

**EXPLANATORY MEMORANDUM TO
THE PORTLAND (THE LONDON 2012 OLYMPIC AND PARALYMPIC
GAMES) HARBOUR REVISION ORDER 2011**

2011 NO. 1693

AND

**THE WEYMOUTH (THE LONDON 2012 OLYMPIC AND PARALYMPIC
GAMES) HARBOUR REVISION ORDER 2011**

2011 NO.1694

- 1.** This explanatory memorandum has been prepared by the Marine Management Organisation and is laid before Parliament by Command of Her Majesty.
- 2. Purpose of the instrument**
 - 2.1** The purpose of these instruments is to provide temporary unified management of all areas of the water to be used for the competition events for the London 2012 Games; this will be achieved through Portland Harbour Authority Limited becoming the statutory harbour authority for all such areas.
 - 2.2** The two orders work in conjunction with each other to achieve this by;
 - (i) temporarily altering the limits for which Weymouth and Portland Borough Council have jurisdiction so that they cease to be the statutory harbour authority for part of Weymouth harbour known as the Weymouth outer harbour and cease to have any duties, powers, rights, privileges or authorities in respect of it;
 - (ii) temporarily altering the limits for which Portland Harbour Authority Limited have jurisdiction so that they become the statutory harbour authority for the Weymouth outer harbour and an additional area of the water adjacent to the Weymouth outer harbour and Portland harbour (the “additional area”);
 - (iii) enabling Portland Harbour Authority Limited to conduct prior consultations in respect of general directions to be given by it on or after the commencement of the Olympic Games on 16th July 2012; and
 - (iv) providing for the establishment of a committee, to be known as the Environmental Consultative Committee, which they must consult on all matters substantially affecting the conservation of the flora, fauna and geological and physiological features of special interest within

Portland harbour, the Weymouth outer harbour and the additional area during the period of the games.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative context

4.1.1 The responsibility for the consideration of harbour revision order applications and the making of those orders, except in relation to certain specified applications, passed to the Marine Management Organisation in April 2010 by virtue of the Harbours Act 1964 (Delegation of Functions) Order 2010 (S.I. 2010/674) which delegated the Secretary of State's functions under section 14.

4.2 Portland Harbour Authority Limited is the statutory harbour authority for Portland harbour, by virtue of the Portland Harbour Revision Order 1997.

4.3 Weymouth and Portland Borough Council is the statutory harbour authority for Weymouth harbour by virtue of the Weymouth and Melcombe Regis Corporation Act 1887 and the Weymouth and Portland Harbour Revision Order 1993.

4.4 Portland Harbour Authority Limited applied to the Marine Management Organisation on 31 January 2011 for the Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 under section 14 of the Harbours Act 1964.

4.5 Weymouth and Portland Borough Council applied to the Marine Management Organisation on 31 January 2011 for the Weymouth (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 under section 14 of the Harbours Act 1964.

4.6 The Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 incorporates the Portland Harbour Revision Order 1997 (except articles 11, 13, all of Part IV, articles 42, 43, 44, 45, 48, 49 and 51) so far as applicable and not inconsistent, and will take effect to apply to the Weymouth outer harbour and the additional area for the duration of the Olympic and Paralympic Games.

4.7 The application of the Portland Harbour Revision Order 1997 to Portland harbour will be unaffected by the Weymouth (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 and the Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011.

4.8 The Weymouth (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 will amend Section 8 of the Weymouth and

Melcombe Regis Corporation Act 1887 and the Schedule to the Weymouth and Portland Harbour Revision Order 1993 so as to exclude the Weymouth outer harbour from the limits of the harbour of Weymouth and Melcombe Regis from the Olympic commencement date (16th July 2012) until the Olympic termination date (9th September 2012).

The Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 will amend the definition of “the harbour” in article 2(1) of the Portland Harbour Revision Order 1997 which will be extended to include the Weymouth outer harbour and the additional area until the Olympic termination date, and, pursuant to that jurisdiction, the powers of the harbourmaster may be exercised within the aforesaid areas.

5. Territorial extent and application

5.1 These instruments apply to England.

6. European Convention on Human Rights

6.1 The Marine Management Organisation has made the following statement regarding Human Rights:

In our view the provisions of the Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 and the Weymouth (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 are compatible with Human Rights.

7. Policy background

7.1 In the summer of 2012 the Olympic and Paralympic Games will be held in the UK and the sailing and windsurfing events will take place in the waters of Portland and Weymouth. The hosting of the Games is a global event, with an extremely high profile. Against the current security background, the overriding objective is to ensure the safety of all participants and members of the public. This can only be achieved satisfactorily where a regulatory framework is in place.

