



Marine  
Management  
Organisation

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

Table 1: Application details

<b>1. Date application made to MMO</b>	11 September 2023
<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>	Teignmouth Harbour Commissioners ("the Teignmouth SHA")
<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).</p> <p>This HRO changes the name of the SHA from “Teignmouth Harbour Commissioners” to “Teign Harbour Authority”. The HRO would consolidate and modernise existing local statutory harbour legislation in respect of Teignmouth Harbour and confer further modernised powers on the Teignmouth SHA considered conducive to the efficient and economical operation, maintenance, management and improvement of the Harbour. The HRO would confer modern powers on the Teignmouth SHA to give general directions to vessels using Teignmouth Harbour, and persons and vehicles using the Harbour, together with powers exercisable by the harbour masters appointed by the Teignmouth SHA 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 harbour 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>Teignmouth Harbour</p>

<p><b>9. State the title of all relevant charts/maps/plans included with application (if appropriate)</b></p>	<p>Teignmouth Harbour Limits Plan Teignmouth Harbour Premises Plan</p>
<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. The Teignmouth Harbour Order 1924 ('the 1924 Order')</li> <li>2. The Harbour Authorities (Teignmouth) (Constitution) Order 1987 ('the 1987 Order')</li> <li>3. Teignmouth (Pilotage) Harbour Revision Order 1988 ('the 1988 Order')</li> <li>4. The Teignmouth Harbour Revision Order ('the 2003 Order')</li> </ol>
<p><b>5. 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>6. Have you included the required fee for your application?</b></p>	<p>£9,790 by BACS.</p>

**Table 3: statutory harbour authority background**

<p><b>The statutory harbour authority:</b></p> <p>The Teignmouth Harbour Commissioners were incorporated as the statutory harbour authority for Teignmouth Harbour (“the Harbour”) by article 5 of the 1924 Order. The proposed HRO would change the name of the Teignmouth Harbour Commissioners to the Teign Harbour Authority. To avoid confusion, in this Statement of Support, the statutory harbour authority at the Harbour is referred to throughout as the <b>‘Teignmouth SHA’</b>.</p> <p>The Teignmouth SHA, as the statutory harbour authority for the Harbour, is governed by its own local legislation. The Teignmouth SHA is responsible for the administration, maintenance and improvement of the Harbour, which is further described below.</p> <p>The Teignmouth SHA is also the Local Lighthouse Authority for the Harbour and surrounding areas and a competent harbour authority under the Pilotage Act 1987.</p>
---

In managing the Harbour, the Teignmouth SHA strives to observe industry standards set out in Government guidelines. The Teignmouth SHA 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 Teignmouth SHA's constitution.

#### **The Harbour:**

The Harbour is classed by the Department for Transport ("DfT") as a Trust Port, located at the tidal reaches of the Teign Estuary.

The Teignmouth SHA regulates marine operations from Newton Abbot down to the mouth of the Teign Estuary. There is a sand bar at the mouth of the estuary which can be troublesome to navigate in winter months and its position can change within a few hours during strong onshore winds.

The Harbour is used extensively by a wide variety of leisure and commercial vessels varying in size from small dinghies and powerboats to commercial fishing boats and merchant ships.

Teignmouth has been an active trading port for over 300 years, and hosts more than 300 shipping movements annually, handling approximately 400,000 tonnes of cargo. The Harbour deals with a variety of cargo, ranging from bulks, mini bulks, palletised, unitised and general cargo, with the main export being locally sourced ball clay.

The Harbour has 4 berths which can handle a wide range of import and export cargoes, over 9,300 square metres of warehousing, and a large quayside area. Vessels up to 90 metres in length and up to 6 metres draft can be accommodated on the highest spring tides.

There are two visitor pontoons controlled by the Teignmouth SHA, both 20 metres in length, and positioned in an area with 2.5 metres of depth.

The Teignmouth SHA has 150 maintained and 450 non-maintained moorings in the Harbour and estuary which it allocates and licences. Additional to its moorings, the Teignmouth SHA also offers dinghy spaces on trot lines at various locations in the Harbour and estuary.

The Harbour also has two public launching sites for craft on trailers, and public landing steps and a public pontoon.

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

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

As the harbour authority for Teignmouth Harbour, the Port Marine Safety Code (November 2016) published by the Department for Transport ("the Code") applies to the Teignmouth SHA 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 harbours 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*”.

As such, designation with a new power of General Direction, reflective of modern provisions, is an important tool which will assist the Teignmouth SHA with compliance with the Port Marine Safety Code. In relation to vehicles and harbour operations ashore, the modern power is consistent with the powers in section 14(3) of the 1964 Act relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.

For the reasons set out throughout this Statement of Support, particularly those reasons which specifically refer to the Port Marine Safety Code, the Teignmouth SHA considers the HRO is in line with the guidance and recommendations of the Port Marine Safety Code.

#### **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 of 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 harbour 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 harbour; and
  - (ii) the making of the HRO is desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner.

**General:**

The proposed HRO would consolidate, modernise and extend the powers of the Teignmouth SHA considered conducive to the efficient and economical operation, improvement, maintenance or management of the Harbour. The definition of “harbour premises” is flexible, meaning that if further harbour land within the definition of “harbour premises” under the Order were purchased in the future (or sold if no longer required for harbour 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 Harbour in an efficient and economical manner that the Teignmouth SHA 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 Teignmouth Harbour is repealed.

The modernised and additional powers include powers reflective of those contained in modern HROs. Other HROs which contain some similar provisions include the Cornwall Harbours Harbour Revision Order 2023, Weymouth Harbour Revision Order 2021, 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.

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.

Articles 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> <p>Article 2 is required to enable the Order and its effect to be properly interpreted.</p>
<p style="text-align: center;"><b>3</b></p> <p><b>Incorporation of the Harbours, Docks and Piers Clauses Act 1847</b></p>	<p>This article incorporates the said Act except in relation to the sections listed as being excepted. Those sections included predominantly relate to:</p> <p>(A) Power to construct warehouses and other works (section 21).</p> <p>(B) Rates (sections 27 and 33).</p> <p>(C) Collection of rates (sections 34, 36, 39, 40 43 – 46 and 48).</p> <p>(D) Harbour, dock and pier master (sections 51 - 53, 56 – 58 and 63 - 65).</p>	<p>This is an incorporation clause of the Harbours, Docks and Piers Clauses Act 1847.</p>

