and Application

- 5.1 This instrument applies to England.

6. European Convention on Human Rights

- 6.1 The MMO has made the following statement regarding Human Rights:

As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

7. Policy background

- 7.1 The Order empowers Portsmouth City Council as harbour authority to extend the length of the existing Mile End Quay by approximately 49.4m.
- 7.2 The extension is required to enable the Continental Ferry Port to accommodate newer, larger vessels currently being used by operators within Portsmouth Harbour. It is considered that it would be difficult to allow such vessels to use the berth while fully complying with health and safety regulations. The inability to accommodate these vessels could result in a constraint of trade.
- 7.3 The Order also provides various powers considered necessary for the effective management of the works as set out in 2 above.

8. Consultation outcome

- 8.1 In accordance with the Act a notice was placed in the London Gazette and for two consecutive weeks in the Portsmouth News detailing the application for the Order and how any objections or representations may be registered. The MMO received no objections to the Order within the statutory period of forty-two days provided for in Schedule 3 of the Act.

9. Guidance

9.1 The MMO does not propose to issue guidance in respect of the effects of the Order. However, the Applicant will publish particulars, and serve copies, of the order in accordance with paragraph 24 of Schedule 3 to the Act.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minor.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for this instrument. The MMO considers the impacts to be minor.

11. Regulating small business

11.1 The legislation does not apply to small business.

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

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