



Marine  
Management  
Organisation

## Statement in Support of Harbour Revision Order (HRO) Application

Table 1: Application details

<b>1. Date application made to MMO</b>	15 September 2022
<b>2. Name of primary contact</b>	Lara Moore
<b>3. Contact details of primary contact</b>	Lara Moore, Ashfords LLP l.moore@ashfords.co.uk
<b>4. Address of primary contact</b>	Ashfords LLP, Ashfords House, Grenadier Road, Exeter, EX1 3LH
<b>5. Name of Statutory Harbour Authority</b>	Port of Tyne Authority
<b>6. Is this a Works Order?</b>	No
<b>a. Brief description of proposed works</b>	N/A
<b>b. Date when notification of intention was submitted to MMO</b>	N/A
<b>c. Date when EIA screening opinion was issued by MMO</b>	N/A

<p><b>d. If screened in, date when scoping opinion was issued by MMO</b></p>	<p>N/A</p>
<p><b>e. If screened in and if an optional ES review was undertaken, date when review was completed by MMO</b></p>	<p>N/A</p>
<p><b>7. Non-technical summary – please explain what you are seeking to achieve in this application in no more than 200 words.</b></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). The HRO would partially consolidate and modernise existing local statutory harbour legislation in respect of the Port of Tyne (which is particularly fragmented and complex) and confer further modernised powers on the Authority considered conducive to the efficient and economical operation, maintenance, management and improvement of the port.</p> <p>In addition, the HRO clearly defines the port limits. It also confers powers on the Authority considered conducive to the efficient and economical operation, maintenance, management and improvement of the port. The HRO would also confer modern powers on the Authority to give general directions to vessels using the Port of Tyne, and persons and vehicles using the port, together with powers exercisable by the harbour masters appointed by the Authority 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><b>8. Location (coordinates must be provided in WGS84 format if this is a works order)</b></p>	<p>Port of Tyne</p>

<p><b>9. State the title of all relevant charts/maps/plans included with application (if appropriate)</b></p>	<ul style="list-style-type: none"> <li>• Port Limits Plan</li> <li>• Port Premises Plan</li> </ul>
<p><b>10. State the legislation relevant to the Harbour Authority and included with this application (if appropriate)</b></p>	<ol style="list-style-type: none"> <li>1. An Act for establishing a Ferry across the River Tyne between North Shields in the County of Northumberland and South Shields in the County of Durham and for opening and making proper Roads Avenues Ways and Passages to communicate therewith. (10 Geo. 4. c. xcviij)</li> <li>2. Tyne Direct Ferry Company Act 1848</li> <li>3. The River Tyne Improvement Act 1850</li> <li>4. North Shields Quay Act 1851</li> <li>5. The Tyne Improvement Act 1852</li> <li>6. Newcastle Upon Tyne Improvement Act 1855</li> <li>7. Gateshead Quay Act 1855</li> <li>8. Gateshead Quay (Second) Act 1859</li> <li>9. The Tyne Improvement Act 1861</li> <li>10. Tyne General Ferry Act 1862</li> <li>11. The Tyne Improvement Act 1865</li> <li>12. The Tyne Improvement Act 1867</li> <li>13. The Tyne Improvement Act 1872</li> <li>14. The Tyne Improvement Act 1877</li> <li>15. The Tyne Improvement Act 1886</li> <li>16. The Tyne Improvement Act 1890</li> <li>17. The Tyne Improvement Act 1897</li> <li>18. The Tyne Improvement Act 1902</li> <li>19. Newcastle-upon-Tyne Corporation Act 1904</li> <li>20. The Tyne Improvement Act 1907</li> <li>21. The Tyne Improvement Act 1908</li> <li>22. Tynemouth Corporation Act 1910</li> <li>23. Newcastle-upon-Tyne Corporation Act 1911</li> <li>24. Tyne Improvement Act 1920</li> <li>25. Tynemouth Corporation Act 1924</li> <li>26. The Tyne Improvement Act 1925</li> <li>27. The Tyne Improvement Act 1929</li> <li>28. Newcastle-upon-Tyne Corporation (Quay Extension &amp;c.) Act 1930</li> </ol>

	<p>29. The Tyne Improvement Act 1934  30. Newcastle-upon-Tyne Corporation (Quay Extension &amp;c.) Act 1935  31. The Tyne Improvement Act 1950  32. The Tyne Improvement Act 1952  33. Newcastle-upon-Tyne Corporation Act 1952  34. Tynemouth Corporation Act 1953  35. The Tyne Improvement Act 1954  36. The Tyne Improvement Act 1957  37. The Port of Tyne Reorganisation Scheme 1967 Confirmation Order 1968  38. The Port of Tyne Act 1970  39. Port of Tyne Revision Order 1972  40. Port of Tyne (North Shields) Fish Harbour Act 1974  41. Port of Tyne Authority (Constitution) Revision Order 1974  42. Port of Tyne Act 1989  43. Port of Tyne (Pilotage) Harbour Revision Order 1989  44. Port of Tyne Act 1990  45. Port of Tyne Harbour Revision Order 1998  46. Port of Tyne Harbour Revision Order 2001  47. Port of Tyne Harbour Revision Order 2008  48. Port of Tyne Harbour Revision Order 2016</p>
<p><b>49. If you have received any pre-application guidance from the MMO in relation to this application please briefly describe this here.</b></p>	<p>N/A</p>
<p><b>50. Have you included the required fee for your application?</b></p>	<p>£4,000 sent by BACS.</p>

