



Department
for Transport

Yarmouth (Isle of Wight) Harbour Authority

Pilotage Function Removal Order: Consultation Document

June 2014

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1. Summary

The Department for Transport is minded to delete Yarmouth (Isle of Wight) Harbour Authority from the list of Competent Harbour Authorities, thereby removing its functions in relation to the provision of pilotage.

This would require a Pilotage Function Removal Order to be made under Section 1 of the 1987 Pilotage Act (as amended by the Marine Navigation Act 2013).

This consultation seeks views on this proposal, which is supported by Yarmouth Harbour Authority.

Duration of Consultation

The consultation period will last 6 weeks, beginning on 26 June 2014 and running until 7 August 2014.

In deciding on the length of time for which to consult, we have considered the Consultation principles guidance at Annex A. We have concluded that stakeholders, who are maritime operators at Yarmouth Harbour, are aware of the relevant issues and that 6 weeks should be a sufficient period in which to consider the single proposal.

How to respond

The consultation period will run until 7 August 2014. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at <https://www.gov.uk/government/consultations/yarmouth-harbour-change-in-status> or you can contact Paul Whiteside at the Department for Transport (contact details below) if you need alternative formats (Braille, audio CD, etc).

Please use the link <https://www.gov.uk/government/consultations/yarmouth-harbour-change-in-status> to access the response form in order to send consultation responses. A list of those consulted can be found at Annex B. We do not intend to acknowledge individual responses unless by request.

If you have any further queries about the consultation, please address them to:

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Freedom of Information Act 2000

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004. If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

What will happen next?

We will carefully consider the responses to this consultation and finalise our considerations with a view to whether any changes are required to the draft regulations before they are laid before Parliament. We will then publish the summary of responses to both consultations, including next steps in Autumn 2014 soon after the close of this consultation at www.gov.uk/government/organisations/department-for-transport. Paper copies will be available on request.

2. Introduction to the proposal

What is Pilotage?

Pilotage is the use of marine pilots to conduct the navigation of ships through dangerous or congested waters, using their local knowledge and skills to ensure safe passage.

Under the Pilotage Act 1987 (“the 1987 Act”), full responsibility for the management of pilotage was given to Competent Harbour Authorities (CHAs). The 1987 Act recognised that they have the expertise required to undertake this responsibility effectively.

Depending on the size, geography, tides and many other variables affecting a port, the responsible CHA may require certain ships to employ pilots.

What is a Competent Harbour Authority?

A CHA is a harbour authority with duties to assess the need for pilotage and powers to provide the appropriate pilotage services and impose pilotage directions as necessary to secure the safety of ships navigating in their waters. A CHA is responsible for all pilotage matters at its facilities, including the authorisation of pilots and the grant of Pilotage Exemption Certificates.

CHAs are a sub-set of Statutory Harbour Authorities (SHAs) but a CHA may cover a wider geographical area (including the area of several SHAs). The 1987 Act provided that any harbour authority with statutory powers in relation to the regulation of shipping movements and the safety of navigation within its harbour, whose harbour fell wholly or partly within a former pilotage district where at least one act of pilotage was performed in 1984, 1985, 1986 or 1987, would be deemed a CHA. Other provisions allowed for the creation or extension of CHAs.

Why and how would a Competent Harbour Authority be relieved of its obligations on pilotage?

A CHA is obliged to keep pilotage services for its geographic area under review and to consider what pilotage services are needed and whether

any should be mandatory. A CHA must arrange for such pilotage as they consider necessary and may be held responsible for failure to maintain an adequate service.

The discharge of such functions by a CHA, even if it concludes that no pilotage is needed in its area, involves a level of responsibility on the part of the CHA with related costs in terms of money and time. Consequently a CHA for an area where no pilotage is needed may wish to be relieved of the functions.

The removal of pilotage functions from harbour authorities would relieve them of their powers and duties relating to pilotage under the 1987 Act. A harbour authority from which such functions were removed would cease to be a CHA, but would continue to be an SHA.

Provisions enabling this to be done came into force with the commencement of section 1 of the Marine Navigation Act 2013 (“the 2013 Act”) in October 2013.

Section 1 of the 2013 Act amends the 1987 Act to provide the appropriate national authority with powers to specify by Order that a harbour authority in England, Wales or Scotland is not a competent harbour authority. In the context of Yarmouth Harbour Authority, the authority is the Secretary of State for Transport. Any such Order would be subject to the Parliamentary negative resolution scrutiny procedure.

