

**EXPLANATORY MEMORANDUM TO  
THE COWES HARBOUR REVISION ORDER 2012**

**2012 No. 3080**

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 modernise and extend powers vested in the Cowes Harbour Commissioners (“the Applicant”) considered necessary for the efficient and effective management and regulation of the harbour and to clarify the limits of Cowes Harbour in modern terms.

2.2 Specifically the Order:

- specifies the limits of jurisdiction in modern terms,
- establishes new limits on the power to borrow;
- establishes a new procedure for the repeal of redundant bylaws; and

confers power on the Applicant to:

- provide, maintain operate and improve harbour services and facilities;
- levy and recover charges;
- give general and special directions;
- grant tenancies and dispose of land;
- engage in certain commercial activities; and
- remove goods, vehicles and boats in certain circumstances.

**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 Cowes Harbour and operates under the Cowes Harbour Acts and Orders 1897 to 2001.

4.2 The Applicant applied to the MMO on 20 June 2012 for the Cowes Harbour Revision Order 2012 (“the Order”) for an Order 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 was been supplied with the application.

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

- 5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

- 6.1 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 is the statutory harbour authority for Cowes Harbour and operates under the Cowes Harbour Acts and Orders 1897 to 2001.
- 7.2 The Applicant applied for an Order to modify and extend powers vested in them considered necessary for the efficient and effective management and regulation of the Harbour and to clarify the limits of Cowes Harbour in modern terms.
- 7.3 In particular the Applicant seeks powers of general and special direction to support the effective management of vessels using Cowes Harbour as recommended by the Port Marine Safety Code (“the Code”).
- 7.4 The Code published by the Department for Transport in October 2009 applies to all harbour authorities in the UK that have statutory powers and duties.
- 7.5 The Code establishes the principle of a national standard for every aspect of port marine safety and aims to enhance the conditions for those who use or work in ports, their ships, passengers and the environment. It applies to port marine operations the well-established principles of risk assessment and safety management systems. It provides a measure by which harbour authorities can be accountable for the legal powers and duties which they have to run their harbours safely and help to discharge their obligations effectively.
- 7.6 Paragraph 3.4 of the Code states “Harbour authorities would be well advised to secure powers of general direction to support the effective management of vessels in their harbour waters, if they do not already have them”.

## **8. Consultation outcome**

- 8.1 In accordance with the Act a notice was placed in the London Gazette and the Cowes County Press 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.

8.2 A single representation was received outside of the statutory period but was still considered by the MMO in its discretion.

## **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 MMO considers the impact on business, charities or voluntary bodies to be 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**

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