



Marine
Management
Organisation

Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

1. Date application made to MMO	06 September 2022
2. Name of primary contact	Lara Moore
3. Contact details of primary contact	Lara Moore, Ashfords LLP l.moore@ashfords.co.uk
4. Address of primary contact	Ashfords LLP, Ashfords House, Grenadier Road, Exeter, EX1 3LH
5. Name of statutory harbour authority	Lancaster Port Commission
6. Is this a Works Order?	No.
a. Brief description of proposed works	N/A
b. Date when notification of intention was submitted to MMO	N/A
c. Date when EIA screening opinion was issued by MMO	N/A

<p>d. If screened in, date when scoping opinion was issued by MMO</p>	<p>N/A</p>
<p>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</p>	<p>N/A</p>
<p>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</p>	<p>This application is for a harbour revision order to be made under the powers conferred on the Secretary of State for Transport by section 14 of the Harbours Act 1964 which are delegated to the MMO by the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674).</p> <p>The HRO would consolidate and modernise existing local statutory harbour legislation in respect of Lancaster Port and confer further modernised powers on the Commission considered conducive to the efficient and economical operation, maintenance, management and improvement of the port. The HRO would confer modern powers on the Commission to give general directions to vessels using Lancaster Port, and persons and vehicles using the port, together with powers exercisable by the harbour masters appointed by the Commission to give special directions. In respect of special directions and general directions related to the area of jurisdiction below the level of mean high water spring tides, these powers are required to support the effective management of the undertaking as recommended in the Port Marine Safety Code. In relation to vehicles and port operations ashore, they are consistent with the powers in section 14(3) relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within a harbour.</p>
<p>8. Location (coordinates must be provided in WGS84 format if this is a works order)</p>	<p>Lancaster Port</p>
<p>9. State the title of all relevant charts/maps/plans included with</p>	<p>Lancaster Port Limits Plan Lancaster Port Premises Plan</p>

application (if appropriate)	
10. State the legislation relevant to the Harbour Commission and included with this application (if appropriate)	<ol style="list-style-type: none"> 1. The Lancaster Port Commission Harbour Revision Order 1967 ('the 1967 Order') 2. The Lancaster Port Commission Harbour Revision Order 1985 ('the 1985 Order') 3. The Lancaster Port Commission Harbour Revision Order 1994 ('the 1994 Order') 4. The Lancaster Port Commission Harbour Revision (Constitution) Order 2003 ('the 2003 Order')
5. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.	N/A
6. Have you included the required fee for your application?	£4,000 by BACS.

Table 3: statutory harbour authority background

<p>The statutory harbour authority:</p> <p>The Lancaster Port Commission was incorporated as the statutory harbour authority for Lancaster Port, as a body corporate with a Common Seal, by article 14 and paragraph 1 of Schedule 3 to the 1967 Order. For ease of reference, Lancaster Port Commission, in the exercise of its SHA functions at the port, is referred to as “the Commission” throughout this Statement of Support.</p> <p>The Commission, as the statutory harbour authority for the Port, is governed by its own local legislation. The Commission is responsible for the administration, maintenance and improvement of the Port, which is further described below.</p> <p>The Commission is also the Local Lighthouse Authority for the Port and surrounding areas and a competent harbour authority under the Pilotage Act 1987.</p> <p>In managing the Port, the Commission strives to observe industry standards set out in Government guidelines. The Commission is committed to complying with the principles of the various codes and reports applying to the port and harbour industry, except where not relevant to the Commission’s constitution.</p>
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The Port:

The Port is classed by the Department for Transport ("DfT") as a Trust Port, located at the tidal reaches of the river Lune, and Morecombe Bay.

The Port operates commercially from Glasson Dock on the north west coast of England, which operates a 15m wide gate-access to the inner dock area and two commercial river berths which dry out at low water. Glasson Dock can accommodate vessels up to 3500 – 4000 (Deadweight All Told) (DWAT), with a maximum LOA of 90m and a beam of 14m on the drying NAABSA River Berths. The inner dock berths can accommodate vessels up to 85m Length Overall (LOA).

Several companies also operate at the Port, including in particular:

- Mezeron Ltd. which is an Isle of Man based shipping company and operates a twice-weekly service from Glasson Dock to Ramsey, Isle of Man for lift-on, lift-off general cargoes, both palletised and containerised.
- Fox Brothers which has a stevedoring department on-site with a wide range of handling equipment, craneage, and a 50 tonne weighbridge.

In addition, GP Shipping services are available on-site to provide agency services and vessel chartering services.

Cargoes handled at the Port include animal feedstuffs, fertilizers, aggregates and special cargoes.

Although the main Port use is commercial, it also accommodates some leisure vessels which transit in the enclosed dock to access the inland waterway network via the Glasson branch of the Lancaster Canal, and the British Waterways Marina situated in the canal basin.

Table 3a: Need and justification for order**Port Marine Safety Code:**

As the harbour authority for Lancaster Port, the Port Marine Safety Code (November 2016) published by the Department for Transport ("the Code") applies to the Commission as well as to all statutory harbour authorities and other marine facilities, berths and terminals in the UK. The Executive Summary to the Code explains that:

"The Code has been developed to improve safety in the port marine environment and to enable organisations to manage their marine operations to nationally agreed standards. It provides a measure by which organisations can be accountable for discharging their statutory powers and duties to run harbour or facilities safely and effectively. It also provides a standard against which the policies, procedures and performance of organisations can be measured. The Code describes the role of board members, officers and key personnel in relation to

safety of navigation and summarises the main statutory duties and powers of harbour authorities. The Code is designed to reduce the risk of incidents occurring within the port marine environment and to clarify the responsibilities of organisations within its scope.”

The Code identifies a number of tasks which harbour authorities should undertake in order to comply with the Code including reviewing and being aware of existing powers based on local and national legislation and 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 Code 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*”.

Because the Commission does not currently have the power of General Direction nor Harbour Direction, the Commission is seeking to obtain modern powers of General Direction (covering both vessels and vehicles) to enable it to have a set of General Directions covering the Port instead of having separate byelaws and directions. Designation with powers of General Direction is an important tool which will assist the Commission with compliance with the Port Marine Safety Code, and, in relation to vehicles and port operations ashore, are consistent with the powers in section 14(3) relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.

Harbours Act 1964:

Section 14 of the Harbours Act 1964 (“the 1964 Act”) confers powers which have been devolved to the MMO to make an order under that section (known as 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 specified in Schedule 2 to the 1964 Act.

Section 14(2)(a) of the 1964 Act requires that written application be made to the MMO by the authority engaged in improving, maintaining or managing the harbour in question and section 14(2)(b) provides that the MMO must be:

“satisfied that the making of the order is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or facilitating the efficient and economic transport of goods or passengers by sea or in the interests of the recreational use of sea-going ships”.

The matters set out in Schedule 2 to the 1964 Act include, in particular, at paragraph 4:

“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above”.

And, at paragraph 6:

“Settling (either for all purposes or limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled”.

Because this is not an application for a harbour revision order which, directly or indirectly, authorises a project (within the meaning of paragraph 1 of Schedule 3 to the 1964 Act), prior notification to the MMO under paragraph 3(a) of Schedule 3 to the 1964 Act is not required.

This application for the HRO under section 14 of the 1964 Act meets the conditions set out in that section. In particular, the application meets the requirements of:

- (A) Section 14(1) of the 1964 Act because it is made in relation to a port which is being improved, maintained or managed by a harbour authority in the exercise and performance of its statutory powers and duties for the purpose of achieving objects falling within Schedule 2 to the Act.
- (B) Section 14(2) of the 1964 Act because:
 - (i) The application is made upon the written application of a harbour authority engaged in improving, maintaining or managing a port; and
 - (ii) The making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the Port in an efficient and economical manner.

General:

The proposed HRO would consolidate, modernise and extend the powers of the Commission considered conducive to the efficient and economical operation, improvement, maintenance or management of the Port. The definition of “port premises” is flexible, meaning that if further Port land within the definition of “port premises” under the Order were purchased in the future (or sold if no longer required for port purposes) such land would automatically become part of (or cease to be part of) the undertaking.