3. The proposal for Yarmouth Harbour Authority

The request for a Pilotage Function Removal Order

On 21 November 2013, the Department received a letter from the Chief Executive and Harbour Master of Yarmouth Harbour on the Isle of Wight requesting the removal of its status as a CHA.

The assessment of Yarmouth Harbour Authority is that pilotage is not required to ensure the safe navigation of the types of ship that use the harbour, nor is there any prospect of that situation changing.

Furthermore, so far as the CHA can tell from its records, they have never employed pilots and so pilotage services have not been offered by them. This has certainly been the case since 2006, when the current Harbour Master assumed his post.

A pilot boat was once based at Yarmouth for use with shipping on the West Solent route out of Southampton and Portsmouth, but it did not provide pilotage in Yarmouth Harbour or the Western Yar River.

Consequently, Yarmouth Harbour Authority wish to be relieved of their duties and powers relating to pilotage under the 1987 Act.

Consideration of the request

The Department has considered the application by Yarmouth and the need for pilotage within that CHA area.

Yarmouth operates as a ferry port and a yachting harbour. The principal ships using the harbour are three car ferries operated by Wightlink on the Lymington to Yarmouth route. The timetable varies throughout the year but a ferry enters the Harbour approximately every forty minutes. There are about 6,000 arrivals and departures a year at Yarmouth. Other ferries use Yarmouth on an occasional basis. There have been no reported vessel collisions during the last eight years.

The Department considers it is likely that Yarmouth Harbour Authority became a CHA following the commencement of the 1987 Act because it

lay within the former Isle of Wight Pilotage District, which encompassed all the ports on the island, even though no acts of pilotage took place specifically in Yarmouth.

There is no evidence that the lack of pilotage provision at Yarmouth Harbour since 2006 at least, and most likely since 1987 or before, has had any adverse impact on navigation safety.

Because no pilotage services are being provided at Yarmouth Harbour currently, no detriment to any harbour user or the environment is considered likely to arise as a result of the removal of CHA status.

Equally, because Yarmouth Harbour Authority are not incurring any costs in providing pilotage services, nor shipping in paying for pilotage, there would be no quantifiable benefits for the CHAs or users of the harbour. However, there would be a small, non-quantifiable benefit for Yarmouth Harbour Authority given that it would be relieved of the obligation to keep the decision not to provide pilotage services under review. Making the Order would thus be consistent with the Department's commitment to deregulation.

Consequently, the Department is minded to remove Yarmouth Harbour Authority's CHA status by making an Order under section 1(4A) of the 1987 Act. The Department is therefore undertaking this consultation in accordance with section 1(8A) of the 1987 Act.

Draft Regulations

We have not included a Draft Order as this would be a short Order simply specifying Yarmouth as a harbour authority without CHA status.

As an illustration of what such an Order would look like, the Broads Authority (Pilotage Powers) Order 1991 is an example of the similar but reverse situation, where the Broads Authority was given CHA status. It can be accessed online at:

<http://www.legislation.gov.uk/uksi/1991/1633/made>

Impact Assessment

There is no necessity for an impact assessment as there are no quantifiable costs or benefits associated with the proposal to remove CHA status from Yarmouth Harbour Authority.

Next Steps

We will publish a summary of the responses to the consultation and our final conclusions in Autumn 2014 soon after the close of the consultation.

4. Consultation questions

The consultation asks respondents to formulate their responses specifically to the following questions (please give reasons for your answers where appropriate):

Question 1.

Do you agree that there is no need for:

- (a) pilotage services at Yarmouth; or
- (b) a body to keep that status under review?

Question 2.

Do you have a view on whether the Government's proposal to remove Yarmouth Harbour Authority's CHA status will have any impact on harbour users or the local environment, whether directly or indirectly?

Question 3.

Are you aware of any quantifiable costs or benefits that could be attributed to the proposed change?

Annex A: Consultation principles

The consultation is being conducted in line with the Government's key consultation principles which are listed below. Further information is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

If you have any comments about the consultation process please contact:

Consultation Co-ordinator
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Consultation principles

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before;
- departments will need to give more thought to how they engage with and consult with those who are affected;
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy; and
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

Annex B: List of those consulted

British Marine Federation
British Ports Association
Commercial Fishermen's Association
Isle of Wight Council
Royal Solent Yacht Club
Royal Yachting Association
Solent Forum
UK Chamber of Shipping
UK Major Ports Group
UK Maritime Pilots Association
Wightlink
Yarmouth Harbour Authority
Yarmouth Sailing Club
Yarmouth Town Council