

**EXPLANATORY MEMORANDUM TO  
THE MILFORD HAVEN PORT AUTHORITY (CONSTITUTION) HARBOUR  
REVISION ORDER 2012**

**2012 No. 1154**

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 amend the constitution of the Milford Haven Port Authority (“the Applicant”) to give effect to the guidance contained in the Department for Transport Publication ‘Modernising Trust Ports Second Edition’ (“MTP2”).

2.2 The amendments to the constitution include;

- a) the Board (except the chairman) who are currently appointed by the Secretary of State will be appointed by the Applicant;
- b) the number of non executive members to be appointed will be reduced from a minimum of 8 and a maximum of 9 to a minimum of 6 and maximum of 8.
- c) the requirement to consult in respect of certain appointments with bodies other than with Pembrokeshire County Council will be removed.
- d) the number of appointments to be made in consultation with Pembrokeshire County Council will be increased from two to three.
- e) the list of areas in which members special knowledge, experience and ability is desirable will be extended to include “commercial activity in the haven”.
- f) at least one member of the Authority must have wide experience of navigation (including the command of sea-going ships, pilotage and aids to navigation).

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 The Applicant is the statutory harbour authority for Milford Haven and operates under Acts and Orders dated 1983 to 2002.

- 4.2 The Applicant applied to the Marine Management Organisation (“MMO”) on 6 July 2011 for the Order to be made under Section 14 of the Harbours Act 1964 (“the Act”).
- 4.3 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.
- 4.4 The proposed Order would not authorise a project. Accordingly Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (as amended by Council Directive 97/11/EC) does not apply to the proposal and no environmental statement has been supplied with the application.

## **5. Territorial Extent and Application**

- 5.1 This instrument applies to Wales.

## **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 applicant applied for a harbour revision order to give effect to the guidance contained in MTP2.
- 7.2 MTP2 is a Department for Transport publication issued by the Secretary of State and represents a benchmark for best practice which lays down guidelines for the governance of trust ports. It recommends that all trust ports review their governance arrangements against the standards set out in the guidance. The guidance is available at <http://www2.dft.gov.uk/pgr/shippingports/ports/trust/goodgovernancesecodedition.pdf>

## **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 Western Telegraph detailing the application for the Order and how any objections or representations may be registered. The MMO received three objections to the Order and five representations within the statutory period of forty-two days provided for in Schedule 3 of the Act. Two additional objections were received outside of the statutory period referred to above and as such the MMO considered these to be late representations.

8.2 The three objections to the Order were subsequently withdrawn and the representations received within the statutory period which raised concerns are considered to have been adequately addressed.

8.2 The MMO has given full consideration to the representations which remain and is of the opinion that the proposal is in line with the relevant policy.

## **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 No impact on business, charities or voluntary bodies is foreseen.

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 there are no impacts and the changes are in line with policy.

## **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**

13.1 Andrew Watson at the Marine Management Organisation email: [Andrew.watson@marinemanagement.org.uk](mailto:Andrew.watson@marinemanagement.org.uk)