	<p>(E) The discharge of cargoes, removal of goods and the protection of the harbour, dock and pier (sections 68, 74 and 76).</p> <p>(F) Harbour and dock police (sections 79 and 80).</p> <p>(G) Meters and weighers (sections 81 – 82).</p> <p>(H) Byelaws (section 83).</p> <p>(I) Recovery of damages and penalties (section 94).</p>	
<p><b>4</b></p> <p><b>Change of name</b></p>	<p>This article changes the current name of the Teignmouth SHA from the Teignmouth Harbour Commissioners to the Teign Harbour Authority.</p> <p>Incidental to the change of name, this article also provides the change of name shall not affect any rights, obligations or any legal proceedings in relation to the 'old' name once the HRO is in force (paragraphs (2) to (3)).</p> <p>The change of name will take place from the "Name Change Date" (defined in article 2). Paragraph (4) provides that between the date the HRO comes into force and the Name Change Date, references in the HRO to "the Authority" shall be construed as "the Commissioners", except where excluded. This is to ensure that the HRO operates correctly between those dates.</p> <p>Paragraphs (5) to (7) provide that references in existing harbour legislation to the old name shall be construed as references to the new name from the Name Change Date, and include other minor alterations incidental to the change of name.</p>	<p>This change has been included, to more properly reflect the interests of the Teignmouth SHA, which are not limited to the mouth of the River Teign. This name change would reflect the interests of the Teignmouth SHA's entire jurisdiction which encompasses some of the River Teign as well as the mouth of the River.</p> <p>The Teignmouth SHA has received a limited amount of feedback raising concerns about the change of name of the 'Teignmouth Harbour Commissioners' to the 'Teign Harbour Authority'. These concerns have predominantly related to the cost implications associated with the change of name. However, the Teignmouth SHA plans to gradually re-brand, and as such there should be minimal cost implications associated with the change of name.</p>



<p style="text-align: center;"><b>5</b></p> <p style="text-align: center;"><b>Continued incorporation of the Authority</b></p>	<p>Article 5 re-states that the Teignmouth SHA is and continues to be incorporated as a body corporate with perpetual succession and a common seal.</p>	<p>This provision is necessary to ensure the Teignmouth SHA remains incorporated given that the HRO intends to repeal the existing incorporation provision (article 5) in the 1924 Order.</p>
<p style="text-align: center;"><b>6</b></p> <p style="text-align: center;"><b>Harbour jurisdiction</b></p>	<p>This article provides that the Teignmouth SHA shall exercise jurisdiction as a harbour authority, and the powers of the harbour master shall be exercisable within the Harbour (which includes the harbour premises).</p>	<p>Due to the proposed repeal of the majority of current statutory harbour legislation, it is important that the Teignmouth SHA's jurisdiction as statutory harbour authority is clearly set out in this article. It is conducive to the efficient and economic management of the Harbour to express the limits clearly in the Order and to deposit plans clearly delineating the harbour limits and harbour premises. All of the land (including land covered by water) that is currently understood to fall within the harbour limits has been included.</p> <p>In respect of the harbour premises, in the event of any future alteration to the extent of the harbour premises (because the Teignmouth SHA buys, sells etc. land), the Order requires the Teignmouth SHA to publish an updated plan on the Harbour website and to display one in the Harbour office within 30 days of the alteration. The Teignmouth SHA's byelaw and general direction enforcement powers can be exercised over the entire area of jurisdiction.</p> <p>The definition of harbour premises (defined in article 2(1) of the Order) is flexible, meaning that if further land was purchased in the future for the harbour undertaking, it would automatically become part of the undertaking (or if land no longer required for the purposes of the harbour undertaking was sold, it would cease to be a part of the harbour undertaking).</p> <p>Additionally, paragraph (3) expressly sets out that 'harbour 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>

**263 Meaning of “operational land”.**

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

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

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

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

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

All land within the definition of harbour 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 harbour 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 their harbour premises are already ‘operational land’ under the 1990 Act.

This article is authorised by paragraph 6 of Schedule 2 to the 1964 Act, as follows:

*“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*

		<p><i>limits as previously settled.”</i></p> <p>A similar provision can be found under article 4 of the Cornwall Harbours Harbour Revision Order 2023, 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>7</b></p> <p><b>General functions</b></p>	<p>This article provides that the Teignmouth SHA may take such steps as it may consider necessary or desirable from time to time for the operation, maintenance, management and improvement of the Harbour, its approaches and facilities.</p>	<p>For those purposes, this article authorises the Teignmouth SHA to: improve, maintain, regulate, manage, mark and light the Harbour and provide harbour facilities; carry out various activities related to works, structures and equipment at the Harbour (including the harbour premises); and do all other things which in its opinion is expedient to facilitate the proper operation, improvement or development of the Harbour including acquiring land. Although the Teignmouth SHA has implied powers to acquire land for the Harbour, it is sensible to include an express reference to the power within the Order.</p> <p>The definition of harbour facilities highlights the importance of the shipping, fisheries, marine, energy, recreational, leisure, tourism and retail industries to the future viability of the Harbour.</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</p>

		<p>clarity, it is desirable that the Teignmouth SHA'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 Cornwall Harbours Harbour Revision Order 2023, and article 5 of the Weymouth Harbour Revision Order 2021.</p> <p>Specifically relating to the power to invest contained in paragraph (2), this provision provides that where there are moneys which are not immediately required by the Teignmouth SHA for the purposes of the harbour undertaking, the Teignmouth SHA can invest such moneys as it thinks fit.</p> <p>This power allows the Teignmouth SHA to make such investments as it considers fit using any moneys which are not immediately required for the purposes of the harbour undertaking. Such moneys may include, for example, moneys held in the reserve fund established under article 9 of the proposed HRO and applied in accordance with paragraph 3(e). Paragraph 3(e) provides that reserve fund moneys may be applied by the Teignmouth SHA for <i>“any other lawful purpose sanctioned by the Authority and connected with the harbour undertaking”</i>.</p> <p>It is considered that this article is desirable in the interests of securing the improvement, maintenance or management of the harbour in an efficient and economical manner, as required by section 14(2)(b) of the 1964 Act because it will allow the Teignmouth SHA to invest to maximise the funds available to it for the benefit and future of the Harbour.</p> <p>Similar provisions already exist under local harbour legislation, such as section 12 of the Blyth Harbour Act 1986, and 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</p>
--	--	---

		<p>provide that the relevant statutory harbour authority may invest sums not immediately required for the purposes of the harbour undertaking and / or turn its 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>8</b></p> <p><b>Application of finances</b></p>	<p>This article provides that the Teignmouth SHA shall apply the harbour revenue in the manner following and not otherwise:</p> <ul style="list-style-type: none"> <li>(A) first in payment of the working and establishment expenses and costs of maintenance of the Harbour;</li> <li>(B) second in payment of the interest on any moneys borrowed by the Teignmouth SHA for the Harbour under any statutory borrowing power;</li> <li>(C) third in payment of all other expenses properly chargeable to harbour revenue; and</li> <li>(D) fourth to an account established as a reserve fund for the Harbour.</li> </ul>	<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>This article is useful to the efficient management of the Harbour, as it expressly sets out how harbour revenue should be used.</p> <p>A similar provision can be found under article 14 of the Cornwall Harbours Harbour Revision Order 2023, and article 7 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>9</b></p> <p><b>Reserve fund</b></p>	<p>This article provides that the Teignmouth SHA may establish and maintain a reserve fund covering the Harbour and carry to such a fund any part of its</p>	<p>This article is authorised by paragraph 13 of Schedule 2:</p> <p><i>“Regulating the application of moneys in the nature of</i></p>