It is considered that it is desirable in the interests of securing the improvement, maintenance or management of the Port in an efficient and economical manner that the Commission is provided with a set of modern flexible statutory powers contained within the proposed HRO and that the majority of the current local statutory harbour legislation for Lancaster Port is repealed.

The modernised and additional powers include powers reflective of those contained in modern HROs. Other HROs which contain some similar provisions include the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012, the Cowes Harbour Revision Order 2012, the Dover Harbour Revision Order 2014. They include standard statutory harbour powers, such as the power to borrow, reserve fund powers, powers to dispose of and develop land, powers associated with charges (including deposits and liens associated with charges) and miscellaneous powers including a power of general direction, a power to dredge, powers related to the removal of wrecks and other obstructions and various powers related to commercial activities.

An explanation of, and the need for, each substantive article in the HRO is set out below. Some examples of how the powers may be exercised are

described below. These examples are not intended to be exhaustive of the ways in which the powers may lawfully be exercised.

Article 1 is not dealt with below since it is ancillary to the substantive provisions of the HRO.

Table 2b: Justification for inclusion of provisions

Article in HRO	Summary of Provision	Requirement for provision
<p style="text-align: center;">2</p> <p>Interpretation</p>	<p>This article contains definitions which apply throughout the Order and a number of other provisions assisting with the interpretation of and clarification of scope of the Order.</p>	<p>The definitions are found within paragraph (1) of the article.</p> <p>Paragraph (2) provides that all points, distances etc. in the Order should be construed as if the word “or thereabouts” had been inserted after them.</p> <p>Paragraph (3) sets out that all references to points in the Order are references to World Geodetic System 1984.</p> <p>Article 2 is required to enable the Order and its effect to be properly interpreted.</p>
<p style="text-align: center;">3</p> <p>Incorporation of the Harbours, Docks and Piers Clauses Act 1847</p>	<p>This article incorporates the said Act except in relation to the sections listed as being excepted. Those sections included predominantly relate to:</p> <p>(A) Power to construct warehouses and other works (section 21).</p> <p>(B) Rates (sections 27 and 33).</p> <p>(C) Collection of rates (sections 34 – 40 and 43 – 46 and 48).</p> <p>(D) Harbour, dock and pier master (sections 51 - 65).</p> <p>(E) 68, 69, 72 – 76 (relating to the discharge or cargoes, removal of goods and the protection of the harbour, dock and pier);</p>	<p>This is an incorporation clauses of the Harbours, Docks and Piers Clauses Act 1847.</p>

	<p>(F) Harbour and dock police (sections 79 – 80).</p> <p>(G) Meters and weighers (sections 81 – 82).</p> <p>(H) Byelaws (section 83).</p> <p>(I) Recovery of damages and penalties (sections 92, 94).</p>	
<p>4</p> <p>Port Jurisdiction</p>	<p>This article provides that the Commission shall exercise jurisdiction as a harbour authority, and the powers of the harbour master shall be exercisable within the Port (which includes the port premises, the limits of which are described fully in article 4(1)).</p>	<p>Due to the proposed repeal of the majority of current statutory harbour legislation, it is important that the Commission’s jurisdiction as statutory harbour authority is clearly set out in this article. Therefore, it is conducive to the efficient and economic management of the Port to express them clearly in the Order and to deposit plans clearly delineating the port limits and port premises. All of the land (including land covered by water) that is currently understood to fall within the port limits has been included.</p> <p>In respect of the port premises, in the event of any future alteration to the extent of the port premises (because the Commission buys, sells etc. land), the Order requires the Commission to publish an updated plan on the Port website and to display one in the Port office within 30 days of the alteration. The Commission’s byelaw and general direction enforcement powers can be exercised over the entire area of jurisdiction.</p> <p>The definition of port premises (defined in article 2(1) of the Order) is flexible, meaning that if further land was purchased in the future for the port undertaking, it would automatically become part of the undertaking (or if land no longer required for the purposes of the port undertaking was sold, it would cease to be a part of the port undertaking).</p> <p>Additionally, paragraph (3) expressly sets out that ‘port premises’ (as defined in the Order) are deemed to be ‘operational land’ for the purposes of the Town and Country Planning Act 1990 (‘the 1990 Act’).</p>

'Operational land' is defined in section 263 of the 1990 Act as:

263 Meaning of "operational land".

(1) Subject to the following provisions of this section and to section 264, in this Act "operational land" means, in relation to statutory undertakers—

(a) land which is used for the purpose of carrying on their undertaking; and

(b) land in which an interest is held for that purpose.

(2) Paragraphs (a) and (b) of subsection (1) do not include land which, in respect of its nature and situation, is comparable rather with land in general than with land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings.

In addition in respect of the permitted development rights contained in Schedule 2, Part 8, Class B, the reference to operational land includes land designated by an order made under section 14 or 16 of the Harbours Act 1964

All land within the definition of port premises is therefore within the scope of 'operational land' under the 1990 Act. The inclusion of the wording is to make this clear as local planning authorities sometimes ask statutory harbour authorities to explain with reference to their local legislation that harbour land is operational land. All port premises is land designated under a Harbour Revision Order by its very nature. The additional wording is intended to make the effect of local harbour legislation easier to understand and to give a concrete provision that local planning authorities can refer to. Note: it is not

		<p>changing the current position. It is the view of the applicant that all of its port premises are already 'operational land' under the 1990 Act. This article is authorised by paragraph 6 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“Settling (either for all purposes or for limited purposes) the limits within which the authority are to have jurisdiction or altering (either for all purposes or for limited purposes) such limits as previously settled.”</i></p> <p>A similar provision can be found under article 3 of the Newport (Isle of Wight) Harbour Revision Order 2021. In relation to paragraph (3), a similar provision can be found in force (in Scotland) under article 12(3) of the Eyemouth Harbour Revision Order 2021.</p>
<p>5</p> <p>General Functions</p>	<p>This article provides that the Commission may take such steps as it may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of the Port, its approaches and facilities.</p>	<p>For those purposes, this article authorises the Commission to improve maintain, regulate, manage, mark and light the Port and provide port facilities; carry out various activities related to works, structures and equipment at the Port (including the port premises) and do all other things which in its opinion is expedient to facilitate the proper operation, improvement or development of the Port including acquiring land. Although the Commission has implied powers to acquire land for the Port, it is sensible to include an express reference to the power within the Order.</p> <p>The definition of port facilities highlights the importance of the fishing, leisure, energy, recreational and tourism industries to the future viability of the Port.</p> <p>This article is authorised by paragraph 3 of Schedule 2 to the 1964 Act:</p> <p><i>“Varying or abolishing duties or powers imposed or conferred on the authority by a statutory provision of local application affecting the harbour, being duties or powers imposed or conferred for the purpose of- (a) improving, maintaining or managing the harbour; (b) marking or lighting the harbour, raising wrecks therein or otherwise</i></p>

making safe the navigation thereof; or (c) regulating the carrying on by others of activities relating to the harbour or of activities on harbour land".

As a result of the majority of local legislation being repealed under the provisions of the HRO, it is considered that, in the interests of clarity, it is desirable that the Commission's powers to carry out the matters set out in this article should be set out expressly, rather than relying on implied and/ or existing powers.

A similar provision can be found under article 5 of the Weymouth Harbour Revision Order 2021.

Specifically relating to the power to invest contained in article 5(2), this provision provides that where there are monies which are not immediately required by the Commission for the purposes of the harbour undertaking, the Commission can invest such monies as it thinks fit.

This power allows the Commission to make such investments as it considers fit using any monies which aren't immediately required for the purposes of the undertaking. Such monies may include, for example, monies held in the reserve fund established under article 7 of the proposed HRO and applied in accordance with paragraph 3(e). Paragraph 3(e) provides that reserve fund monies may be applied by the Commission for *"any other lawful purpose sanctioned by the Commission and connected with the port undertaking"*.

It is considered that this article is desirable in the interests of securing the improvement, maintenance or management of the port in an efficient and economical manner, as required by section 14(2)(b) of the 1964 Act because it will allow the Commission to invest to maximise the funds available to it for the benefit and future of the Port.