**Table 3: Statutory Harbour Authority background**

**The Statutory Harbour Authority:**

Following the Port of Tyne Reorganisation Scheme 1967 Confirmation Order 1968 (“the 1967 Scheme”), the “transferred harbours”, namely the river, the harbour of Gateshead, the harbour of Newcastle and the harbour of Tynemouth, were transferred and together became the single undertaking that the Port of Tyne (“the Port”) is today.

The Port of Tyne Authority was incorporated as body corporate with perpetual succession and a common seal by article 4 of the 1967 Scheme, thereafter acting in the capacity as Statutory Harbour Authority for the port. For ease of reference, the Port of Tyne Authority, in the exercise of its SHA functions at the port, is referred to as “the Authority” throughout this Statement of Support.

The Authority, as the statutory harbour authority for the Port, is governed by its own local legislation. The Authority is responsible for the administration, maintenance and improvement of the Port, which is further described below.

The Authority is also the Local Lighthouse Authority for the Port and surrounding areas.

In managing the Port, the Authority strives to observe industry standards set out in Government guidelines. The Authority 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 Authority’s constitution.

**The Port:**

The Port is classed by the Department for Transport (“DfT”) as a Trust Port, located at the tidal reaches of the river Tyne, comprising of commercial docks and handling a diverse range of conventional and bulk cargoes, ranging from (but not limited to) vehicle cargoes, containers and bulk goods. The Port includes three dedicated car terminals (covering both sides of the river), a cruise terminal, and a ferry terminal at North Shields.

In respect of the ferry terminal, the Port of Tyne hosts DFDS which accommodates a daily service between the Port of Tyne International Passenger Terminal and Ijmuiden, near Amsterdam. This service has been running since 1995.

The Port of Tyne is the UK’s second largest car export hub, dealing with over 600,000 cars per year with three dedicated vehicle terminals. The Port facilities also include heavy duty hardstanding areas for open storage, high-security transit sheds and a bulk stocking area.

Additionally, the Port of Tyne hosts an international passenger terminal, capable of accommodating over 95% of the global cruise ship fleet. The facility can manage up to 2,000 people.

Additional facilities include development areas, warehousing, and container storage.

### **Table 3a: Need and justification for order**

#### **Port Marine Safety Code:**

As the harbour authority for the Port of Tyne, the Port Marine Safety Code (November 2016) published by the Department for Transport (“the Code”) applies to the Authority 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*”.

Although the Authority already has a power of General Direction under sections 6 and 7 of the Port of Tyne Act 1989, the Authority is seeking to obtain further modern powers of General Direction in addition to this power 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 Authority with compliance with the Port Marine Safety Code 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 port.

#### **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 partially consolidate, modernise and extend the powers of the Authority considered conducive to the efficient and economical operation, improvement, maintenance or management of the Port. In addition, it would clarify the port limits (including port premises). The clarified port limits would be conducive to the efficient 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 Authority 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 the Port of Tyne is repealed due to the fact that the relevant provisions are fragmented, complex and in some cases no longer fit for purpose.

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 Portland Harbour Revision Order 1997, the Poole Harbour Revision Order 2012, the Cowes Harbour Revision Order 2012 and 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.

The HRO also includes provisions for the re-constitution of the Authority in a manner which is conducive to the efficient management of the Port. The existing constitutional provisions from currently-in-force local legislation is in places out-of-date and in some cases no longer fit for purpose. By re-constituting the Authority with a single set of modern constitutional provisions that are easy to understand, it will become clearer to the members of the Authority what their obligations are in the context of their constitutional responsibilities. In turn, this will have a positive impact on the running and management of the Port. Additionally, the number of Secretary of State-appointed members is being reduced under the HRO in accordance with the Department for Transport’s Trust Port Study, published in May 2016. This is further discussed below.