	<p>harbour revenue as is available for the purpose.</p>	<p><i>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 Teignmouth SHA should have the power to maintain a reserve fund to enable the Teignmouth SHA to plan for future expenditure across the Harbour 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>10</b></p> <p><b>Borrowing</b></p> <p><b>11</b></p> <p><b>Temporary borrowing</b></p>	<p>These articles provide that the Teignmouth SHA, including any subsidiary of the Teignmouth SHA (defined in article 2(1)), may borrow such sums of money as it considers necessary for the purpose of meeting its obligations in carrying out its functions and that it may secure such borrowing against the assets and revenues of the harbour undertaking, and that the Teignmouth SHA may borrow temporarily for the purposes of the harbour undertaking.</p>	<p>These articles are required as the Teignmouth SHA’s existing borrowing powers under articles 15, 16 and 17 of the 2003 Order are being repealed under the provisions of the HRO.</p> <p>The articles reflect modern statutory harbour borrowing powers as can be seen in the powers conferred by article 18 of the Cornwall Harbours Harbour Revision Order 2023, and article 9 of the Dover Harbour Revision Order 2014.</p> <p>There is no need to place a limit on the amount of money which can be borrowed by the Teignmouth SHA 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 10(3), the Teignmouth SHA, or a subsidiary of the Teignmouth SHA, 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 Teignmouth SHA, or its subsidiaries, to exercise the power to borrow in a prudent and cost effective manner.</p> <p>This article is authorised under paragraph 10 of Schedule 2 of the 1964 Act, as follows:</p>

		<i>“Empowering the authority to borrow money, with or without limitation with respect to the amount that may be borrowed or the time or manner in which the power may be exercised.”</i>
<b>Charges (generally)</b>	The articles contained within this Part of the HRO (Charges) set out the Teignmouth SHA’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 Harbour in an efficient and economical manner. A similar suite of powers can be found in the Weymouth Harbour Revision Order 2021 and the Poole Harbour Revision Order 2012.	See below for further justification of particular provisions.
<b>12 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 Teignmouth SHA 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 Harbour’s future viability that all users of the Harbour contribute to the cost of the management and maintenance of the Harbour.</p> <p>It would be detrimental to the improvement, maintenance or management of the Harbour in an efficient and economical manner if charging powers did not exist in respect of one type of vessel or floating structure using the Harbour (unless exempt under the HRO).</p> <p>This provision is particularly important because the Order provides for existing charging provisions in current local statutory harbour legislation to be repealed.</p> <p>This article is authorised by paragraph 11 of Schedule 2 to the 1964 Act:</p> <p><i>“empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing charges (other than aforesaid) levied by them at the harbour”.</i></p>

		A similar provision can be found under article 39 of the Cornwall Harbours Harbour Revision Order 2023, and article 10 of the Weymouth Harbour Revision Order 2021.
<b>13 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 Teignmouth SHA 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 Harbour 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 Harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 40 of the Cornwall Harbours Harbour Revision Order 2023, and article 11 of the Weymouth Harbour Revision Order 2021.</p>
<b>14 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 Harbour or harbour 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 Harbour 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 Teignmouth SHA’s ability to efficiently and economically manage the Harbour.</p> <p>Furthermore, article 14 is authorised by paragraph 12 of Schedule 2 of the 1964 Act in that it secures the efficient collections of charges levied by the Teignmouth SHA, specifying the times at which and the persons by whom charges are to be paid:</p>



		<p><i>“Securing the efficient collection of charges levied by the authority at the harbour and specifying the times at which and the persons by whom such charges are to be paid.”</i></p> <p>A similar provision can be found under article 42 of the Cornwall Harbours Harbour Revision Order 2023, and article 12 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>15</b></p> <p><b>Compounding arrangements and rebates</b></p>	<p>This article provides the Teignmouth SHA 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 Teignmouth SHA does not have to include on its list of ship, passenger and goods dues kept at the harbour office, charges which have been reduced by a rebate or a compounding arrangement in respect of a due included on the list.</p>	<p>This article is important to enable the Teignmouth SHA 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 Teignmouth SHA 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 harbour stakeholders in particular is also recognised at paragraphs 2.10 and 2.11, and paragraph 2.28 specifically states:</p> <p><i>“All SHAs are encouraged to consider meeting the reasonable requests for information from stakeholders, where practical. This does not mean that SHAs should be expected to make available information that is commercially or otherwise sensitive...”</i></p> <p>On this basis, it is considered this article is consistent with the Ports Good Governance Guidance and is therefore justified.</p> <p>A similar article can be found in, for example, the Weymouth Harbour Revision Order 2021 and under article 43 of the Cornwall Harbours Harbour Revision Order 2023.</p>

<p><b>16</b> <b>Deposits for charges</b></p>	<p>This article provides that the Teignmouth SHA 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 Teignmouth SHA 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 Harbour to be able to secure the reasonable charges due to the Teignmouth SHA by virtue of its charging powers under the local legislation applying to the Harbour, 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 Teignmouth SHA needs to be able to secure the interests of the Harbour by removing the relevant vessel or goods from the Harbour or refuse entry.</p> <p>Article 16 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, article 16 is authorised by paragraph 12 of Schedule 2 to the 1964 Act in that it secures the efficient collections of charges levied by the Teignmouth SHA:</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 44 of the Cornwall Harbours Harbour Revision Order 2023, and article 14 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>17</b> <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 Teignmouth SHA 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 Teignmouth SHA collect charges on its behalf, by securing said interest against goods in their possession. As that person will not themselves be liable for the payment of charges, this provision is required to secure debts owed.</p> <p>A similar provision can be found under article 45 of the Cornwall Harbours Harbour Revision Order 2023, and article 15 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>18</b></p>	<p>This article provides that a vessel may be prevented from using a landing place supplied by the Teignmouth</p>	<p>It is essential for the economic management of the Harbour for the Teignmouth SHA to be able to secure the reasonable charges due to it by virtue its charging powers under the local legislation applying to</p>

<p><b>Refusal to pay charges for a landing place</b></p>	<p>SHA, if the master of the vessel refuses to pay the related charges.</p>	<p>the Harbour, the 1964 Act or otherwise. Therefore, the Teignmouth SHA must be able to prevent vessels from sailing or using facilities at the Harbour (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 of the 1964 Act in that it promotes securing the efficient collections of charges levied by the Teignmouth SHA:</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 46 of the Cornwall Harbours Harbour Revision Order 2023, and article 16 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>19</b> <b>Exemptions from ship, passenger and goods dues</b></p>	<p>This article is similar to other modern provisions providing for an exemption for ship, passenger and goods 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> <p>It is necessary for the efficient and safe management of the Harbour that those persons named in the article are exempt from ship, passenger and goods dues when in the exercise of their core functions, as such persons ought not to be restricted or deterred from exercising those functions as a result of them otherwise being liable to pay ship, passenger and goods dues.</p> <p>A similar provision can be found under article 47 of the Cornwall Harbours Harbour Revision Order 2023, and article 17 of the Weymouth Harbour Revision Order 2021.</p>