Similar provisions already exist under local harbour legislation,

		<p>such as section 12 of the Blyth Harbour Act 1986, article 18 of the Falmouth Harbour Revision (Constitution) Order 2004 in England. Similar provisions can also be found in force in Scotland, for example article 5 of the Montrose Harbour Revision Order 1999 and article 13 of the Eyemouth Harbour Revision Order 2021. These provisions provide that the relevant statutory harbour authority may invest sums not immediately required for the purposes of the harbour undertaking and / or turn their resources to account so far as not required for the purposes of the harbour undertaking.</p> <p>This provision is authorised by paragraph 17 of Schedule 2 to the 1964 Act:</p> <p><i>“Any object which, though not falling within any of the foregoing paragraphs, appears to the appropriate Minister to be one the achievement of which will conduce to the efficient functioning of the harbour”.</i></p>
<p>6</p> <p>Application of Finances</p>	<p>This article provides that the Commission shall apply the port revenue in the manner following and not otherwise:</p> <ul style="list-style-type: none"> (A) first in payment of the working and establishment expenses and costs of maintenance of the Port; (B) secondly in payment of the interest on any moneys borrowed by the Commission for the Port under any statutory borrowing power; (C) thirdly in payment of all other expenses properly chargeable to port revenue; and (D) fourthly to an account established as a reserve fund for the Port. 	<p>This article is authorised by paragraph 13 of Schedule 2 to the 1964 Act:</p> <p><i>“Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.”</i></p> <p>This article is useful to the efficient management of the port, as it expressly sets out how port revenue should be used.</p> <p>A similar provision can be found under article 7 of the Weymouth Harbour Revision Order 2021.</p>

<p style="text-align: center;">7</p> <p>Reserve Fund</p>	<p>This article provides that the Commission may establish and maintain a reserve fund covering the Port and carry to such a fund any part of its port revenue as is available for the purpose.</p>	<p>This article is authorised by paragraph 13 of Schedule 2 to the 1964 Act:</p> <p style="text-align: center;"><i>“Regulating the application of moneys in the nature of revenue received by the authority and securing that the financial affairs of the authority are properly managed.”</i></p> <p>It is an essential part of prudent financial management that the Commission should have the power to maintain a reserve fund to enable the Commission to plan for future expenditure across the Port in an economic and efficient manner.</p> <p>A similar provision can be found under article 8 of the Weymouth Harbour Revision Order 2021.</p>
<p style="text-align: center;">8</p> <p>Borrowing</p> <p style="text-align: center;">9</p> <p>Temporary borrowing</p>	<p>Article 8 provides that the Commission, or a subsidiary of the Commission (defined in article 2(1) of the proposed HRO), may borrow such sums of money as thought fit for the purposes of the port undertaking.</p> <p>Article 9 provides that the Commission may borrow temporarily by way of overdraft or otherwise such sums of money as the Commission may require for the purposes of the port undertaking.</p>	<p>These articles are required as the Commission’s existing borrowing powers under articles 24 and 27 of the 1967 Order are being repealed under the provisions of the HRO.</p> <p>The articles reflect modern statutory harbour borrowing powers as can be seen in the similar powers conferred by article 3 of the Blyth Harbour Revision Order 2015, and article 9 of the Dover Harbour Revision Order 2014.</p> <p>There is no need to place a limit on the amount of money which can be borrowed by the Commission because, in reality, borrowings will be limited by the amount a lender is prepared to loan. In addition, the unlimited borrowing power will avoid the requirement for an HRO at a future date to extend the borrowing powers as the value of money decreases as a result of inflation.</p> <p>In respect of article 8(3), the Commission, or any subsidiary of the Commission, may effect such arrangements as considered fit to mitigate any financial risk incurred for the purposes of borrowing under paragraph (1). The power to enter into risk mitigation arrangements is needed to enable the Commission, or its subsidiaries, to exercise the power to borrow in a prudent and cost effective manner.</p>

		<p>These articles are authorised under paragraph 10 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.”</i></p>
Charges (generally)	<p>The articles contained within this Part of the HRO (Charges) set out the Commission's powers with respect to charges it may levy. They are reflective of modern statutory harbour powers relating to charges and are conducive to the improvement, maintenance and management of the Port in an efficient and economical manner. A similar suite of powers can be found in the Weymouth Harbour Revision Order 2021 and the Poole Harbour Revision Order 2012.</p>	<p>See below for further justification of particular provisions.</p>
10 Charges other than ship, passenger and goods dues	<p>This article provides that in addition to ship, passenger and goods dues under section 26 of the 1964 Act, the Commission may demand, take and recover reasonable charges in respect of all vessels. It also expressly states that charges may be made in respect of a variety of other floating platforms etc. so that no dispute will arise as to whether such structures fall within the definition of vessel contained within the Order.</p>	<p>It is important to the Port's future viability that all users of the Port contribute to the cost of the management and maintenance of the Port.</p> <p>It would be detrimental to the improvement, maintenance or management of the Port in an efficient and economical manner if charging powers did not exist in respect of one type of vessel or floating structure using the Port (unless exempt under the HRO). This provision is particularly important because the Order provides for existing charging provisions in current local statutory harbour legislation to be repealed.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p><i>“empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour”.</i></p>

		A similar provision can be found under article 10 of the Weymouth Harbour Revision Order 2021.
11 Charges for services or facilities	This article provides that in addition to ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Commission may demand, take and recover reasonable charges for services and facilities provided by it.	<p>This provision is common as it is required for the Port to be managed economically and efficiently.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p><i>“empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour”.</i></p> <p>This is pursuant to securing the improvement, maintenance and management of the Port in an efficient and economical manner.</p> <p>A similar provision can be found under article 11 of the Weymouth Harbour Revision Order 2021.</p>
12 Payment of Charges	This article provides that charges are payable before the vessel or goods against which they are payable are removed from the Port or port premises. It also sets out who charges are payable by and who they can be recovered from and when.	<p>This article is included to ensure that the payment of charges authorised to be levied are consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Port in an efficient and economical manner. For these purposes, it is essential that the HRO is clear as to when charges must be paid and from whom charges must be taken. It would be counter-productive to exclude such a provision from the HRO as this would negatively impact the Commission’s ability to efficiently and economically manage the Port.</p> <p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 to the 1964 Act in that it secures the efficient collections of charges levied by the Commission, specifying the times at which and the persons by whom charges are to be paid:</p>

		<p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p> <p>A similar provision can be found under article 12 of the Weymouth Harbour Revision Order 2021.</p>
<p>13</p> <p>Compounding arrangements and rebates</p>	<p>This article provides the Commission with a power to confer exemptions from dues, allow rebates or make compositions with any person with respect to charges. In addition, it provides that the Commission does not have to include on its list of ship, passenger and goods dues kept at the port office, charges which have been reduced by a rebate or a compounding arrangement in respect of a due included on the list.</p>	<p>This article is important to enable the Commission to act in a commercial manner when entering into arrangements with customers, thereby managing the Port in an efficient and economical manner. This would be extremely difficult if the Port was required to publish commercially sensitive information.</p> <p>The great majority of ports operate on a commercial basis, in competition with each other (domestically and abroad) and in some cases with other modes of transport. This is recognised by the Ports Good Governance guidance at paragraph 1.15. The commercial relationship formed with port stakeholders in particular is also recognised at paragraph 2.10 and 2.11, and paragraph 2.28 specifically states:</p> <p><i>“All SHAs are encouraged to consider meeting the reasonable requests for information from stakeholders, where practical. This does not mean that SHAs should be expected to make available information that is commercially or otherwise sensitive...”</i></p> <p>On this basis, it is considered this article is consistent and with the Ports Good Governance Guidance and is therefore justified.</p> <p>A similar article can be found in, for example, the recent Weymouth Harbour Revision Order 2021.</p>
<p>14</p> <p>Deposits for charges</p>	<p>This article provides that the Commission may require from a person who incurs or is about to incur a charge with it, a reasonable deposit or guarantee. It also provides the Commission with the power to detain a</p>	<p>It is essential for the economic management of the Port to be able to secure the reasonable charges due to the Commission by virtue its charging powers under the local legislation applying to the Port, the 1964 Act or otherwise. Should it become apparent that such a guarantee is not going to be provided by the person from whom it is</p>