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;"><b>2</b></p> <p><b>Interpretation</b></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>



		This article is required to enable the Order and its effect to be properly interpreted.
<b>3</b> <b>Incorporation of the Harbours, Docks and Piers Clauses Act 1847</b>	<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);  (B) Rates (sections 27 and 33);  (C) Collection of rates (sections 34 – 40 and 43 – 46 and 48);  (D) Harbour, dock and pier master (sections 51 - 65);  (E) 68, 69, 72 – 76 (relating to the discharge or cargoes, removal of goods and the protection of the harbour, dock and pier);  (F) Harbour and dock police (sections 79 – 80);  (G) Meters and weighers (sections 81 – 82);  (H) Byelaws (section 83);  (I) Recovery of damages and penalties (sections 92, 94);</p>	This is an incorporation of the Harbours, Docks and Piers Clauses Act 1847 (“the Act of 1847”). Paragraph (5) disapplies any existing incorporation of the Act of 1847 in the existing local legislation listed in Schedule 5 of the proposed Order and, where it was previously incorporated, replaces the incorporation with the provisions of paragraphs (1) to (4).
<b>4</b> <b>Incorporation of section 60 of the Commissioners Clauses Act 1847</b>	This article incorporates section 60 of the Commissioners Clauses Act 1847.	This is an incorporation of the Commissioners Clauses Act 1847.
<b>5 – 12</b> <b>Constitution of the Authority and Schedule 2</b>	These articles re-constitute the Port of Tyne Authority, with amendments to the current practices where required. They deal with re-constitution of the Authority, its composition, terms of office, casual vacancies, disqualification and meetings.	<p>Article 5 of the proposed HRO accords with the Ports Good Governance Guidance, providing for the appointment of a chair and 9 other members (three appointed by the Secretary of State and 6 by the Authority), the chief executive and two other full time officers.</p> <p>This article includes the most significant constitutional change relating</p>

<p>Schedule 2 deals with incidental provisions such as meetings of the Authority, the Chair and Vice Chairs' appointment and re-appointment, its meetings, procedure, members' remuneration, its role and validity of acts of the Authority. Article 6 sets out the transitional arrangements relating to the changes in member appointment as a result of the number of Secretary of State-appointed members being reduced.</p> <p>Similar provisions can be found in the Poole Harbour Revision Order 2012 and the Fowey Harbour Revision Order 2001; they accord with the requirements of the Ports Good Governance Guidance.</p>	<p>to the appointment of the Authority's Board members by the Secretary of State. These changes are justified below.</p> <p>Currently, the Board requires the following Secretary of State-appointed members:</p> <ul style="list-style-type: none"><li>• one chair; and</li><li>• 6 or 7 NEDs (out of a total 10 to 12 board members).</li></ul> <p>However, several changes are being made under the HRO in line with the Department for Transport's Trust Port Study – Key Findings and Recommendation, published May 2016 ("the Trust Port Study").</p> <p>Under the HRO, the Secretary of State will only appoint the chair and three other NEDs to the Board. Then, the remaining members will include the chief executive and six other members appointed by the Authority.</p> <p>Although there will now be less Secretary of State-appointed members, the HRO still includes a requirement for the chair and two NEDs to be appointed by the Secretary of State. This recognises the DfT as a key stakeholder and reflects the importance of having a mechanism for Secretary of State appointments, as stated at paragraph 2.10 of the Trust Port Study.</p> <p>This change is supported by the conclusions set out in paragraphs 2.19 to 2.21 which generally set out how the Secretary of State's involvement in appointing members, particularly NEDs, is excessive and not the most appropriate or effective way to deliver accountability of Trust Ports. In addition, this change is supported by recommendation (d) at paragraph 2.27 of the Trust Port Study, as follows:</p> <p><i>“... rather than be involved in the Deputy Chair appointment, Ministers could appoint an additional NED, or possibly two. While providing a further and more formal accountability channel to Ministers and representing a reduction on Board appointments at most ports, there would continue to be</i></p>
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		<p><i>administrative and time costs associated with the NED appointments with limited value added. However this approach may be appropriate to the particular circumstances of some Ports.”</i></p> <p>This constitutional change is therefore compliant with the recommendations of the Trust Post Study.</p> <p>Practically, article 6 sets out the transitional arrangements to facilitate this change to the constitution. Under this article, the existing members of the Board shall continue to remain on the Board until the end of their current terms. The chair and vice chair also continue until the end of their current terms, in accordance with Schedule 2 of the HRO.</p> <p>Article 7 sets out the terms of office for subsequent members.</p>
<p><b>13</b></p> <p><b>Port Jurisdiction</b></p>	<p>This article provides that the Authority 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 Schedule 3). The clarified port limits are important to secure the management of the Port in an efficient and economical manner because they remove the uncertainty over which land (including land covered by water) forms part of the current port undertaking.</p>	<p>This article incorporates the port premises. This is necessary to ensure that all the land the Authority owns or is used or intended to be used in connection with the undertaking falls within the limits.</p> <p>Due to the proposed repeal of the majority of current statutory harbour legislation, it is important that the Authority’s jurisdiction as Statutory Harbour Authority is clearly set out in this article. Currently, the limits are not entirely clear in respect of some parts of the Port due to the complex existing local legislation. 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. 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 Authority buys, sells etc. land), the Order requires the Authority to publish an updated plan on the Port website and to display one in the Port office within 30 days of the alteration. The Authority’s byelaw and general direction enforcement powers can be exercised over the entire area of</p>