<p style="text-align: center;"><b>20</b></p> <p style="text-align: center;"><b>Recovery of charges</b></p>	<p>This article provides that in addition to any other powers of recovery available to them, the Teignmouth SHA may recover any charges payable to it as a debt in Court.</p>	<p>It is essential for the economic management of the Harbour to be able to secure the reasonable charges due to the Teignmouth SHA by virtue charging powers under the local legislation applying to the Harbour, the 1847 Act incorporated with the HRO or otherwise. Therefore, the Teignmouth SHA must be able to rely on the resources of the Court to assist in securing any debts owed to it 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 Harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 48 of the Cornwall Harbours Harbour Revision Order 2023, and article 18 of the Weymouth Harbour Revision Order 2021.</p>
<p style="text-align: center;"><b>21</b></p> <p style="text-align: center;"><b>Harbour master may prevent sailing of vessels</b></p>	<p>This article provides that the harbour master may prevent the removal or sailing from the Harbour of any vessel until evidence is produced that any charges payable in respect of the vessel, its passengers or goods have been paid.</p>	<p>It is essential for the economic management of the Harbour for the Teignmouth SHA 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 of its powers under the local legislation applying to the Harbour 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 Harbour until such a time as the charges payable have been paid.</p> <p>Should such a vessel be able to leave the Harbour without having paid the charges due, it would become difficult for the Teignmouth SHA to recover said charges and therefore be detrimental to its ability to manage the Harbour 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 Harbour in an efficient and economical manner.</p> <p>A similar provision can be found under article 49 of the Cornwall Harbours Harbour Revision Order 2023, and article 19 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>22</b></p> <p><b>Power to make general directions</b></p> <p><b>23</b></p> <p><b>Procedure for giving, amending or revoking general directions</b></p> <p><b>24</b></p> <p><b>Publication of general directions</b></p> <p><b>25</b></p> <p><b>Special directions</b></p> <p><b>26</b></p> <p><b>Failure to</b></p>	<p>Although the Teignmouth SHA currently has a power of General Direction (under the 2003 Order), these articles provide the Teignmouth SHA with modern powers of General Direction which also cover vehicles and for the ease, convenience or safety of harbour operations ashore as defined under the Order (including speed limits for and parking of vehicles), and powers of Special Direction. The provisions also set out the consequences of failing to comply with a general direction 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>The process for keeping general directions up to date is far more time and cost efficient than the byelaw making process.</p> <p>Although the Teignmouth SHA already have a power to give general directions under the 2003 Order, it seeks a new power reflective of modern provisions. In line with best practice, the modern articles included in the HRO provide a statutory right for ‘designated consultees’ to be consulted about proposed general directions (see article 23(1)(a) and (b)). Due to the inclusion of the Harbour Advisory Group to be set up under the HRO as ‘designated consultees’, there is a strong local consultation requirement.</p> <p>The Harbour Advisory Group will be a ‘designated consultee’ within article 21(1)(a) alongside the Chamber of Shipping and the Royal Yachting Association.</p> <p>Under the HRO, general directions can be made over the entirety of the Harbour (which include the harbour premises). Any future exercise of this power will be exercised in accordance with article 23. This means that representations received from the designated consultees will be considered by the Teignmouth SHA and if it objects</p>

<p><b>comply with directions</b></p> <p><b>27</b></p> <p><b>Enforcement of directions</b></p> <p><b>28</b></p> <p><b>Master’s responsibility in relation to directions</b></p> <p><b>29</b></p> <p><b>Boarding of vessels and vehicles</b></p>		<p>to proposed general directions and those concerns are unable to be resolved, there is a statutory adjudication process contained in article 23. The process contained in article 23 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, the Fowey Harbour Revision Order 2021, the Dart Harbour and Navigation Harbour Revision Order 2021 and the Cornwall Harbours Harbour Revision Order 2023.</p> <p>In terms of the precise scope of general directions, it will be seen that article 22(1) would allow the Teignmouth SHA to give or amend directions:</p> <p style="padding-left: 40px;"> <i>(a) for the ease, convenience or safety of navigation,</i>  <i>(b) the safety of persons,</i>  <i>(c) the protection of property, flora or fauna</i>  <i>(d) the ease, convenience or safety of harbour operations ashore”.</i> </p> <p>In relation to vehicles and harbour operations ashore, such a scope is consistent with the powers in section 14(3) of the 1964 Act relating to penal provisions and the environmental duties placed on harbour authorities by virtue of section 48A of the 1964 Act and paragraph 16A of Schedule 2 to that Act, which enables a harbour revision order to confer powers for environmental conservation within the harbour.</p> <p>Article 26 sets out the maximum fine level (level 4 on the standard scale) for failure to comply with a general direction once made. The Teignmouth SHA is already able to impose level 4 fines in relation to general directions made under the 2003 Order under article 22 of that Order. The Teignmouth SHA is also already able to impose level 4 fines in relation to its byelaw-making powers, for example under article 34 of the 1924 Order (section 57 of the Criminal Justice Act 1988). As such, the level four fine contain in the HRO is considered justified.</p>
--	--	---

		<p>Article 28 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 as it expressly imposes the Master's own responsibility in relation to directions.</p> <p>A similar provision can be found under article 37 of the Cornwall Harbours Harbour Revision Order 2023, article 10 of the Shoreham Port Authority Harbour Revision Order 2021 and article 10 of the Lymington Harbour Revision Order 2014.</p> <p>Article 29 provides that a duly authorised officer of the Teignmouth SHA may, on producing if so required their authority, enter and inspect a vessel or vehicle in the harbour for the purposes of any enactment relating to the Harbour (including any enactment so relating contained in subordinate legislation) or of any byelaw or general direction of the Teignmouth SHA relating to the Harbour, including the enforcement of any such enactment, byelaw or general direction.</p> <p>Such a power will be useful to the Teignmouth SHA where a person has failed to comply with byelaws, special directions or general directions. The Teignmouth SHA 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 harbour (including any enactment so relating contained in subordinate</i></p>
--	--	---

		<p><i>legislation) or of any byelaw or general direction of the Authority relating to the harbour” as it can only be exercised for those purposes.</i></p> <p>A similar provision can be found under article 63 of the Cornwall Harbours Harbour Revision Order 2023.</p>
<p><b>30</b></p> <p><b>Power to make Byelaws</b></p>	<p>This article provides the Teignmouth SHA with the power to make byelaws in a range of circumstances in addition to the purposes in section 83 of the Harbours, Docks and Piers Clauses Act 1847 (as incorporated under article 3 of the Order) and is in line with the modern practice of setting out a wide range of matters upon which the Teignmouth SHA will have the power to make byelaws.</p> <p>Byelaws made under this provision in the future may, in accordance with paragraph 4(a) of this article, provide for a fine not exceeding level 4 on the standard scale for breach thereof.</p>	<p>The power in this article incorporates the purposes in section 83 of the Harbours, Docks and Piers Clauses Act 1847 and is in line with the modern practice of setting out a wide range of matters (contained in Schedule 1) upon which the Teignmouth SHA will have the power to make byelaws.</p> <p>The alternative practice is to set out a more general range of byelaw making powers and rely on the width of the wording of the provision. However, setting out the detail in this way reduces the scope for challenging any prosecution on the basis that the byelaw in question is outside the range of matters for which the Teignmouth SHA has the power to make byelaws. This leads to increased costs and delays in prosecutions and therefore the more modern approach is to set out expressly a wider range of byelaw making powers.</p> <p>A similar approach can be found in the Weymouth Harbour Revision Order 2021, the Portland Harbour Revision Order 1997 and under article 29 of the Cornwall Harbours Harbour Revision Order 2023.</p> <p>Historically, there has been little need to initiate any prosecutions at the Harbour for breach of byelaws as harbour users have complied with the instructions of the harbour masters. Nevertheless, to comply with the Port Marine Safety Code (PMSA) and to meet its other duties (including navigational safety), it is important that the Teignmouth SHA has modern and comprehensive byelaw making powers. It is anticipated that the current byelaws in place at Teignmouth Harbour will be reviewed and it is likely that they will be repealed and replaced with General Directions following grant of the HRO. However, it is important that the Teignmouth SHA retains wide byelaw making powers in case it needs to introduce new byelaws in the future in respect of a risk not covered by the modernised power of general direction sought above.</p>