	relevant vessel or goods until the deposit has been paid or the required guarantee made.	<p>due, then until such guarantee is received the Commission needs to be able to secure the interests of the Port by removing the relevant vessel or goods from the Port or refuse entry.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the order to be <i>“desirable for the improvement, maintenance and management of the harbour in an efficient and economical manner”</i>. Furthermore, this article is authorised by paragraph 12 to Schedule 2 to the 1964 Act in that it secures the efficient collections of charges levied by the Commission:</p> <p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p> <p>A similar provision can be found under article 14 of the Weymouth Harbour Revision Order 2021.</p>
15 Liens for charges	This article provides for a right of lien over goods in the possession or custody respectively of a person collecting charges on behalf of the Commission or, a wharfinger or carrier, who has paid or given security for charges on those goods.	This is a standard provision included to secure the financial interests of those who by agreement with the Commission collect charges on its behalf, by securing said interest against goods in their possession. As that person will not themselves be liable for the payment of charges, this provision is required to secure debts owed. A similar provision can be found under article 15 of the Weymouth Harbour Revision Order 2021.
16 Refusal to pay charges for landing places	This article provides that a vessel may be prevented from using a landing place supplied by the Commission, if the master of the vessel refuses to pay the related charges.	<p>It is essential for the economic management of the Port for the Commission to be able to secure the reasonable charges due to it by virtue its charging powers under the local legislation applying to the Port, the 1964 Act or otherwise. Therefore, the Commission must be able to prevent vessels from sailing or using facilities at the Port (such as a landing place or mooring) in the event that the master of a vessel refuses to pay the reasonable charge required, as authorised under the HRO.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the harbour in an efficient and economical manner.</p>

		<p>Furthermore, this article is authorised by paragraph 12 of Schedule 2 to the 1964 Act in that it promotes securing the efficient collections of charges levied by the Commission:</p> <p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p> <p>A similar provision can be found under article 16 of the Weymouth Harbour Revision Order 2021.</p>
<p>17</p> <p>Exemption from Harbour Dues</p>	<p>This article is similar to other modern provisions providing for an exemption for harbour dues for certain vessels, persons and government departments (or their current equivalent) whilst in the exercise of their core duties.</p>	<p>This article is authorised by paragraph 14 of Schedule 2 to the 1964 Act, as follows:</p> <p><i>“Varying or extinguishing any exemption from charges levied by the authority at the harbour or any other right or privilege enjoyed thereat.”</i></p> <p>It is necessary for the efficient and safe management of the Port that those persons named in the article are exempt from harbour dues when in the exercise of their core functions, as such persons ought not to be restricted or deterred from exercising those functions as a result of them otherwise being liable to pay harbour dues.</p> <p>A similar provision can be found under article 17 of the Weymouth Harbour Revision Order 2021.</p>
<p>18</p> <p>Recovery of charges</p>	<p>This article provides that in addition to any other powers of recovery available to it, the Commission may recover any charges payable to it as a debt in Court.</p>	<p>It is essential for the economic management of the Port to be able to secure the reasonable charges due to the Commission by virtue of charging powers under the local legislation applying to the Port, the 1847 Act incorporated with the HRO or otherwise. Therefore, the Commission must be able to rely on the resources of the Court to assist in securing any debts owed to them should the existing powers of recovery be insufficient to secure the debt.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Port in an efficient and economical manner.</p>

		A similar provision can be found under article 18 of the Weymouth Harbour Revision Order 2021.
<p>19</p> <p>Harbour master may prevent sailing of vessels</p>	<p>This article provides that the harbour master may prevent the removal or sailing from the Port of any vessel until evidence is produced that any charges payable in respect of the vessel, its passengers or goods have been paid.</p>	<p>It is essential for the economic management of the Port for the Commission to be able to secure the reasonable charges due to it in relation to:</p> <ul style="list-style-type: none"> - the vessel; - passengers on the vessel; and - goods imported, exported or carried on the vessel. <p>by virtue its powers under the local legislation applying to the Port or otherwise. Therefore, the harbour master is required to have an express power to prevent the sailing and/ or removal of a vessel from the Port until such a time as the charges payable have been paid.</p> <p>Should such a vessel be able to leave the Port without having paid the charges due, it would become difficult for the Commission to recover said charges and therefore be detrimental to its ability to manage the Port in an economically efficient manner.</p> <p>This article is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Port in an efficient and economical manner.</p> <p>A similar provision can be found under article 19 of the Weymouth Harbour Revision Order 2021.</p>
<p>20</p> <p>Power to make General Directions</p> <p>21</p>	<p>The Commission does not currently have the power of General Direction or Harbour Direction. These articles provide the Commission with powers of General Direction which also cover vehicles for the ease, convenience or safety of harbour operations ashore as defined under the Order (including speed limits for and parking of vehicles) and extended powers of Special Direction. The provisions also set out the</p>	<p>The Port Marine Safety Code, advises at paragraph 2.5 of Chapter 2 that:</p> <p><i>“In particular, 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.”</i></p>

<p>Procedure for giving, amending or revoking General Directions</p>	<p>consequences of failing to comply with a General or Special Direction.</p>	<p>As set out above, the Commission does not have powers of General Direction and seeks to obtain a modern power. The process for keeping General Directions up to date is far more time and cost efficient than the byelaw making process, and due to the inclusion of the Port Advisory Group to be set up under the HRO as 'designated consultees' it contains a strong local consultation requirement.</p>
<p>22</p>		
<p>Publication of General Directions</p>		<p>Therefore, in line with the Port Marine Safety Code, the Commission is applying for a modernised power of General Direction that will enable the Commission to have in place a single set of General Directions. In line with best practice, these articles provide a statutory right for 'designated consultees' to be consulted about proposed General Directions (see article 21(1)(a) and (b)).</p>
<p>23</p>		
<p>Special Directions</p>		<p>As stated above, a Port Advisory Group will be a 'designated consultee' within article 21(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association.</p>
<p>24</p>		
<p>Failure to comply with directions</p>		<p>General Directions can be made over the entirety of the Port (which include the port premises). Any future exercise of this power will be exercised in accordance with article 21. This means that representations received from the designated consultees will be considered by the Commission and if they object to proposed General Directions and those concerns are unable to be resolved, there is a statutory adjudication process contained in article 21. The process contained in article 21 is likely to be acceptable to the Royal Yachting Association as a similar adjudication process is contained within the Shoreham Port Authority Harbour Revision Order 2021, Fowey Harbour Revision Order 2021 and the Dart Harbour and Navigation Harbour Revision Order 2021.</p>
<p>25</p>		
<p>Enforcement of directions</p>		
<p>26</p>		
<p>Master's responsibility in relation to directions</p>		<p>In terms of the precise scope of General Directions, it will be seen that article 20(1) would allow the Commission to give or amend directions:</p>
<p>27</p>		<p><i>"...for the purpose of promoting or securing directions conducive to the ease, convenience or safety of navigation, the safety of persons,</i></p>