		<p>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 (<b>‘the 1990 Act’</b>).</p> <p>‘Operational land’ is defined in section 263 of the 1990 Act as:</p> <p style="text-align: center;"><b><i>263 Meaning of “operational land”.</i></b></p> <p style="text-align: center;"><i>(1) Subject to the following provisions of this section and to section 264, in this Act “operational land” means, in relation to statutory undertakers—</i></p> <p style="text-align: center;"><i>(a) land which is used for the purpose of carrying on their undertaking; and</i></p> <p style="text-align: center;"><i>(b) land in which an interest is held for that purpose.</i></p> <p style="text-align: center;"><i>(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.</i></p> <p>In addition in respect of the permitted development rights contained in Schedule 2, Part 8, Class B, the reference to operational land includes</p>
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		<p>land designated by an order made under section 14 or 16 of the Harbours Act 1964</p> <p>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 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.</p> <p>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><b>14</b></p> <p><b>General Functions</b></p>	<p>This article provides that the Authority 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 Authority 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 Authority has implied powers to acquire</p>

		<p>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, 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 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".</i></p> <p>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 Authority'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.</p> <p>A similar provision can be found under article 5 of the Weymouth Harbour Revision Order 2021.</p> <p>Specifically relating to the power to invest contained in article 14(2), this provision provides that where there are monies which are not immediately required by the Authority for the purposes of the port undertaking, the Authority can invest such monies as it thinks fit.</p> <p>This power allows the Authority to make such investments as it considers fit using any monies which aren't immediately required for the purposes of the port undertaking. Such monies may include, for example, monies held in the reserve fund established under article 16</p>
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		<p>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 Authority for <i>“any other lawful purpose sanctioned by the Authority and connected with the port undertaking”</i>.</p> <p>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 Authority to invest to maximise the funds available to it for the benefit and future of the Port.</p> <p>Similar provisions already exist under local harbour legislation, 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><b>15</b></p> <p><b>Application of Finances</b></p>	<p>This article provides that the Authority shall apply the port revenue in the manner following and not otherwise:</p> <p>(A) first in payment of the working and establishment expenses and costs of maintenance of the Port;</p>	<p>This article is authorised by paragraph 13 of Schedule 2 of 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>(B) secondly in payment of the interest on any moneys borrowed by the Authority for the Port under any statutory borrowing power;</p> <p>(C) thirdly in payment of all other expenses properly chargeable to port revenue; and</p> <p>(D) fourthly to an account established as a reserve fund for the Port.</p> <p>Any surplus revenue from the undertaking in any year and the value of the reserve fund, so long as the fund amounts to a sum equivalent to at least the gross revenue of the Authority in connection with the port undertaking in the immediately preceding financial year, may be applied to the improvement of the port undertaking.</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><b>16</b></p> <p><b>Reserve Fund</b></p>	<p>This article provides that the Authority shall 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><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 Authority should have the power to maintain a reserve fund to enable the Authority 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><b>17</b></p> <p><b>Borrowing</b></p>	<p>Article 17 provides that the Authority, or a subsidiary of the Authority (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>These articles reflect modern statutory harbour borrowing powers as can be seen in the powers conferred by article 3 of the Blyth Harbour Revision Order 2015, and article 9 of the Dover Harbour Revision Order 2014.</p>



<p style="text-align: center;"><b>18</b></p> <p><b>Temporary Borrowing</b></p>	<p>Article 18 provides that the Authority may borrow temporarily by way of overdraft or otherwise such sums of money as the Authority may require for the purposes of the port undertaking.</p>	<p>There is no need to place a limit on the amount of money which can be borrowed by the Authority 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 17(3), the Authority, or any subsidiary of the Authority, 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 Authority, or its subsidiaries, to exercise the power to borrow in a prudent and cost effective manner.</p> <p>The additional temporary borrowing power introduced under article 18 applies in addition to other borrowing powers, allowing for borrowings to be used to cover general expenses that are not within the scope of article 17, such as the “day to day” running of the Port as opposed to purposes for which capital is properly applicable.</p> <p>These articles are authorised under paragraph 10 of Schedule 2 to the 1964 Act, as follows:</p> <p style="text-align: center;"><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>
<p><b>Charges (generally)</b></p>	<p>The articles contained within this Part of the HRO (Charges) set out the Authority'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</p>	<p>See below for further justification of particular provisions.</p>

	Weymouth Harbour Revision Order 2021 and the Poole Harbour Revision Order 2012.	
<b>19</b> <b>Charges other than ship, passenger and goods dues</b>	This article provides that in addition to ship, passenger and goods dues under section 26 of the 1964 Act, the Authority 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>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 the 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> <p>A similar provision can be found under article 10 of the Weymouth Harbour Revision Order 2021.</p>
<b>20</b> <b>Charges for services or facilities</b>	This article provides that in addition to ship, passenger and goods dues under section 26 of the Harbours Act 1964, the Authority 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>

		A similar provision can be found under article 11 of the Weymouth Harbour Revision Order 2021.
<b>21</b> <b>Payment of Charges</b>	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 Authority'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 Authority, specifying the times at which and the persons by whom charges are to be paid:</p> <p style="text-align: center;"><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>
<b>22</b> <b>Compounding arrangements and rebates</b>	This article provides the Authority 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 Authority 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>This article is important to enable the Authority to act in a commercial manner when entering into arrangements with customers, thereby managing the harbour 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</p>