		<p>The Teignmouth SHA already has byelaw making powers (for example, under article 34 of the 1924 Order) and it is already entitled to impose fines of up to level 4 on the standard scale (section 57 of the Criminal Justice Act 1988), so the level 4 fine is considered justified.</p> <p>The power to make byelaws is authorised by paragraph 4 of Schedule 2 of the 1964 Act:</p> <p><i>“Imposing or conferring on the authority, for the purpose aforesaid, duties or powers (including powers to make byelaws), either in addition to, or in substitution for, duties or powers imposed or conferred as mentioned in paragraph 3 above.”</i></p>
<p><b>31</b></p> <p><b>Confirmation of Byelaws</b></p>	<p>This article sets out the procedure by which byelaws made under the HRO shall be confirmed under the Local Government Act 1972.</p>	<p>A similar provision can be found in article 30 of the Cornwall Harbours Harbour Revision Order 2023, and article 25 of the Folkestone Harbour Revision Order 2017.</p> <p>This provision is incidental to the power to make byelaws as described above and is consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner.</p>
<p><b>32</b></p> <p><b>Saving for existing directions, byelaws etc.</b></p>	<p>Due to the proposed repeal of the majority of the local legislation currently in force in respect of the Harbour, it is necessary to include a saving provision for existing byelaws etc. They will then remain in force until replaced in the future.</p>	<p>It is important that any existing byelaws, regulations, licences, leases etc. remain in force following the coming into force of this Order.</p> <p>This provision is incidental to the powers to make byelaws and general directions that are being introduced under the provisions of the HRO, and is therefore consistent with section 14(2)(b) of the 1964 Act for the order to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner.</p>

		<p>A similar provision can be found under article 38 of the Cornwall Harbours Harbour Revision Order 2023, and article 11 of the Shoreham Port Authority Harbour Revision Order 2021.</p>
<p><b>33</b> <b>Advisory Bodies</b></p>	<p>This article covers the establishment of an external advisory body or bodies with an independent chair.</p>	<p>This article puts on a statutory basis the establishment and continuance of an advisory group or groups for the Harbour and its administration. It also requires the Teignmouth SHA to consult the advisory group or groups. This article is important given that article 14 of the 2003 Order is being repealed under the proposed HRO.</p> <p>The statutory requirement for the Teignmouth SHA to form the Harbour 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 Teignmouth SHA must (except in an emergency) consult the Harbour Advisory Group on all matters substantially affecting the Harbour, and therefore this article is necessary and incidental to the inclusion of the power of general direction under the HRO. The power of general direction (discussed under general directions above) will continue to be an essential tool for the Teignmouth SHA 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 Harbour which is being improved, maintained and managed by a harbour authority.</p>

		<p>A similar provision can be found under article 13 of the Cornwall Harbours Harbour Revision Order 2023, and article 28 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>34</b> <b>Development of land</b></p>	<p>This article provides that the Teignmouth SHA may use or develop for any purpose, and deal with, any land within or in the vicinity of the Harbour; 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 Harbour.</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 Teignmouth SHA 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 of 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 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 Teignmouth SHA the flexibility, subject to obtaining the necessary rights in or over land, to exploit opportunities to develop land (including harbour land) to maximise the efficient utilisation, expansion and regeneration of the Harbour. The profits and revenues derived by the harbour undertaking from the development of any land under this article would be used to improve and develop the Harbour and provide increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if <i>"conducive to the improvement, maintenance or</i></p>

		<p><i>management of the harbour undertaking 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 and under article 54 of the Cornwall Harbours Harbour Revision Order 2023.</p>
<p><b>35</b></p> <p><b>Power to grant tenancies and to dispose of land</b></p>	<p>Paragraph (1) gives power to the Teignmouth SHA, 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 Harbour.</p> <p>Paragraph (2) provides that the Teignmouth SHA may also dispose of, or grant the use or occupation for any purpose of, land or property if it considers that the property is surplus to harbour requirements; or it would conduce to the improvement, maintenance or management of the Harbour in an efficient and economical manner for the property to be held by a person other than the Teignmouth SHA.</p>	<p>Paragraph (1), which is needed to manage the Harbour, 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:</p> <p><i>"Empowering the authority to dispose of property vested in them and held for the purposes of the harbour which is no longer required for those purposes."</i></p> <p>It is considered that paragraph (3)(b) is authorised by paragraph 17 of Schedule 2 to the 1964 Act which enables a provision to be included in a harbour revision order if the object of the provision appears to the MMO to be one the achievement of which will conduce to the efficient functioning of the harbour. The case for this is set out as an integral part of the need for this article. Paragraphs (1) and (3)(a) are needed to enable the Teignmouth SHA to manage the harbour 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, the Dover Harbour Revision Order 2014 and under article 55 of the Cornwall Harbours Harbour Revision Order 2023.</p> <p>Paragraph (3)(b) would enable the Teignmouth SHA to grant leases or transfer land or property to a subsidiary or other body. This power</p>

		is needed to enable the Teignmouth SHA to have sufficient flexibility in how to structure the harbour undertaking in the future. The power in paragraph (3)(b) is only exercisable if <i>“it would conduce to the improvement, maintenance or management of the harbour undertaking in an efficient and economical manner”</i> . This limitation brings paragraph (3)(b) within the powers of section 14(2)(b) of the 1964 Act.
<p><b>36</b></p> <p><b>Power to appropriate lands and works for particular uses etc.</b></p>	<p>This article provides that the Teignmouth SHA may from time to time for the purpose of or in connection with the management of the Harbour set apart and appropriate any part of the Harbour 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 Teignmouth SHA may think fit.</p>	<p>Section 33 of the Harbours, Dock and Piers Clauses Act 1847 is incorporated into the Order (the Open Port Duty) and as such the Teignmouth SHA remains under a duty to keep the Harbour 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>“purposes of or in connection with the carrying on of the harbour undertaking”</i> and not for wider purposes. This article is therefore within the scope of section 14(2)(b) of the 1964 Act in that it will assist the Teignmouth SHA in the management of the Harbour in an efficient manner and facilitate the efficient and economic transport of goods and passengers by sea, again for Harbour purposes only.</p> <p>A similar provision can be found under article 56 of the Cornwall Harbours Harbour Revision Order 2023, and article 31 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>37</b></p> <p><b>Other commercial activities</b></p>	<p>Paragraph (1)(a) provides that the Teignmouth SHA 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 Teignmouth SHA 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)</p>	<p>Paragraph (1)(a) would assist the Teignmouth SHA to maximise the potential of the harbour undertaking by enabling it to carry on any business which could conveniently be carried on with the harbour undertaking. For example, the Teignmouth SHA could utilise and develop the skill and experience of its staff by providing services to other harbour undertakings or to carry out business activities which are incidental to running a harbour.</p> <p>Paragraph (1)(b) would enable the Teignmouth SHA to carry on such</p>