<p>Boarding of vessels and vehicles</p>		<p><i>the protection of property, flora and fauna and the ease, convenience and safety of port operations ashore in the port”.</i></p> <p>In relation to vehicles and port operations ashore, such a scope is consistent with the powers in section 14(3) relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.</p> <p>Article 24 sets out the maximum fine level (level four on the standard scale) for failure to comply with a General Direction once made. Although the Commission does not currently have powers of General Direction it does have byelaw making powers (under section 83 of the Harbours, Docks and Piers Clauses Act 1847) and it is already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988). As such, a level 4 fine for the breach of a General Direction is considered justified.</p> <p>Article 26 is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Port in an efficient and economical manner as it expressly imposes the Master’s own responsibility in relation to directions.</p> <p>A similar provision can be found under article 10 of the Shoreham Port Authority Harbour Revision Order 2021 and under article 10 of the Lyminster Harbour Revision Order 2014.</p> <p>Article 27 provides that a duly authorised officer of the Commission may, on producing if so required their authority, enter and inspect a vessel or vehicle in the harbour for the purposes of any enactment relating to the harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw or general</p>
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		<p>direction of the Commission relating to the Port, including the enforcement of any such enactment, byelaw or general direction.</p> <p>Such a power will be useful to the Commission where a person has failed to comply with byelaws, special directions or general directions. The Commission must be afforded the power to board relevant vessels and vehicles for the purposes of enforcing those byelaws, special directions and general directions.</p> <p>The rationale for including the power of entry into vehicles as well as vessels is that, just like vessels, there may be circumstances in which a vehicle needs to be entered to ensure that general directions or byelaws made in respect of it have been complied with. For example, entry to the back of a lorry to ensure that a general direction related to the ensuring loads are properly secured and supported has been complied with.</p> <p>The exercise of the provision is safeguarded by the inclusion of the words <i>“for the purposes of any enactment relating to the port (including any enactment so relating contained in subordinate legislation) or of any byelaw or general direction of the Commission relating to the port”</i> as it can only be exercised for those purposes.</p>
<p>28</p> <p>Byelaws</p>	<p>This article provides the Commission with the power to make byelaws in a range of circumstances in addition to the purposes in s83 of the Harbours, Docks and Piers Clauses Act 1847 (as incorporated under article 3 of the Order) and is in line with the modern practice of setting out a wide range of matters upon which the Commission will have the power to make byelaws.</p> <p>Byelaws made under this provision in the future may, in accordance with paragraph 4(a) of this article, provide for a fine not exceeding level 4 on the standard scale for breach thereof.</p>	<p>The power in this article incorporates the purposes in s83 of the Harbours, Docks and Piers Clauses Act 1847 and is in line with the modern practice of setting out a wide range of matters (contained in Schedule 1) upon which the Commission will have the power to make byelaws.</p> <p>The alternative practice is to set out a more general range of byelaw making powers and rely on the width of the wording of the provision. However, setting out the detail in this way reduces the scope for challenging any prosecution on the basis that the byelaw in question is outside the range of matters for which the Commission has the power to make byelaws. This leads to increased costs and delays in prosecutions and therefore the more modern approach is to set out expressly a wider range of byelaw making powers.</p>

		<p>A similar approach can be found in the Weymouth Harbour Revision Order 2021 and the Portland Harbour Revision Order 1997.</p> <p>Historically, there has been little need to initiate any prosecutions at the Port for breach of byelaws as port users have complied with the instructions of the harbour masters. Nevertheless, to comply with the Port Marine Safety Code (PMSC) and to meet its other duties (including navigational safety), it is important that the Commission has modern and comprehensive byelaw making powers. It is anticipated that the current byelaws in place at Lancaster Port will be reviewed and it is likely that they will be repealed and replaced with General Directions following grant of the HRO. However, it is important that the Commission retains wide byelaw making powers in case it needs to introduce new byelaws in the future in respect of a risk not covered by the modernised power of General Direction sought above.</p> <p>The Commission already has byelaw making powers (for example, under article 6 of the 1994 Order) and it is already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988), so the level four fine is considered justified. The power to make byelaws is authorised by paragraph 4 of Schedule 2 to the 1964 Act:</p> <p><i>“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above.”</i></p>
<p>29</p> <p>Confirmation of Byelaws</p>	<p>This article sets out the procedure by which byelaws made under the HRO shall be confirmed under the Local Government Act 1972.</p>	<p>A similar provision can be found in article 25 of the Folkestone Harbour Revision Order 2017.</p> <p>This provision is incidental to the power to make byelaws as described above and is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Port in an efficient and economical manner</p>

<p>30</p> <p>Saving for existing directions, byelaws etc.</p>	<p>Due to the proposed repeal of the majority of the local legislation currently in force in respect of the Port, it is necessary to include a saving provision for existing byelaws etc. They will then remain in force until replaced in the future.</p>	<p>It is important that any existing byelaws, regulations, licences, leases etc. remain in force following the coming into force of this Order.</p> <p>This provision is incidental to the power to make byelaws and general directions that are being introduced under the provisions of the HRO, and is therefore consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Port in an efficient and economical manner.</p> <p>A similar provision can be found under article 11 of the Shoreham Port Authority Harbour Revision Order 2021.</p>
<p>31</p> <p>Advisory bodies</p>	<p>This article covers the establishment of an external advisory body with an independent chairperson.</p>	<p>This article puts on a statutory basis the establishment and continuance of an advisory group or groups for the Port and their administration. It also requires the Commission to consult the advisory group or groups.</p> <p>The statutory requirement for the Commission to form an Advisory Group is fundamental to its compliance with the Ports Good Governance Guidance (March 2018) which recognises at para 1.5 <i>“the importance of engaging effectively and fully with stakeholders and carrying out their business in an accountable way”</i> and specifically sets out at para 2.6:</p> <p><i>“Effective engagement with stakeholders is essential for all SHAs to maintain or improve understanding of the harbour by its stakeholders. Engagement is equally important to understand stakeholder’s views about the harbour and key issues from their perspective. All SHAs should therefore seek to engage effectively with a wide range of stakeholders”.</i></p> <p>Additionally, the consultation requirement in respect of General Directions (also being provided for under the HRO) sets out that the Commission must (except in an emergency) consult the Advisory Group on all matters substantially affecting the harbour, and therefore this article is necessary and incidental to the inclusion of</p>

		<p>the power of General Direction under the scheme. The power of General Direction (discussed under General Directions above) will be an essential tool for the Commission to comply with the Port Marine Safety Code.</p> <p>As a result of the above, this article is conducive to the efficient and economical development of the harbours which are being improved, maintained and managed by a harbour authority.</p> <p>A similar provision can be found under article 28 of the Weymouth Harbour Revision Order 2021.</p>
<p>32 Development of land</p>	<p>This article provides that the Commission may use or develop for any purpose, and deal with, any land within or in the vicinity of the Port; or form invest in and promote, or join with another person in forming, investing in and promoting a company for using or developing for any purpose, and dealing with, any land within or in the vicinity of the Port.</p>	<p>Paragraph (2) provides that a company established under paragraph (1)(b) may have powers to do anything necessary for the purposes of the objects for which it has been established notwithstanding that the Commission would not itself have the power to do that thing.</p> <p>This article, as far as applying to land not required for the harbour, is authorised by paragraph 9A of Schedule 2 to the 1964 Act:</p> <p><i>"Empowering the authority (alone or with others) to develop land not required for the purposes of the harbour with a view to disposing of the land or of interests in it, and to acquire land by agreement for the purpose of developing it together with such land".</i></p> <p>So far as relating to port land, it is considered that this article is authorised by paragraph 17 of Schedule 2 to the 1864 Act which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the Port. The case for this is set out below as an integral justification for this article.</p> <p>The purpose of this article is to give the Commission the flexibility, subject to obtaining the necessary rights in or over land, to exploit opportunities to develop land (including port land) to maximise the</p>

		<p>efficient utilisation, expansion and regeneration of the Port. The profits and revenues derived by the port undertaking from the development of any land under this article would be used to improve and develop the Port and provide increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if <i>"it conduces to the improvement, maintenance or management of the port in an efficient and economical manner"</i>. This limitation brings this article within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers to those in this article were conferred in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 the Dover Harbour Revision Order 2014.</p>
<p>33</p> <p>Power to grant tenancies and to dispose of land</p>	<p>Paragraph (1) gives power to the Commission, for the purposes of or in connection with the carrying on of the undertaking, to grant leases and other rights or interests over its land or other property forming part of the Port.</p> <p>Paragraph (2) provides that the Commission may also dispose of, or grant the use or occupation for any purpose of, land or property if they consider that the property is surplus to port requirements; or it would conduce to the improvement, maintenance or management of the port in an efficient and economical manner for the property to be held by a person other than the Commission .</p>	<p>Paragraph (1), which is needed to manage the Port, is authorised by paragraph 3(a) of Schedule 2 to the 1964 Act which relates to powers conferred for the purposes of <i>"improving maintaining or managing the harbour"</i>.</p> <p>Paragraph (3)(a) is authorised by paragraph 9 of Schedule 2 to the 1964 Act:</p> <p><i>"Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes."</i></p> <p>It is considered that paragraph (3)(b) is authorised by paragraph 17 of Schedule 2 to the 1964 Act which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out as an integral part of the need for this article. Paragraphs (1) and (3)(a) are needed to enable the Commission to manage the port undertaking effectively.</p>