		<p>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 that this article is consistent 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><b>23</b></p> <p><b>Deposits for charges</b></p>	<p>This article provides that the Authority 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 Authority with the power to detain a relevant vessel or goods until the deposit has been paid or the required guarantee made.</p>	<p>It is essential for the economic management of the Port to be able to secure the reasonable charges due to the Authority by virtue of 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 due, then until such guarantee is received the SHA need to be able to secure the interests of the harbours 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 of Schedule 2 to the 1964 Act in that it secures the efficient collections of charges levied by the Authority:</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>

<p style="text-align: center;"><b>24</b></p> <p><b>Liens for charges</b></p>	<p>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 Authority or, a wharfinger or carrier, who has paid or given security for charges on those goods.</p>	<p>This is a standard provision included to secure the financial interests of those who by agreement with the Authority collects 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.</p> <p>A similar provision can be found under article 15 of the Weymouth Harbour Revision Order 2021.</p>
<p style="text-align: center;"><b>25</b></p> <p><b>Refusal to pay charges for landing places</b></p>	<p>This article provides that a vessel may be prevented from using a landing place supplied by the Authority, if the master of the vessel refuses to pay the related charges.</p>	<p>It is essential for the economic management of the Port for the Authority to be able to secure the reasonable charges due to it by virtue of its charging powers under the local legislation applying to the Port, the 1964 Act or otherwise. Therefore, the Authority 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. 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 Authority:</p> <p style="text-align: center;"><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 style="text-align: center;"><b>26</b></p> <p><b>Exemption from Harbour Dues</b></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 style="text-align: center;"><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>

		A similar provision can be found under article 17 of the Weymouth Harbour Revision Order 2021.
<b>27</b> <b>Recovery of charges</b>	This article provides that in addition to any other powers of recovery available to it, the Authority may recover any charges payable to it as a debt in Court.	<p>It is essential for the economic management of the Port to be able to secure the reasonable charges due to the Authority by virtue of charging powers under the local legislation applying to the Port, the 1847 Act incorporated with the HRO or otherwise. Therefore, the Authority 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> <p>A similar provision can be found under article 18 of the Weymouth Harbour Revision Order 2021.</p>
<b>28</b> <b>Harbour master may prevent sailing of vessels</b>	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>It is essential for the economic management of the Port for the Authority to be able to secure the reasonable charges due to it in relation to:</p> <ul style="list-style-type: none"> <li>- the vessel;</li> <li>- passengers on the vessel; and</li> <li>- goods imported, exported or carried on the vessel,</li> </ul> <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 Authority 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><b>29</b></p> <p><b>Power to make General Directions</b></p> <p><b>30</b></p> <p><b>Procedure for giving, amending or revoking General Directions</b></p> <p><b>31</b></p> <p><b>Publication of General Directions</b></p> <p><b>32</b></p> <p><b>Special Directions</b></p> <p><b>33</b></p> <p><b>Failure to</b></p>	<p>These articles slightly extend the Authority's current powers of General Direction and to cover vehicles and directions given for the ease, convenience or safety of port operations ashore as defined under the Order (including speed limits for and parking of vehicles) and extended powers of Special Direction. These provisions will apply in addition to the Authority's existing powers of General Direction under section 6 and 7 of the Port of Tyne Act 1989. They also set out the consequences of failing to comply with a General or Special Direction.</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>As set out above, the Authority does have existing powers of General Direction and seeks to slightly extend that 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>Therefore, in line with the Port Marine Safety Code, the Authority is applying for a modernised power of General Direction that will enable the Authority to repeal its existing byelaws and instead have in place a single set of General Directions. In line with best practice, article 30 of the proposed order provides a statutory right for 'designated consultees' to be consulted about proposed General Directions (see article 30(1)(a) and (b)).</p> <p>As stated above, a Port Advisory Group will be a 'designated consultee' within article 30(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association.</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 30. This means that</p>

**comply with directions**

**34**

**Enforcement of directions**

**35**

**Master's responsibility in relation to directions**

**36**

**Boarding of vessels and vehicles**

representations received from the designated consultees will be considered by the Authority 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 30. The process contained in article 30 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.

In terms of the precise scope of General Directions, it will be seen that article 29(1) would allow the Authority to give or amend directions for the purpose of promoting or securing directions conducive to the ease, convenience or safety of navigation, the safety of persons, the protection of property, flora and fauna and the ease, convenience and safety of port operations ashore in the port. 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 port.

Article 33 sets out the maximum fine level (level four on the standard scale) for failure to comply with a General Direction once made. The Authority already has byelaw making powers (for example, under section 74 of the Tyne Improvement Act 1934 and section 20 of the Tyne Improvement Act 1902) 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.

