

## EXPLANATORY MEMORANDUM TO

### THE SHOREHAM PORT AUTHORITY HARBOUR REVISION ORDER 2021

2021 No. 41

#### 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 Her Majesty.

#### 2. Purpose of the instrument

- 2.1 The purpose of this instrument is to extend the limits of the Port of Shoreham (“the port”) to include those parts of the port premises which are currently outside the existing limits. This will enable the harbour authority to exercise jurisdiction over those extended limits. In addition, extended and modernised powers will enable the harbour authority to ensure persons, vessels and vehicles using the port facilities can do so safely and effectively.

#### 3. Matters of special interest to Parliament

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

- 3.1 None.

##### *Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### 4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England only.

#### 5. European Convention on Human Rights

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

#### 6. Legislative Context

- 6.1 Shoreham Port Authority (“the applicant”) is the statutory harbour authority governed by its own local legislation collectively known as the Shoreham Port Acts and Orders 1926 to 2021 (“the local legislation”). The Shoreham Port Authority is responsible for the administration, maintenance and improvement of the port.  
6.2 The applicant applied to the MMO on 4 December 2018 for the Shoreham Port Authority Harbour Revision Order (“the Order”).

- 6.3 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 of the Harbours Act 1964 (“the Act”) to the MMO except in relation to specified applications.
- 6.4 The Order extends the port limits to include the port premises and updates the powers of general and special direction.

## 7. Policy background

### *What is being done and why?*

- 7.1 The Port Marine Safety Code (“PMSC”) published by the Department for Transport (“DfT”) sets out a national standard for all current aspects of port marine safety. The PMSC seeks to enhance safety for everyone who uses or works in the UK port marine environment. The PMSC can be viewed on the link below.
- [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/918935/port-marine-safety-code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/918935/port-marine-safety-code.pdf)
- 7.2 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 and 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:
- “...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”.*
- 7.3 The applicant conducted a review of their local legislation and identified a need to clarify their port limits and confer additional powers on the port authority to assist in the management of the port in compliance with the PMSC.
- 7.4 The applicant decided to seek an extension to the powers of general direction to include vehicles, allowing them to issue general directions to cover speed limits and parking for the safe management of port operations ashore.
- 7.5 The Order includes the premise of general directions applying to vehicles. The PMSC states that general directions apply to vessels. The MMO consulted with DfT who lead on ports policy in England, who were able to confirm on 30 January 2020 that they were content with general directions being used to regulate vehicles in a harbour, they also confirmed that they intend to update accompanying guidance to the PMSC to clarify the application of general directions.
- 7.6 The extended and modernised power to issue general directions, and the updated harbour master’s powers to issue special directions are recommended by the PMSC, to support the effective management of the port and to ensure the convenience and safety of all port users.
- 7.7 The Order extends and clarifies the limits of the port to incorporate the port premises (as defined in article 3 of the Order). It means that land and premises owned or used by the port will be included within the port’s limits and the applicant can exercise its powers, including general directions, within those limits. This includes port owned

private roads which were previously outside those limits. This is necessary to assist in the management of the port in compliance with the PMSC as it widens the scope over which the Shoreham Port Authority can exercise their jurisdiction.

- 7.8 In addition, the harbour master appointed by the applicant will have updated powers to issue special directions to vessels.
- 7.9 The Order also sets out the consequences of failing to comply with a general or special direction.
- 7.10 There was no public or media interest in this application.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union

## **9. Consolidation**

- 9.1 This instrument does not consolidate any legislation.

## **10. Consultation outcome**

- 10.1 In accordance with paragraph 10 of Schedule 3 to the Act, a notice was placed in the London Gazette on 17 January 2019 and the Shoreham Herald on 17 and 24 January 2019 detailing the application for the Order and how any objections or representations may be registered.
- 10.2 The MMO also consulted with other such bodies it considered to have interest in the Order.
- 10.3 No objections to the Order were received within the statutory period of forty-two days provided for in Schedule 3 to the Act. The consultation ran from 17 January 2019 to 28 February 2019.
- 10.4 A further (non-statutory) 21-day consultation (“the second consultation”) was undertaken between 17 April 2020 to 7 May 2020 with the Shoreham Port User Group and with the public, through public notices placed in prominent locations in the port. This was to allow for the first final draft copy of the Order to be reviewed following minor changes to the Order initially consulted on. The changes were made to clarify the extension of port limits to include premises, the provision of an illustrative map (to provide clarity to port users on the geographical area over which the applicant will exercise jurisdiction) and the extension of powers of general direction to include vehicles. No objections to the Order were received during the second consultation.
- 10.5 The MMO considered the responses submitted by the bodies consulted, the applicant’s responses and the information supplied in the formal application, in its determination of this Order. The MMO was satisfied that the making of the Order is desirable in the interests of securing the improvement, maintenance or management of the harbour. Details of the consultation can be found in the decision letter at:  
<https://www.gov.uk/government/publications/shoreham-port-authority-harbour-revision-order>
- 10.6 A hard copy of the consultation is available on application to the Marine Management Organisation, Lancaster House, Hampshire Court, Newcastle Upon Tyne, NE4 7YH

## **11. Guidance**

- 11.1 The MMO do 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.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no, or no significant impact predicted on businesses, charities, voluntary bodies or the public sector.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 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.

## **15. Contact**

- 15.1 Luella Williamson at the MMO can answer any queries regarding the instrument. Address: Lancaster House, Hampshire Court, Newcastle upon Tyne, NE4 7YH. Telephone: 0208 026 8618. Email: [harbourorders@marinemangement.org.uk](mailto:harbourorders@marinemangement.org.uk)
- 15.2 Trudi Wakelin, Director for Marine Licensing, at the MMO can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Tom McCormack, Chief Executive Officer at the MMO can confirm that this Explanatory Memorandum meets the required standard.