		<p>These powers are similar to the powers conferred in the Weymouth Harbour Revision Order 2021, the Poole Harbour Revision Order 2012 and the Dover Harbour Revision Order 2014.</p> <p>Paragraph (3)(b) would enable the Commission to grant leases or transfer land or property to a subsidiary or other body. This power is needed to enable the Commission to have sufficient flexibility in how to structure the port undertaking in the future. The power in paragraph (3)(b) is only exercisable if <i>“it would conduce to the improvement, maintenance or management of the harbour in an efficient and economical manner”</i>. This limitation brings paragraph (3)(b) within the powers of section 14(2)(b) of the 1964 Act.</p>
<p>34</p> <p>Power to appropriate lands and works for particular uses etc.</p>	<p>This article provides that the Commission may from time to time for the purpose of or in connection with the management of the Port set apart and appropriate any part of the Port for the exclusive, partial or preferential use and accommodation of any particular trade, person, vessel or class of vessels, or goods, subject to the payment of such charges and subject to such terms, conditions and regulations as the Commission may think fit.</p>	<p>Section 33 of the Harbours, Dock and Piers Clauses Act 1847 is incorporated into the Order (the Open Port Duty) and as such the Commission remain under a duty to keep the Port open for the shipping and unshipping of goods, and the embarkment and landing of passengers. Therefore, the power of this article will only ever operate insofar as it does not otherwise conflict with the duty under section 33 of the 1847 Act.</p> <p>In addition, the power under this article must only be exercised for the <i>“purpose of or in connection with the port”</i> and not for wider purposes. This article is therefore within the scope of section 14(2)(b) in that it will assist the Commission in the management of the Port in an efficient manner and facilitate the efficient and economic transport of goods and passengers by sea, again for Port purposes only.</p> <p>A similar provision can be found under article 31 of the Weymouth Harbour Revision Order 2021.</p>
<p>35</p> <p>Other commercial activities</p>	<p>Paragraph (1)(a) provides that the Commission may carry on at any place a trade or business of any kind including a trade or business carried on in conjunction with another person. Paragraph (1)(b) enables the Commission to form, invest in and promote, or join</p>	<p>Paragraph (1)(a) would assist the Commission to maximise the potential of the port undertaking by enabling it to carry on any business which could conveniently be carried on with the port undertaking. For example, the Commission could utilise and develop the skill and experience of its staff by providing services to</p>

	<p>with another person in forming, investing in and promoting, a company for carrying on any part of the undertaking or carrying on at any place a trade or business of any kind. Paragraph (2) provides that a company established under paragraph (1)(b) may have powers to do anything necessary or expedient for the purposes of the objects for which it has been established notwithstanding that the Commission would not itself (as harbour authority) have the power to do that thing.</p>	<p>other port undertakings or to carry out business activities which are incidental to running a port.</p> <p>Paragraph (1)(b) would enable the Commission to carry on such a business as part of a joint venture with another person or persons, for example enabling the Commission to contribute land and/or harbour related expertise to the venture while the other party contributes complementary specialist business expertise.</p> <p>The profits and revenues derived from the business ventures under this article would be used to improve and develop the harbour and ensure increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if:</p> <p><i>“it conduces to the improvement, maintenance or management of the harbour in an efficient and economical manner”.</i></p> <p>This limitation brings this article within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers were conferred in the Weymouth Harbour Revision Order 2021 and the Dover Harbour Revision Order 2014.</p> <p>It is considered that this article is authorised by paragraph 17 of Schedule 2 to the 1964 Act which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour.</p> <p>The case for this is set out as an integral part of the justification for article.</p>
<p>36</p>	<p>This article provides that the Commission may delegate the performance of any of its functions to be carried out by any such company as referred to in</p>	<p>This article is authorised by paragraph 9B of Schedule 2 to the 1964 Act:</p>

<p>Power to delegate functions</p>	<p>paragraph (1)(b).</p>	<p><i>"Empowering the authority to delegate the performance of any functions of the authority except-</i></p> <ul style="list-style-type: none"> <i>(a) a duty imposed on the authority by or under any enactment;</i> <i>(b) the making of byelaws;</i> <i>(c) the levying of ships, passenger and goods dues;</i> <i>(d) the appointment of harbour, dock and pier masters;</i> <i>(e) the nomination of persons to act as constables;</i> <i>(f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and seamarks, so far as those functions are exercisable for the purposes of the safety of navigation."</i> <p>The power to delegate functions is needed to enable the Commission to carry out day to day activities through a subsidiary or joint venture company. The power does not apply to the key functions which cannot be delegated under paragraph 9B of Schedule 2 to the 1964 Act.</p>
<p>37</p> <p>Power to lay Moorings</p> <p>38</p> <p>Licensing of moorings</p> <p>39</p>	<p>These articles provide the Commission with powers related to the provision, maintenance and licensing of moorings within the Port. It is considered that modernised express provisions are conducive to the efficient and economical management and maintenance of the Port.</p>	<p>Similar provisions are found within articles 14-17 of The Yarmouth (Isle of Wight Harbour Revision Order 2011, articles 9-11 of The Poole Harbour Revision Order 2012, article 18 of The Watchet Harbour Revision Order 2000 and article 21 of The Burry Harbour Revision Order 2000.</p> <p>These articles provide for a level 4 fine for failure to comply with its requirements. This level of fine is required firstly to ensure that there is a sufficient level of deterrent (moorings in the Port are sought after and can be used to generate income, and the level of fine needs to be in excess of likely income generation) and secondly, a</p>

<p>Offences as to moorings</p>		<p>mooring obstructing safe navigation in the Port will constitute a navigational hazard and can interfere with the operation of the Open Port Duty. As such, it is considered that a level 4 fine is justified.</p>
<p>40 Bunkering</p>	<p>This article provides the Commission with powers in relation to licensing those persons carrying out commercial refuelling activities related to vessels in the port.</p>	<p>To comply with the environmental duties contained in s48A of the Harbours Act 1964, the Commission considers that it is important that it has express powers to licence such activities so that proper risk assessments can be carried out and persons carrying out such activities can be required to comply with terms and conditions, designed to mitigate against risks associated with such activities (including environmental). Due to the fact that such operations are being carried out commercially and the potential environmental implications, it is considered that a level 4 fine is justified.</p> <p>Similar powers were conferred by article 35 of the Weymouth Harbour Revision Order 2021.</p>
<p>41 Aids to navigation</p>	<p>This article provides that the Commission may, with the approval of Trinity House, erect, place, alter, discontinue or remove any aids to navigation in any place adjacent to the port (subject to obtaining the necessary interest in or over land).</p>	<p>This power is important for enabling the Commission to meet its navigational safety duties and is therefore consistent with section 14(2)(b) of the 1964 Act to secure the management of the harbour in an efficient manner or of facilitating the efficient and economic transport of goods or passengers by sea.</p> <p>A similar provision can be found under article 36 of the Weymouth Harbour Revision Order 2021.</p>
<p>42 Power to dredge</p>	<p>This article provides the Commission with a power to dredge.</p>	<p>The power to dredge is a standard statutory harbour power and, under its existing local legislation (for example, article 39(1) of the 1967 Order), the Commission already has the power to dredge with respect of Lancaster Port.</p> <p>This provision is not a “new” power; it simply provides clarity over the extent of the Commission’s power to dredge the Port. It does not provide for additional jurisdiction to dredge in areas where the Commission does not already have the power to do so.</p>