Article 35 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>A similar provision can be found under article 10 of the Shoreham Port Authority Harbour Revision Order 2021 and under article 10 of the Lymington Harbour Revision Order 2014.</p> <p>Article 36 provides that a duly authorised officer of the Authority may, on producing if so required his 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 direction of the Authority 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 Authority where a person has failed to comply with byelaws, special directions or general directions. The Authority 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 Authority relating to the port”</i> as it can only be exercised for those purposes.</p>
37	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	It is important that any existing byelaws, regulations, licences, leases etc. remain in force following the coming into force of this Order.

<p><b>Saving for existing directions, byelaws etc.</b></p>	<p>byelaws etc. They will then remain in force until replaced in the future.</p>	<p>This provision is incidental to the power to make general directions 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><b>38</b></p> <p><b>Advisory bodies</b></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 Authority to consult the advisory group or groups.</p> <p>The statutory requirement for the Authority 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 Authority must (except in an emergency) consult the Advisory Group on all matters substantially affecting the port, and therefore this article is necessary and incidental to the inclusion of 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 Authority 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 port which is 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><b>39</b> <b>Development of land</b></p>	<p>This article provides that the Authority 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 Authority 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 harbour land, 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. 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 Authority the flexibility, subject to obtaining the necessary rights in or over land, to exploit opportunities to develop land (including port land) to maximise the 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 it is considered by the Authority to be conducive to “<i>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><b>40</b></p> <p><b>Power to grant tenancies and to dispose of land</b></p>	<p>Paragraph (1) gives power to the Authority, 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 Authority 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 that 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 Authority .</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 style="text-align: center;"><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 Authority 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 Authority to grant leases or transfer land or property to a subsidiary or other body. This power is needed to enable the Authority to have sufficient flexibility in how to structure</p>

		the port undertaking in the future. The power in paragraph (3)(b) is only exercisable if the Authority considers “ <i>it would conduce to the improvement, maintenance, operation 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.
<b>41</b> <b>Power to appropriate lands and works for particular uses etc.</b>	This article provides that the Authority 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 Authority may think fit.	<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 Authority remains 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 carrying on of the port undertaking</i>” and not for wider purposes. This article is therefore within the scope of section 14(2)(b) in that it will assist the Authority 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>
<b>42</b> <b>Other commercial activities</b>	Paragraph (1)(a) provides that the Authority 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 Authority to form, invest in and promote, or join 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	<p>Paragraph (1)(a) would assist the Authority 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 Authority could utilise and develop the skill and experience of its staff by providing services to other port undertakings or to carry out business activities which are incidental to running a port.</p> <p>Paragraph (1)(b) would enable the Authority to carry on such a business as part of a joint venture with another person or persons, for example enabling the Authority to contribute land and/or harbour related expertise to the venture while the other party contributes</p>

	<p>notwithstanding that the Authority would not itself (as harbour authority) have the power to do that thing.</p>	<p>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 the Authority considers:</p> <p style="text-align: center;"><i>“it is conducive to the improvement, maintenance, operation or management of the port 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><b>43</b></p> <p><b>Power to delegate functions</b></p>	<p>This article provides that the Authority may delegate the performance of any of its functions to be carried out by any such company as referred to in paragraph (1)(b) of article 42.</p>	<p>This article is authorised by paragraph 9B of Schedule 2 to the 1964 Act:</p> <p style="text-align: center;"><i>“Empowering the authority to delegate the performance of any functions of the authority except-</i></p> <p style="text-align: center;"><i>(a) a duty imposed on the authority by or under any enactment;</i></p> <p style="text-align: center;"><i>(b) the making of byelaws;</i></p>

		<p>(c) the levying of ships, passenger and goods dues;</p> <p>(d) the appointment of harbour, dock and pier masters;</p> <p>(e) the nomination of persons to act as constables;</p> <p>(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."</p> <p>The power to delegate functions is needed to enable the Authority 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><b>44</b> <b>Power to lay Moorings</b></p> <p><b>45</b> <b>Licensing of moorings</b></p> <p><b>46</b> <b>Offences as to moorings</b></p>	<p>These articles provide the Authority 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 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><b>47</b> <b>Bunkering</b></p>	<p>This article provides the Authority 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 Authority 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</p>

		<p>(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><b>48</b></p> <p><b>Aids to navigation</b></p>	<p>This article provides that the Authority 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 Authority 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><b>49</b></p> <p><b>Power to dredge</b></p>	<p>This article provides the Authority 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, section 3 of the Tyne Improvement Act 1908), the Authority already has the power to dredge with respect of the Port of Tyne.</p> <p>This provision is not a “new” power; it simply provides clarity over the extent of the Authority’s power to dredge the Port. It does not provide for additional jurisdiction to dredge in areas where the Authority 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 1908 Act is being repealed under the proposed HRO, it is important that the Authority 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</p>