	<p>provides that a company established under paragraph (1)(b) may have powers to do anything necessary or expedient for the purposes of the objects for which it has been established notwithstanding that the Teignmouth SHA would not itself have the power to do that thing.</p>	<p>a business as part of a joint venture with another person or persons, for example enabling the Teignmouth SHA to contribute land and / or harbour-related expertise to the venture while the other party contributes complementary specialist business expertise.</p> <p>The profits and revenues derived from the business ventures under this article would be used to improve and develop the harbour and ensure increased financial security.</p> <p>It should be noted that the powers in this article can only be exercised if:</p> <p style="text-align: center;"><i>“it is conducive to the improvement, maintenance, operation or management of the harbour in an efficient and economical manner”.</i></p> <p>This limitation brings this article within the powers of section 14(2)(b) of the 1964 Act.</p> <p>Similar powers were conferred in the Weymouth Harbour Revision Order 2021, the Dover Harbour Revision Order 2014 and under article 57 of the Cornwall Harbours Harbour Revision Order 2023.</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>38</b> <b>Power to delegate functions</b></p>	<p>This article provides that the Teignmouth SHA may delegate the performance of any of its functions to be carried out by any such company as referred to in article 37(1)(b).</p>	<p>This article is authorised by paragraph 9B of Schedule 2:</p> <p style="text-align: center;"><i>“Empowering the authority to delegate the performance of any functions of the authority except-</i></p>

		<p><i>(a) a duty imposed on the authority by or under any enactment;</i></p> <p><i>(b) the making of byelaws;</i></p> <p><i>(c) the levying of ships, passenger and goods dues;</i></p> <p><i>(d) the appointment of harbour, dock and pier masters;</i></p> <p><i>(e) the nomination of persons to act as constables;</i></p> <p><i>(f) functions relating to the laying down of buoys, the erection of lighthouses and the exhibition of lights, beacons and seamarks, so far as those functions are exercisable for the purposes of the safety of navigation."</i></p> <p>The power to delegate functions is needed to enable the Teignmouth SHA 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>A similar provision can be found under article 58 of the Cornwall Harbours Harbour Revision Order 2023.</p>
<p><b>39</b></p> <p><b>Power to lay Moorings</b></p> <p><b>40</b></p> <p><b>Licensing of moorings</b></p> <p><b>41</b></p>	<p>These articles provide the Teignmouth SHA with powers related to the provision, maintenance and licensing of moorings within the Harbour. It is considered that modernised express provisions are conducive to the efficient and economical management and maintenance of the Harbour.</p>	<p>Similar provisions are found within articles 51 to 53 of the Cornwall Harbours Harbour Revision Order 2023, articles 14 to 17 of the Yarmouth (Isle of Wight Harbour Revision Order 2011, articles 9 to 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 their requirements. This level of fine is required firstly to ensure that there is a sufficient level of deterrent (moorings in the Harbour are sought after and can be used to generate income, and the level of fine needs</p>

<p><b>Offences as to moorings</b></p>		<p>to be in excess of likely income generation) and secondly, a mooring obstructing safe navigation in the Harbour 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>42</b> <b>Bunkering</b></p>	<p>This article provides the Teignmouth SHA with powers in relation to licensing those persons carrying out commercial refuelling activities related to vessels in the Harbour.</p>	<p>To comply with the environmental duties contained in section 48A of the Harbours Act 1964, the Teignmouth SHA considers that it is important that it has express powers to licence such activities so that proper risk assessments can be carried out and persons carrying out such activities can be required to comply with terms and conditions, designed to mitigate against risks associated with such activities (including environmental). Due to the fact that such operations are being carried out commercially and the potential environmental implications, it is considered that a level 4 fine is justified.</p> <p>Similar powers were conferred by article 59 of the Cornwall Harbours Harbour Revision Order 2023, and article 35 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>43</b> <b>Aids to navigation</b></p>	<p>This article provides that the Teignmouth SHA may, with the approval of Trinity House, erect, place, alter, discontinue or remove any aids to navigation in any place adjacent to the harbour (subject to obtaining the necessary interest in or over land).</p>	<p>This power is important for enabling the Teignmouth SHA 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 19 of the Cornwall Harbours Harbour Revision Order 2023, and article 36 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>44</b> <b>Power to dredge</b></p>	<p>This article provides the Teignmouth SHA with a modern power to dredge.</p>	<p>The power to dredge is a standard statutory harbour power and, under its existing local legislation (for example, article 13 of the 1924 Order), the Teignmouth SHA already has the power to dredge with respect of Teignmouth Harbour.</p> <p>This provision is not a “new” power; it simply provides clarity over the extent of the Teignmouth SHA’s power to dredge the Harbour. It does not provide for additional jurisdiction to dredge in areas where</p>



		<p>the Teignmouth SHA 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 article 13 of the 1924 Order is being repealed under the proposed HRO, it is important that the Teignmouth SHA is provided with the 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 Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p> <p>If dredging is carried out at Teignmouth Harbour under the provision in the future, then in line with section 75 of the Marine and Coastal Access Act 2009, the Teignmouth SHA will not need to obtain a marine licence for the dredging activities at the Harbour (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 50 of the Cornwall Harbours Harbour Revision Order 2023, and article 37 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>45</b> <b>Repair of landing places etc.</b></p>	<p>This article provides that the Teignmouth SHA may by notice require the owner or occupier of any landing place, jetty, embankment or structure or other work in the harbour or on land immediately joining the waters of the Harbour to repair it, within a reasonable time, to its reasonable satisfaction, if it is a danger to persons or vessels using the Harbour or a hindrance to navigation of the Harbour. The provision provides for a level 3 fine for non-compliance (on summary</p>	<p>This power is important in assisting the Teignmouth SHA in meeting its duties with regard to navigational safety and the safety of harbour users. Due to the potential safety implications of failure to comply, a level 4 fine is justified. Similar provisions can be found in article 20 of the Cornwall Harbours Harbour Revision Order 2023, and 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:</p>