		<p>It is conducive to the management of the undertaking in an efficient manner (as required by section 14(2)(b) of the 1964 Act, for the power to be included in the proposed HRO.</p> <p>Because the historic power to dredge under the 1967 Order is being repealed under the proposed HRO, it is important that the Commission is provided with a power, reflective of modern provisions, so that it is able to dredge if and when required, and is desirable in the interests of securing the improvement, maintenance or management of the Port in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p> <p>If dredging is carried out at Lancaster Port under the provision in the future, then in line with section 75 of the Marine and Coastal Access Act 2009, the Commission will not need to obtain a marine licence for the dredging activities at the port (which is the same as the current position). However, if disposal to sea is required in the future, then a marine licence will continue to be required for this disposal.</p> <p>A similar dredging power can be found under article 37 of the Weymouth Harbour Revision Order 2021.</p>
<p>43 Repair of landing places etc.</p>	<p>This article provides that the Commission may by notice require the owner or occupier of any landing place, jetty, embankment or structure or other work in the port or on land immediately joining the waters of the port to repair it, within a reasonable time, to their reasonable satisfaction, if it is a danger to persons or vessels using the port or a hindrance to navigation of the port. The provision provides for a level 3 fine for non-compliance (on summary conviction) and a power for the Commission to carry out the works and recover the reasonable cost of doing so from the person on whom the notice was served. There is right of appeal</p>	<p>This power is important in assisting the Commission in meeting its duties with regard to navigational safety and the safety of port users. Due to the potential safety implications of failure to comply, a level 3 fine is justified. Similar provisions can be found in article 11 of the Portland Harbour Revision Order 1997.</p> <p>This article relates to navigational safety in that it applies to features which are <i>“dangerous to persons or vessels using the port or a hindrance to the navigation of the port”</i> and is therefore desirable in the interests of securing the improvement, maintenance or management of the Port in an efficient and economical manner or of</p>

	to the Secretary of State.	facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.
<p>44</p> <p>Restriction of works and dredging</p> <p>45</p> <p>Control of certain operations and works</p> <p>46</p> <p>Licensing of works</p> <p>47</p> <p>Licence to dredge</p> <p>48</p> <p>Appeals</p> <p>49</p> <p>Obstruction of works</p>	<p>These articles include the following:</p> <p>(A) Restriction of works and dredging;</p> <p>(B) Control of certain operations of works of statutory undertakers;</p> <p>(C) Licensing of works;</p> <p>(D) Licence to dredge;</p> <p>(E) Appeals in respect of works or dredging licences; and</p> <p>(F) Obstruction of works;</p> <p>These articles provide the Commission with modern powers regarding works and dredging carried out by third parties within the port limits. The provisions include requirements to obtain a licence from the Commission prior to the undertaking of any works or dredging within the Port. The provisions are important to enable the Commission to comply with its duties related to navigational safety, the Open Port Duty and in respect of the environment (in particular s48A of the 1964 Act).</p>	<p>The provisions ensure that the Commission will be aware of all works and dredging taking place in the Port and that it can require suitable safeguards to be put in place when they are being conducted. As such, the level 4 fine in article 44(4) and the level 3 fines in articles 45(5) and 49 for breach are considered appropriate and proportionate.</p> <p>In addition, where works are carried out without or in breach of the terms of a licence, the Commission may require the works to be removed and the site restored to its former condition. If they/ it is not, the power to do so itself and recover the cost from the person liable.</p> <p>The provisions are important to enable the Commission to comply with its duties related to navigational safety and in respect of the environment (in particular s48A 1964 Act) by requiring third parties to seek authorisation from the Commission by way of a licence (unless specifically authorised in accordance with article 44(3)).</p> <p>Article 48 provides an appeal procedure in respect of any refusal to grant a licence, the terms of any licence granted or any modifications requested by the Commission. Aggrieved applicants are able to appeal to the Secretary of State.</p> <p>And, as such, it is considered that this article is justified. Applications are made in writing and the Commission may charge a reasonable in respect of its administrative expenses for dealing with the application.</p> <p>Similar provisions can be found in articles 8-10 of the Watchet Harbour Revision Order 2000 and article 7 of Lancaster Port Harbour Revision Order 2001.</p> <p>Note that the Commission already has works licensing powers</p>

		<p>under article 7 of the 1994 Order and dredging licensing powers under article 10 of the 1994 Order. Both of these powers are being repealed under the proposed HRO and therefore need to be replaced with modern provisions drafted in similar terms. The pre-existing provisions and replacement works and dredging licensing powers are not directly comparable due to changes in drafting norms for works licensing and dredging powers. However, both the pre-existing and replacement powers do provide for the licensing of works and dredging in the Port and a right of appeal to the Secretary of State.</p> <p>With regard to these provisions generally, paragraph 17 of Schedule 2 to the 1964 Act provides that a Harbour Revision Order may include provision for:</p> <p><i>“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”</i></p>
<p>50</p> <p>Parking places and related facilities</p>	<p>This article provides that the Commission may provide parking spaces and connected works within the Port.</p>	<p>This power has been expressly included because the Port includes car parks which form part of the undertaking. Similar provisions can be found in article 20 Penzance Harbour Revision Order 2009.</p> <p>The charging for such facilities is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p><i>“Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than as aforesaid) levied by them at the harbour.”</i></p> <p>With regard to the provision of parking and related facilities generally, paragraph 17 of Schedule 2 to the 1964 Act provides that a Harbour Revision Order may include provision for:</p> <p><i>“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”</i></p>

		And, as such, it is considered that this article is justified.
<p>51</p> <p>Removal of vehicles and vessels</p>	<p>This article authorises the Commission to remove vehicles and vessels from the port that have been left in a place where they will or are likely to interfere with the use of the port or in any part of the port where parking is prohibited.</p>	<p>This power is important in assisting the Commission in managing efficiently traffic within the Port and ensuring compliance with the Open Port Duty (in relation to vessels). Similar provisions can be found in article 22 Folkestone Harbour Revision Order 2017 and article 21 Penzance Harbour Revision Order 2009.</p> <p>This article is also desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act as the Commission must be able to remove vehicles and vessels that contradict a prohibition notice (which must be conspicuously placed where appropriate) or that otherwise cause an obstruction or interfere with the use of the port. It would not be consistent with section 14(2)(b) of the 1964 Act if the Commission were not afforded this express power.</p> <p>The article also provides the Commission with the “lawful authority” required under section 52(1) of Part 4 Chapter 2 of the Protection of Freedom Act 2012, to remove vehicles, as the Commission ought not commit an offence if it removes vehicles in such circumstances, for the reasons set out above.</p> <p>Finally, it is considered that the interests of people who aren’t the Commission and otherwise entitled to remove said vehicles are sufficiently safeguarded by the provisions of article 51(2) – (7).</p>
<p>52</p> <p>Power with respect of disposal of wrecks</p>	<p>This article extends the powers of the Commission under section 252 Merchant Shipping Act 1995. In particular, it extends the circumstances in which the Commission may recover expenses reasonably incurred by it in exercising said power from the owner of any such vessel. The provision includes notice requirements to the owner of the vessel and a period in which the vessel owner may dispose of the vessel</p>	<p>This extension of the power in s252 Merchant Shipping Act is common and important if the port is to be run in an efficient and economic manner. Similar provisions can be found in article 24 of the Portland Harbour Revision Order 1997.</p> <p>A similar power can be found under article 39 of the Weymouth Harbour Revision Order 2021.</p>

	itself.	
53 Power to deal with unseviceable vessels	This article provides that the Commission may sell, break up or otherwise dispose of any vessel which is unseviceable and had been laid by or neglected in the Port or on land immediately adjoining the Port.	<p>This article applies in addition to the power under section 57 of the Harbours, Docks and Piers Clauses Act 1847 (unseviceable vessels to be altogether removed from harbour) and allows the Commission to recover its costs for the exercise of removing unseviceable vehicles laid or neglected with the Port.</p> <p>This article is desirable in the interests of securing the improvement, maintenance or management of the Port in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p> <p>A similar power can be found under article 40 of the Weymouth Harbour Revision Order 2021.</p>
54 Removal of obstructions other than vessels	This article provides that the Commission may remove anything other than a vessel which is causing or likely to become an obstruction to, or cause interference with navigation in any part of the Port or its approaches. The provision deals with the recovery of costs by the Commission of reasonable expenses incurred by it in relation to the exercise of the power and sale of the item(s) recovered.	This power is important in assisting the Commission in meeting its duties with regard to navigational safety and the safety of port users, and important if the Port is to be run in an efficient and economic manner. Similar provisions can be found in article 8 of the Portland Harbour Revision Order 1997.
55 Notices	This article sets out the process for serving any notices required under the Harbour Revision Order.	This article is conducive to the efficient management of the Port as required under section 14(2)(b) of the 1964 Act, clearly setting out the procedural requirements for Notices required under the Order.
56 Saving for Trinity House	This article provides the standard saving provision for the rights of Trinity House.	No further justification required.
57	This article provides the standard saving provision for Crown Rights.	No further justification required.