		<p>section 14(2)(b) of the 1964 Act.</p> <p>If dredging is carried out at the Port of Tyne under the provision in the future, then in line with section 75 of the Marine and Coastal Access Act 2009, the Authority 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><b>50</b></p> <p><b>Repair of landing places etc.</b></p>	<p>This article provides that the Authority 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 Authority 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 to the Secretary of State.</p>	<p>This power is important in assisting the Authority 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 “dangerous to persons or vessels using the port or a hindrance to the navigation of the port” 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 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><b>51</b></p> <p><b>Restriction of works and dredging</b></p> <p><b>52</b></p> <p><b>Control of certain</b></p>	<p>These articles include the following:</p> <ul style="list-style-type: none"> <li>• Restriction of works and dredging;</li> <li>• Control of certain operations of works of statutory undertakers;</li> <li>• Licensing of works;</li> <li>• Licence to dredge;</li> <li>• Appeals in respect of works or dredging licences; and</li> <li>• Obstruction of works.</li> </ul>	<p>There is not a comparable modern suite of provisions relating to the restriction, licensing and control of works and dredging in the existing local legislation which applies to the undertaking.</p> <p>These provisions ensure that the Authority 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 51(4) and the level 3 fines in articles 52(5) and 56 for breach are considered appropriate and proportionate.</p>

<p><b>operations and works</b></p> <p><b>53</b></p> <p><b>Licensing of works</b></p> <p><b>54</b></p> <p><b>Licence to dredge</b></p> <p><b>55</b></p> <p><b>Appeals</b></p> <p><b>56</b></p> <p><b>Obstruction of works</b></p>	<p>These articles provide the Authority 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 Authority prior to the undertaking of any works or dredging within the Port. The provisions are important to enable the Authority 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>In addition, where works are carried out without or in breach of the terms of a licence, the Authority 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 Authority 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 Authority by way of a licence.</p> <p>Article 55 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 Authority. Aggrieved applicants are able to appeal to the Secretary of State. As such, it is considered that this article is justified.</p> <p>Applications are made in writing and the Authority may charge a reasonable charge 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 the Port of Tyne Harbour Revision Order 2001.</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 style="text-align: center;"><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><b>57</b></p>	<p>This article provides that the Authority 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 of the Penzance Harbour Revision Order 2009.</p>

<p><b>Parking places and related facilities</b></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> <p>And, as such, it is considered that this article is justified.</p>
<p><b>58</b></p> <p><b>Power with respect of disposal of wrecks</b></p>	<p>This article extends the powers of the Authority under section 252 Merchant Shipping Act 1995. In particular, it extends the circumstances in which the Authority 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 itself.</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. A similar power can be found under article 39 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>59</b></p> <p><b>Power to deal with unseviceable vessels</b></p>	<p>This article provides that the Authority may sell, break up or otherwise dispose of any vessel which is unseviceable and had been laid by or neglected in the Port or immediately adjoining the Port.</p>	<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 Authority 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</p>

		<p>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>
<p><b>60</b></p> <p><b>Removal of obstructions other than vessels</b></p>	<p>This article provides that the Authority 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 Authority of reasonable expenses incurred by it in relation to the exercise of the power and sale of the item(s) recovered.</p>	<p>This power is important in assisting the Authority 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.</p>
<p><b>61</b></p> <p><b>Provision against danger to navigation</b></p>	<p>This article provides that in the case of injury to, or the destruction or decay of, a tidal work (defined in article 2), the Authority must notify Trinity House (the general lighthouse authority) as soon as practicable.</p>	<p>This article is important in ensuring the Authority meets its duties with regards to navigational safety. This article puts on a statutory basis a requirements for the Authority to notify Trinity House of an incident relating to tidal works. Under the Merchant Shipping Act 1995, Trinity House then has powers to direction to the Authority as appropriate in response to the injury, destruction or decay of a tidal work.</p> <p>This article is conducive to the efficient management of the Port as required under section 14(2)(b) of the 1964 Act.</p>
<p><b>62</b></p> <p><b>Notices</b></p>	<p>This article sets out the process for serving any notices required under the Harbour Revision Order.</p>	<p>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.</p>
<p><b>63</b></p> <p><b>Saving for Trinity House</b></p>	<p>This article provides the standard saving provision for the rights of Trinity House.</p>	<p>No further justification required.</p>
<p><b>64</b></p> <p><b>Crown Rights</b></p>	<p>This article provides the standard saving provision for Crown Rights.</p>	<p>No further justification required.</p>

<p><b>65 to 72</b></p> <p><b>Amendments</b></p>	<p>Articles 65 to 72 set out the amendments to the legislation which is not otherwise being repealed, bringing the Acts/Orders up to date and making changes which will be incidental to the coming into force of this Order.</p> <p><b>Amendment of the Act of 1862</b></p> <p>This Act relates to a ferry undertaking on the river Tyne which does not belong to the Authority, but instead the Tyne General Ferry Company. However, there are several provisions which required the consent of the Authority and, as such, amendments have been made to bring these provisions up to date. Article 4 now omits the words “under the Tyne Improvement Acts” so it now relates to the current undertaking, not those defined under those historic Acts. Similarly, article 32 is amended to omit the words “under the Authority of this Act”.</p> <p><b>Amendment of the Act of 1886</b></p> <p>This modernises charges payable in respect of the swing bridge by removing “shall be five shillings” from the provision. The provision is also updated as required by the removal of words which are not needed such as “as” for clarity of reading, and “either way” is also omitted in paragraph (ii).</p> <p>Additionally, the notice requirements have been increased to four weeks to assist the Authority in managing the swing bridge and allocating the necessary resources for its operation. Incidental amendments have also been made such as the substitute of “Commissioners” and “bridge master” for “Authority” and “harbour master” respectively to complete the process of modernisation.</p>	<p>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 73 and Schedule 4 to the HRO.</p>
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**Amendment of the Act of 1897**

