



**Marine
Management
Organisation**

Marine Management
Organisation
Lancaster House
Hampshire Court
Newcastle Upon Tyne
NE4 7YH

T 0191 376 2563
www.marinemanagement.org.uk

Neil Patrick
Legal Services
Civic Offices
Guildhall Square
Portsmouth
PO1 2PX

Our reference:DC9462

16 May 2014

Dear Mr Patrick,

**Harbours Act 1964
The Portsmouth (Abolition of Portsmouth and Gosport Joint Board) Harbour
Revision Order 2014**

1. The Marine Management Organisation (“the MMO”) informs you that consideration has been given to the application for The Portsmouth (Abolition of Portsmouth and Gosport Joint Board) Harbour Revision Order (“the Order”) for which Portsmouth City Council (“the Applicant”), formally applied under Section 14 of the Harbours Act 1964 (“the Act”) on 24 May 2013.

Summary of Decision

2. The MMO has authorised the making of the Order, subject to modifications not substantially affecting the character of the Order which it considers necessary and/or appropriate.

The Order

3. The Order, if made, would abolish the Portsmouth and Gosport Joint Board (“the Joint Board”) constituted under Part 5 of the Gosport and Alverstoke Urban District Council Act 1919 as amended by the Portsmouth Corporation Act 1920.
4. The Joint Board was constituted for the purpose of overseeing and governing the work of Watermen in Portsmouth Harbour, and exercises functions in accordance with two Acts (1809 c. cxc and 1812 c. lxxviii – “the Ferry Acts”).
5. The Order is not one which would directly, or indirectly, authorise a project for the purposes of paragraph 3 of Schedule 3 to the Act and consequently no environmental statement was required to accompany the application.



**INVESTORS
IN PEOPLE**

Context

6. The Applicant is the statutory harbour authority for Portsmouth Harbour and operates under Acts and orders dated 1966 to 2011.
7. The Applicant's jurisdiction is the harbour area situated between Portsmouth and Gosport bounded on the south by a line joining the eastern most point of Fort Blockhouse and Round Tower in Old Portsmouth.
8. The Joint Board oversees the licensing of Watermen in Portsmouth Harbour by virtue of the legislation detailed in paragraph 3.
9. The local licensing functions of the Joint Board are effectively redundant by virtue of the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters Qualifications and Hours of Work) Regulations 2006 ("the Boatmasters regulations") which provide a national system for licensing watermen.
10. Additionally, local licence holders who wish to continue to be licensed under local arrangements may still be granted a licence to operate by the Applicant under section 94 of the Public Health Acts Amendment Act 1907. This section of the 1907 Act allows local authorities to grant licenses for pleasure boats and pleasure vessels to be let for hire or to be used for carrying passengers for hire. The Order makes transitional provisions for current licences issued under the Ferry Acts to continue after the abolition as if issued in accordance with section 94.
11. The Joint Board have by a resolution dated 19th April 2013 determined to seek the abolition of the Joint Board
12. The Order is sought to achieve the object specified section 14(2A) of the Act:

'The objects for achieving all or any of which a harbour revision order may be made in relation to a harbour include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour, or consolidating any statutory provisions of local application affecting the harbour; subsection (2)(b) of this section does not apply to an order in so far as it is made for objects mentioned in this subsection'.
13. In summary, it is the case for the Applicant that the abolition of the Joint Board is desirable for the purpose of repealing superseded obsolete or otherwise unnecessary legislation. The Joint Board is directed by government policy in respect of seeking efficiencies in public service by seeking its abolition in the knowledge that there will be no consequential loss of safety or good governance.
14. Specifically the Order seeks to remove the duplication of regulation created by the Boatmasters Regulations and make consequential savings in the administration and costs associated with the appointment of twelve councillors as members the operation of the Joint Board.

Application procedure

15. On 20 May 2013 the Applicant submitted an application for the Order to the MMO.
16. Notice of the application for the Order, was advertised in the London Gazette on 14 June 2013 and in The News on 14 and 21 June 2013 in accordance with paragraph 10 of schedule 3 to the Act.
17. In addition the MMO consulted directly with:
 - Department for Transport;
 - Maritime and Coastguard Agency;
 - Gosport Borough Council; and
 - Portsmouth and Gosport Joint Board.
18. No objections were received during the statutory 42 day period provided for by the Act. A supporting response was received from the Joint Board.

MMO consideration

19. Section 14(1) of the Act provides for an order to be made under this section (“a harbour revision order”) in relation to a harbour which is being improved, maintained or managed by a harbour authority in the exercise and performance of statutory powers and duties for achieving all or any of the objects set out in schedule 2 to the Act.
20. By virtue of section 14(2)(a) a harbour revision order may not be made in relation to a harbour unless the MMO is satisfied that an appropriate written application has been made by the authority engaged in improving, maintaining or managing it or by a person appearing to it to have a substantial interest or body representative of persons appearing to it to have such an interest.
21. By virtue of section 14(2A) the objects for achieving all or any of which a harbour revision order may be made in relation to a harbour include repealing superseded, obsolete or otherwise unnecessary statutory provisions of local application affecting the harbour, or consolidating any statutory provisions of local application affecting the harbour.
22. Section 14(2)(b) does not apply to the making of this Order as it is made to achieve the object mentioned in section 14(2A).

The statutory and policy framework

Objects for whose achievement HRO’s may be made [s. 14(1)]

23. The MMO notes the case for the applicant, in particular that the Order is one which would achieve the object specified in section 14(2A), specifically, the repeal of unnecessary statutory provisions of local application.

24. The MMO is satisfied the Order is one which would achieve the object specified in 14(2A), specifically the repeal of unnecessary statutory provisions of local application.

Substantial interest [s. 14(2)(a)]

25. The MMO notes that the Applicant is the harbour authority for Portsmouth Harbour and as such is engaged in the improving, maintaining or managing of the harbour for the purposes of section 14(2)(a).

Desirability [s. 14(2)(b)]

26. The Order is sought to achieve the object specified in section 14(2A). Section 14(2A) provides that 'subsection (2)(b) of this section does not apply to an order in so far as it is made for objects mentioned in this subsection'.

27. The MMO considers that the objects of the Order fall entirely within section 14(2A) and is satisfied therefore that the 'desirability' test set out in 14(2)(b) does not apply.

Repealing legislation [s. 14(2A)]

28. The MMO is satisfied that the abolition of the Joint Board is pursuant to removing obsolete and otherwise unnecessary statutory provisions of local application affecting the harbour.

MMO's decision

29. The MMO agrees with the case for the Applicant and is satisfied for the reasons provided in paragraphs 23 to 28 that sections 14(1), 14(2)(a) and 14(2A) of the 1964 Act are met.

30. The MMO authorises the making of the Order with amendments and modifications not substantially affecting the character of the Order which it considers necessary and/or appropriate.

Challenge to decisions

31. Information on the right to challenge this decision is set out in the Annex to this letter.

Yours sincerely



Mark Kirby
Inshore Licensing Team

D 0191 376 2563

E mark.kirby@marinemanagement.org.uk

Annex

Right to challenge decisions

Right to challenge orders made under sections 14 and 16 of the Harbours Act 1964

Any person who desires to question the making of the Order on the ground that there was no power to make the Order or that a requirement of the Harbours Act 1964 was not complied with in relation to the Order, may within 6 weeks from the date on which the Order becomes operative make an application for the purpose to the High Court or the Court of Session, as the case may be.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking any action.