<p>Crown Rights</p>		
<p>58 and 59</p> <p>Amendments</p>	<p>Amendment of the Order of 1994</p> <p>As this Order will remain in force along with the proposed HRO, the definitions of “vessel” and “port” have been updated to ensure consistency across the local legislation applying to the Port and complete the process of modernising the local legislation which applies. A definition of “watercraft” has also been included to aid the interpretation of the definition of “vessel”.</p> <p>Amendment of the Order of 2003</p> <p>The Order of 2003 contains the main constitutional provisions relating to the Commission and its Commissioners. To complete the process of modernisation, the proposed HRO makes substitutions in favour of gender neutral terms, namely the substitution of “chairman” and “vice chairman” for “chair” and “vice chair” respectively.</p> <p>In addition, incidental amendments have been made in article 1(2) and to reflect the new position of the Orders which will remain in force once proposed HRO comes into force by setting out the “Lancaster Port Commission Harbour Revision Orders 1994 to 2003” instead of the “Lancaster Port Commission Harbour Revision Orders 1967 to 2003 due to the repeal of the earlier legislation. Article 59(1)(2)(c) applies this new term throughout the proposed HRO.</p> <p>Finally, article 59(4) inserts a new 3A. into the 2003 Order which confirms that the Commission is and shall continue to be a body corporate with a common seal and perpetual succession. This is necessary as the</p>	<p>For the reasons explained, the amendments are necessary to complete the process of modernisation of the local legislation applying to the statutory harbour authority in conjunction with the provisions of the HRO and the repeals / revocations contained in article 60 and Schedule 2 to the HRO.</p>

	original incorporating Order of 1967 is being repealed in full under the provisions of the proposed HRO.	
60 Revocation / Repeal	This article provides for the repeal and revocation (as appropriate) of the local legislation listed in Schedule 2 referred to from the date of the HRO.	This HRO is being promoted in accordance with the Port Marine Safety Code's recommendation for harbour authorities to review and be aware of existing powers based in local and national legislation, seeking additional powers where necessary. The repeals set out in article 60 and the accompanying Schedule are required in conjunction with this HRO to complete the process of modernising the local legislation applying to the Commission, granting the suite of modern powers and duties set out above which are consistent with section 14(2)(b) of the 1964 Act and which will assist the Commission in meeting the recommendations of the Port Marine Safety Code.

Table 4: Relevant policies, guidance and plans

Plan, policy or guidance	<i>Demonstration that application is compliant with relevant plan, policy or guidance.</i>
Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)	<p>Lancaster Port is situated within the North West Inshore Area. Once published, Marine Plans become a material consideration and as such, it is considered in this Statement of Support in addition to the UK Marine Policy Statement. The relevant marine plan applying therefore is the 'North West Inshore and North West Offshore Marine Plan', June 2021 ("the North West Marine Plan").</p> <p>The proposed HRO is a non-works HRO (i.e. it does not authorise a plan or project). Its provisions are focused on modernising the Commission's existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of Lancaster Port. The HRO modernises the Commission's enforcement powers. The modernisation amends the process by which such enforcement provisions can be made, amended and repealed (General Directions instead of/ in addition to byelaws).</p> <p>The proposed HRO also clarifies the existing port limits to expressly include the port premises removing uncertainty over the exercise of the Commission's enforcement powers above high water. The other provisions of the proposed HRO are predominantly administrative (such as constitutional arrangements, financial, borrowing and charging</p>

powers; powers of development and disposal of land; and powers in relation to establishing advisory bodies, moorings, bunkering, dredging, and powers to deal with wrecks and vessels etc.). As such, it is expected that the effects of the proposed HRO on the North West Marine Plan will be very limited and that any effects will be positive as the proposed HRO supports the economic and efficient management of Lancaster Port (including with respect to environmental considerations). A brief summary of compliance is nevertheless set out below.

Compliance with UK Marine Policy Statement

The UK Marine Policy Statement ('MPS') sets out (in section 2.1) that the UK vision for the marine environment is for '*clean, healthy, safe, productive and biologically diverse oceans and seas.*' The core purpose of the proposed HRO is to modernise the Commission's enforcement powers enabling it to keep its enforcement provisions under review and to update, amend and repeal them in a more timely and efficient manner than through byelaws. This will support the Commission in ensuring it meets both its environmental duties under s48A of the Harbours Act 1964 and compliance with the Port Marine Safety Code. Both of which will support the vision of ensuring that the marine environment is kept '*clean, healthy, safe, productive and biologically diverse.*' The provisions of the proposed HRO also support the following high-level objectives contained in the MPS:

- (A) **Achieving a sustainable marine economy:** Marine businesses are acting in a way which respects environmental limits and is socially responsible.
- (B) **Ensuring a strong, healthy and just society:** The coast, seas, oceans and their resources are safe to use.
- (C) **Living within environmental limits:** Biodiversity is protected, conserved and where appropriate recovered and loss has been halted.
- (D) **Promoting Good Governance:** Marine businesses are subject to clear, timely, proportionate and, where appropriate, plan-led regulation.

Compliance with North West Marine Plan

The North West Marine Plan was published in June 2021. Through its modernisation of the Commission's statutory powers enabling the efficient and economic management of the harbour and the activities that take place there, the proposed HRO will support the following objectives contained in the North West Marine Plan:

- (A) **Objective 1:** Infrastructure is in place to support and promote safe, profitable and efficient marine businesses.

	<p>(B) Objective 2: The marine environment and its resources are used to maximise sustainable activity, prosperity and opportunities for all, now and in the future.</p> <p>(C) Objective 3: Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.</p> <p>(D) Objective 6: The use of the marine environment is benefitting society as a whole, contributing to resilient and cohesive communities that can adapt to coastal erosion and flood risk, as well as contributing to physical and mental wellbeing.</p> <p>(E) Objective 7: The coast, seas, oceans and their resources are safe to use.</p> <p>(F) Objective 9: There is equitable access for those who want to use and enjoy the coast, seas and their wide range of resources and assets and recognition that for some island and peripheral communities, the sea plays a significant role in their community.</p> <p>In addition, the proposed HRO is supported by policy NW-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising that <i>'ports and harbour are essential to realising economic and social benefits for the marine plan areas and the UK. NW-PS-1 makes sure that proposals do not restrict current port and harbour activity or future growth, enabling long-term strategic decisions, and supporting competitive and efficient port and shipping operations.'</i></p>
<p>Insert other relevant plans/policy/guidance in this section</p>	<p>Port Marine Safety Code</p> <p>Please see our comments earlier in this Statement of Support relating to the Port Marine Safety Code (Table 3a).</p>

Table 5: Any other relevant information

No formal pre-application consultation.

In addition to the specific provisions of Schedule 2 to the 1964 Act, paragraph 17 of Schedule 2 provides that a Harbour Revision Order may include provision for:

“Any object which, though not falling within any of the foregoing paragraphs, appears to the [MMO] to be one the achievement of which will conduce to the efficient functioning of the harbour.”

For the reasons mentioned above, it is considered that to the extent that any provision contained in the HRO does not fall specifically within any other paragraph of Schedule 2, the provisions of the HRO would be conducive to the efficient functioning of the harbours and it is therefore within the scope of the 1964 Act for them to be included in the HRO.