This article relates to arrangements for admission of or use by persons to piers and landing places at the Port. It details how reasonable charges may be made against such persons. This amendment omits a proviso at the end of article 46 relating to the disapplication of the article to passengers landing at the North and South piers by any “steamer or other boat” belonging to the Tyne General Ferry Company, unless otherwise agreed with the Authority (in which case those agreements shall subsist).

**Amendment of the Act of 1925**

This amendment updates the penalty provided for from forty shillings to a fine not exceeding level 4 on the standard scale. It also updates the level of charge that can be made in respect of a licence provided from forty shillings to level 4 on the standard scale. It also omits some historic (and now irrelevant as a result of the amendment) wording.

**Amendment of the Act of 1957**

Section 7 of this Act currently only applies as authorised by the “Tyne Improvement Acts 1850 to 1957”. To bring this provision up to date, this wording has been omitted. Additionally, Section 23 is amended to remove the requirement for the written permission of the Minister in relation to the power to deviate.

**Amendment of the Order of 1968**

As the Order of 1968 will remain in force following the coming into force of this Order, several amendments are

required to bring it up to date. For example, the definition of “port” and “vessel” are updated to match the modern definitions provided for in this Order. A definition of “port premises” is also inserted where it was previously undefined. Similarly, the reference to “dock estate” throughout the Order has been substituted for “port premises” which is appropriate, incidental and necessary to bring it in line with this Order. A similar change has also been made to article 75 where “premises of the Authority” has been updated to “port premises” in each place it occurs.

The level of fine under article 43 (Powers of interrogation, removal and search) has been updated from £10 to a fine not exceeding level 3 on the standard scale which is considered appropriate and justified.

In article 78 (Confirmation of byelaws and fines thereunder), provisions of the Local Government Act 1933 (which is no longer in force) are applied. As this Act is now superseded by the Local Government Act 1972, the proposed Order substituted article 78 entirely for a modern provision relating to the confirmation of byelaws and provides for a level 4 fine.

#### **Amendment of the Act of 1989**

The definition of “vessel” has been updated to match the definition included in this Order so that powers under all legislation remaining in force apply in respect of the same definition of “vessel”.

#### **Amendment of the Port of Tyne (Pilotage) Harbour Revision Order 1989**

This article is required to update the definition of “port” to refer to this Order as opposed to the historic “Port of

	Tyne Reorganisation Scheme 1967” to complete the process of modernisation and ensuring that “port” is correctly defined.	
<b>73 Revocation/ Repeal</b>	This article provides for the repeal and revocation (as appropriate) of the local legislation listed in the Schedule 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 73 and the accompanying Schedule are required in conjunction with this HRO to complete the process of modernising the local legislation applying to the Authority, 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 Authority in meeting the recommendations of the Port Marine Safety Code.

**Table 4: Relevant policies, guidance and plans**

<b>Plan, policy or guidance</b>	<b><i>Demonstration that application is compliant with relevant plan, policy or guidance.</i></b>
<b>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</b>	<p>The Port of Tyne is situated within the North East Marine Plan 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 East Inshore and North East Offshore Marine Plan’, June 2021 (“the North East 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 Authority’s existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of the Port of Tyne. The HRO modernises the Authority’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 Authority’s enforcement powers above high water. The other provisions of the proposed</p>



HRO are predominantly administrative (such as constitutional arrangements, financial, borrowing and charging 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 East Marine Plan area will be very limited and that any effects will be positive as the proposed HRO supports the economic and efficient management of the Port of Tyne (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 Authority'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 Authority 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 East Marine Plan**

The North East Marine Plan was published in June 2021. Through its modernisation of the Authority'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 East Marine Plan:

	<p>(A) <b>Objective 1:</b> Infrastructure is in place to support and promote safe, profitable and efficient marine businesses.</p> <p>(B) <b>Objective 2:</b> 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) <b>Objective 3:</b> Marine businesses are taking long-term strategic decisions and managing risks effectively. They are competitive and operating efficiently.</p> <p>(D) <b>Objective 6:</b> 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) <b>Objective 7:</b> The coast, seas, oceans and their resources are safe to use.</p> <p>(F) <b>Objective 9:</b> 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 NE-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising that <i>'ports and harbours are essential to realising economic and social benefits for the north east marine plan areas and the UK. NE-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><b>Insert other relevant plans/policy/guidance in this section</b></p>	<p><b>Port Marine Safety Code</b></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.