	<p>conviction) and a power for the Teignmouth SHA 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><i>(a) dangerous to persons or vessels using the harbour;</i>  <i>(b) a hindrance to the navigation of the harbour</i></p> <p>and is therefore desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p>
<p><b>46</b></p> <p><b>Restriction of works and dredging</b></p> <p><b>47</b></p> <p><b>Control of certain operations and works</b></p> <p><b>48</b></p> <p><b>Licensing of works</b></p> <p><b>49</b></p> <p><b>Licence to dredge</b></p> <p><b>50</b></p> <p><b>Appeals</b></p> <p><b>51</b></p>	<p>These articles include the following:</p> <p>(A) Restriction of works and dredging;  (B) Control of certain operations of works of statutory undertakers;  (C) Licensing of works;  (D) Licence to dredge;  (E) Appeals in respect of works or dredging licences; and  (F) Obstruction of works.</p> <p>These articles provide the Teignmouth SHA with modern powers regarding works and dredging carried out by third parties within the harbour limits. The provisions include requirements to obtain a licence from the Teignmouth SHA prior to the undertaking of any works or dredging within the Harbour. The provisions are important to enable the Teignmouth SHA to comply with its duties related to navigational safety, the Open Port Duty and in respect of the environment (in particular section 48A of the 1964 Act).</p>	<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 harbour undertaking, save for article 35 of the 1924 Order (which relates to the removal of materials from the harbour).</p> <p>The provisions ensure that the Teignmouth SHA will be aware of all works and dredging taking place in the Harbour and that it can require suitable safeguards to be put in place when it is being conducted. As such, the level 4 fine in article 46(4) and the level 3 fines in articles 47(5) and 51 for breach are considered appropriate and proportionate.</p> <p>In addition, where works are carried out without or in breach of the terms of a licence, the Teignmouth SHA may require the works to be removed and the site restored to its former condition. If it is not, the Teignmouth SHA has the power to do so itself and recover the cost from the person liable.</p> <p>The provisions are important to enable the Teignmouth SHA to comply with its duties related to navigational safety and in respect of the environment (in particular section 48A of the 1964 Act) by requiring third parties to seek authorisation from the Teignmouth SHA by way of a licence (unless specifically authorised in accordance with article 45(3)).</p>

<p><b>Obstruction of works</b></p>		<p>Article 50 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 Teignmouth SHA. 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 Teignmouth SHA may charge a reasonable sum in respect of its administrative expenses for dealing with the application.</p> <p>Similar provisions can be found in articles 21 to 26 of the Cornwall Harbours Harbour Revision Order 2023, articles 8 to 10 of the Watchet Harbour Revision Order 2000 and article 7 of Lancaster Port 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>52</b></p> <p><b>Parking places and related facilities</b></p>	<p>This article provides that the Teignmouth SHA may provide parking spaces and connected works within the Harbour.</p>	<p>This power has been expressly included in the HRO to ensure that the Teignmouth SHA has an express power to provide parking places and facilities now and in the future.</p> <p>Similar provisions can be found in article 27 of the Cornwall Harbours Harbour Revision Order 2023, and article 20 Penzance Harbour Revision Order 2009.</p> <p>The charging for such facilities is authorised by paragraph 11 of the 1964 Act:</p> <p style="text-align: center;"><i>“Empowering the authority to levy at the harbour charges other than ship, passenger and goods dues or varying or abolishing</i></p>

		<p><i>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>53</b></p> <p><b>Removal of vehicles and vessels</b></p>	<p>This article authorises the Teignmouth SHA to remove vehicles and vessels from the Harbour that have been left in a place where they will or are likely to interfere with the use of the Harbour or in any part of the Harbour where parking is prohibited.</p>	<p>This power is important in assisting the Teignmouth SHA in managing efficiently traffic within the Harbour and ensuring compliance with the Open Port Duty (in relation to vessels). Similar provisions can be found in article 28 of the Cornwall Harbours Harbour Revision Order 2023, article 22 Folkestone Harbour Revision Order 2017 and article 21 Penzance Harbour Revision Order 2009.</p> <p>This article is also desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act as the Teignmouth SHA must be able to remove vehicles and vessels that contradict a prohibition notice (which must be conspicuously placed where appropriate) or that otherwise cause an obstruction or interfere with the use of the Harbour. It would not be consistent with section 14(2)(b) of the 1964 Act if the Teignmouth SHA was not afforded this express power.</p> <p>The article also provides the Teignmouth SHA with the “lawful authority” required under section 52(1) of Part 4 Chapter 2 of the Protection of Freedom Act 2012, to remove vehicles, as the</p>

		<p>Teignmouth SHA ought not commit an offence if it removes vehicles in such circumstances, for the reasons set out above.</p> <p>Finally, it is considered that the interests of people who are not the Teignmouth SHA and otherwise entitled to remove said vehicles are sufficiently safeguarded by the provisions of article 53(2) – (7).</p>
<p><b>54</b></p> <p><b>Power with respect of disposal of wrecks</b></p>	<p>This article extends the powers of the Teignmouth SHA under section 252 Merchant Shipping Act 1995. In particular, it extends the circumstances in which the Teignmouth SHA 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 section 252 of the Merchant Shipping Act 1995 is common and important if the Harbour is to be run in an efficient and economic manner. Similar provisions can be found in article 24 of the Portland Harbour Revision Order 1997, article 60 of the Cornwall Harbours Harbour Revision Order 2023, and article 39 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>55</b></p> <p><b>Power to deal with unserviceable vessels</b></p>	<p>This article provides that the Teignmouth SHA may sell, break up or otherwise dispose of any vessel which is unserviceable and has been laid by or neglected in the Harbour or immediately adjoining the Harbour.</p>	<p>This article applies in addition to the power under section 57 of the Harbours, Docks and Piers Clauses Act 1847 (unserviceable vessels to be altogether removed from harbour) and allows the Teignmouth SHA to recover its costs for the exercise of removing unserviceable vehicles laid or neglected within the Harbour.</p> <p>This article is desirable in the interests of securing the improvement, maintenance or management of the Harbour in an efficient and economical manner or of facilitating the efficient and economic transport of goods or passengers by sea as required by section 14(2)(b) of the 1964 Act.</p> <p>A similar power can be found under article 61 of the Cornwall Harbours Harbour Revision Order 2023, and article 40 of the Weymouth Harbour Revision Order 2021.</p>
<p><b>56</b></p> <p><b>Removal of obstructions</b></p>	<p>This article provides that the Teignmouth SHA 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 Harbour or its approaches. The provision deals with the</p>	<p>This power is important in assisting the Teignmouth SHA in meeting its duties with regard to navigational safety and the safety of harbour users, and important if the Harbour is to be run in an efficient and economic manner. Similar provisions can be found in article 62 of the Cornwall Harbours Harbour Revision Order 2023, and article 8</p>

<p><b>other than vessels</b></p>	<p>recovery of costs by the Teignmouth SHA of reasonable expenses incurred by it in relation to the exercise of the power and sale of the item(s) recovered.</p>	<p>of the Portland Harbour Revision Order 1997.</p>
<p><b>57</b> <b>Tidal works</b></p>	<p>Paragraph (1) provides that in the case of injury to, or the destruction or decay of, a tidal work (defined in article 2), the Teignmouth SHA must notify Trinity House (the general lighthouse authority) as soon as practicable.</p> <p>Paragraph (2) deems all tidal works forming part of the harbour undertaking to be within the area of the local planning authority (to the extent they are not already within the area of a local planning authority).</p>	<p>Paragraph (1) is important in ensuring the Teignmouth SHA meets its duties with regards to navigational safety. This article puts on a statutory basis a requirement for the Teignmouth SHA to notify Trinity House of an incident relating to tidal works. Under the Merchant Shipping Act 1995 Trinity House then has powers to direct the Teignmouth SHA as appropriate in response to the injury, destruction or decay of a tidal work. This article is conducive to the efficient management of the harbour as required under section 14(2)(b) of the 1964 Act.</p> <p>Paragraph (2) is important to ensure, in simple and modern terminology, that all tidal works within the Harbour are part of the local planning authority area and therefore making them subject to planning control insofar as they are not already. This is considered to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner as required under section 14(2)(b) of the 1964 Act.</p>
<p><b>58</b> <b>Power of the Authority to prosecute or defend legal proceedings</b></p>	<p>This power provides that where the Teignmouth SHA considers it is conducive to the improvement, maintenance, operation, management or protection of the harbour undertaking, it may prosecute, defend or appear in legal proceedings, institute civil proceedings, and make representations in any public inquiry held under any enactment.</p>	<p>This provision provides an express power for the Teignmouth SHA to prosecute, defend or appear in legal proceedings, institute civil proceedings, and make representations in any public inquiry held under any enactment. It is considered to be desirable for the improvement, maintenance and management of the Harbour in an efficient and economical manner as required under section 14(2)(b) of the 1964 Act for this power to be expressly stated (rather than implied).</p>
<p><b>59</b> <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 Harbour 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>60</b> <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>61</b> <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>62 to 64</b> <b>Amendments</b></p>	<p><b>Amendment of the Order of 1924</b></p> <p>As this Order will remain in force along with the proposed HRO, references to “harbour” within it are updated to be construed as references to the “harbour” as described in the proposed HRO. This ensures consistency across the local legislation applying to the Harbour and complete the process of modernising the local legislation which applies.</p> <p><b>Amendment of the Order of 1988</b></p> <p>This Order is the pilotage order for the Harbour and will remain in force along with the proposed HRO.</p> <p>This amendment provides that, from the Name Change Date, the definition of “the Authority” is amended to reflect the Teignmouth SHA’s change of name from “Teignmouth Harbour Commissioners” to the “Teign Harbour Authority”.</p> <p>Also, from the date the HRO comes into force, the definition of “The Harbour” has been updated to ensure consistency across the local legislation applying to the Harbour and complete the process of modernising the local legislation which applies.</p> <p><b>Amendment of the Order of 2003</b></p>	<p>For the reasons explained, the amendments are necessary to complete the process of modernisation of the local legislation applying to the statutory harbour authority in conjunction with the provisions of the HRO and the repeals / revocations contained in article 65 and Schedule 2 to the HRO.</p>

	<p>The Order of 2003 contains the main constitutional provisions relating to the Teignmouth SHA. To complete the process of modernisation, the proposed HRO makes substitutions in favour of gender neutral terms, namely the substitution of “chairman” and “vice-chairman” for “chair” and “vice-chair” respectively.</p> <p>In addition, incidental amendments have been made in article 1(2) to reflect the new position of the Orders which will remain in force once the proposed HRO comes into force by omitting “, the Teignmouth (Pilotage) Harbour Revision Order 1998, the Teignmouth Harbour Revision Order 1992” so that the provision now reads “The Teignmouth Harbour Revision Order 1924 and this Order may be cited together as the Teignmouth Harbour Orders 1924 to 2003.” The reference to the Pilotage Order has been omitted because the year was incorrect and it does not need to be mentioned as it is standalone from the other local legislation for the Harbour.</p> <p>Finally, article 64(4) updates the definitions of “harbour” and “vessel” to ensure consistency across the local legislation applying to the Harbour and complete the process of modernising the local legislation which applies. Article 64(5) omits the wording ‘(other than a first Commissioner appointed as mentioned in article 5 above)’. This wording is no longer required because the article 5 is refers to is to be repealed under the proposed HRO.</p>	
<p><b>65</b> <b>Revocation/ Repeal</b></p>	<p>This article provides for the repeal and revocation (as appropriate) of the local legislation listed in Schedule 2 referred to from the date of the HRO.</p>	<p>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 65 and the accompanying Schedule are required in conjunction with this HRO to complete the process of modernising the local</p>



		<p>legislation applying to the Teignmouth SHA, 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 Teignmouth SHA in meeting the recommendations of the Port Marine Safety Code.</p>
--	--	--

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

<p><b>Plan, policy or guidance</b></p>	<p><b><i>Demonstration that application is compliant with relevant plan, policy or guidance.</i></b></p>
<p><b>Relevant Marine Plan (or Marine Policy Statement if no plan or draft plan available)</b></p>	<p>Teignmouth Harbour is situated within the South 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 'South Inshore 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 Teignmouth SHA's existing statutory powers to support the efficient and economical operation, maintenance, management and improvement of Teignmouth Harbour. The HRO modernises the Teignmouth SHA'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 harbour limits to expressly include the harbour premises removing uncertainty over the exercise of the Teignmouth SHA's enforcement powers above high water. The other provisions of the proposed 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 South Marine Plan will be very limited and that any effects will be positive as the proposed HRO supports the economic and efficient management of Teignmouth Harbour (including with respect to environmental considerations). A brief summary of compliance is nevertheless set out below.</p> <p><b>Compliance with UK Marine Policy Statement</b></p>

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 Teignmouth SHA'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 Teignmouth SHA in ensuring it meets both its environmental duties under section 48A 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 the South Inshore Marine Plan**

The South Inshore Marine Plan was published in July 2018. Through its modernisation and consolidation of the Teignmouth SHA's statutory powers, enabling the efficient and economic management of the Harbour and the activities that take place there, the proposed Order will support the following objectives contained in the South Marine Plan:

- (a) **Objective 1:** To encourage effective use of space to support existing, and future sustainable economic activity through co-existence, mitigation of conflicts and minimisation of development footprints.
- (b) **Objective 2:** To manage existing, and aid the provision of new, infrastructure supporting marine and terrestrial activity.
- (c) **Objective 11:** To complement and contribute to the achievement of Good Ecological Status or Potential under the Water Framework Directive and Good Environmental Status under the Marine Strategy

	<p>Framework Directive, with respect to descriptors for marine litter, non-indigenous species and underwater noise.</p> <p>(d) <b>Objective 12:</b> To safeguard space for, and improve the quality of, the natural marine environment, including to enable continued provision of ecosystem goods and services, particularly in relation to coastal and seabed habitats, fisheries and cumulative impacts on high mobility species.</p> <p>In addition, the proposed Order is supported by policy S-PS-1, which expressly supports competitive and efficient port and shipping operations, recognising that <i>'ports and harbours are essential to realise economic and social benefits for the south marine plan areas and the UK. S-PS-1 makes sure 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>We are not aware of any marine planning policies that the proposed Order does not accord with.</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**

Pre-application consultation has been carried out with the consultative stakeholder group. The Commissioners will continue to keep the consultative stakeholder group up to date. The application is being submitted at this time, due to the HRO application fee increase.

In addition to the specific provisions of Schedule 2 to the 1964 Act mentioned in tables 3(a) and 2(b) above, paragraph 17 of Schedule 2 to the 1964 Act 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 Order does not fall specifically within any other paragraph of Schedule 2, the provisions of the Order would be conducive to the efficient functioning of the Harbour and they are therefore within the scope of the 1964 Act for them to be included in the Order.