7.2 The area in which competition events will take place extends over the harbours of both Portland and Weymouth for which Portland Harbour Authority Limited and Weymouth Harbour Authority respectively are the statutory harbour authorities, together with the additional area of sea, which is not currently regulated by any harbour authority.

7.3 Unlike the land-based events and those taking place on non-tidal waters, it is not possible to exclude members of the public and other harbour users from the Olympic and Paralympic competition areas on the sea without these two harbour revision orders. This is because of the public rights of navigation in tidal waters that prevail unless they are regulated by the use of a harbour authority’s statutory powers.

7.4 Portland Harbour Authority Limited has existing powers provided for in the Portland Harbour Revision Order 1997 which enables them to give general directions for the purpose of promoting or securing conditions conducive to the ease, convenience or safety of navigation and the safety of the persons and property in the harbour; Weymouth Harbour Authority do not have these powers and the additional area of sea is unregulated.

7.5 It is considered that the powers held by Portland are sufficient in order to ensure that the designated competition areas are allocated for exclusive use by the London 2012 Olympic and Paralympic Games during race hours to ensure fair racing and the safety of both the participants and other water users.

7.6 The safe and efficient conduct of the Olympic and Paralympic Games sailing and windsurfing events would therefore be facilitated by Portland Harbour Authority temporarily becoming the statutory harbour authority for the Weymouth outer harbour and the additional area for the period of the sailing events.

7.7 The Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 also provides Portland Harbour Authority with the power to propose general directions and to formally consider representations from consultees in the run-up to the start of the Olympic Games on 16th July 2012. This will allow Portland Harbour Authority to make a suitable general direction on the date of commencement of the Olympic games.

7.8 On 9th September 2012 Portland Harbour Authority's temporary authority over the Weymouth outer harbour and the additional area will automatically terminate and Weymouth & Portland Borough Council will resume its responsibilities for all the waters for which it is currently responsible. Any general direction made by Portland Harbour Authority to the extent that it relates to the Weymouth outer harbour and the additional area will cease to have effect from the end of the final day of the games.

8. Consultation outcome

8.1 A notice was placed in the London Gazette and for two consecutive weeks in a local newspaper detailing the proposed Orders and how any objections or representations may be registered in accordance with the Harbours Act 1964. Two objections were received in respect of the Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 and one objection was received to the Weymouth (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 in the statutory 42 day period allowed, all of which were subsequently withdrawn.

8.2 In addition to the statutory notice the two authorities have carried out the following engagement:

- (i) Prior to submission of the Orders, Portland Harbour Authority and Portland and Weymouth Borough Council carried out local consultation and made contact with various statutory consultees.
- (ii) A comprehensive consultation with water users was undertaken in the months leading up to the applications for the Orders. Drop-in sessions, jointly hosted by Portland Harbour Authority, Weymouth and Portland Borough Council and the London Organising Committee of the Olympic Games and Paralympic Games were held on 14th and 15th October 2010. The drop-in sessions were attended by over 150 people. Visitors were able to fill in feedback forms; 55 feedback forms were received in total and further meetings were offered to all, and held with the majority of those who left feedback forms either on a one to one basis or through the relevant group representative.
- (iii) In the spirit of ensuring on-going water user consultation Portland Harbour Authority will maintain a Harbour Consultative Group for the purposes of administering the Olympic and Paralympic Games.
- (iv) Portland Harbour Authority has included provision for an Environmental Consultative Committee in the Portland (The London 2012 Olympic and Paralympic Games) Harbour Revision Order 2011 which will be made up of representatives from authorities with statutory responsibilities in the area. Portland Harbour Authority, Weymouth & Portland Borough Council, the London Organising Committee of the Olympic Games and Paralympic Games, the Marine Management Organisation, English Heritage, the Centre for Environment, Fisheries and Aquaculture Science, the Inshore Fisheries Conservation Authority, Natural England, the Environment Agency, and Dorset County Council have all expressed an interest in being on the committee and will be represented.

9. Guidance

9.1 The MMO does not propose to issue guidance in respect of the effects of the Orders. However, the Applicants will publish particulars, and serve copies of the Orders in accordance with paragraph 24 of Schedule 3 to the Harbours Act 1964.

10. Impact

10.1 There is no impact on charities or voluntary bodies and the impact on business is minimal.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment has not been prepared for these instruments.

11. Regulating small business

11.1 The legislation applies to small businesses in that any person or business requiring use of the harbour will be subject to the general directions issued by Portland Harbour Authority.

11.2 The effects of the Orders are temporary; extensive consultation has been undertaken locally and businesses who have engaged with the Applicants and LOCOG in respect of their concerns have reached suitable agreement in respect of these.

12. Monitoring & review

Whilst the MMO will not actively monitor the operation of the provisions introduced by the Orders, it will consider any representations received in this respect and will take these into account in the future exercise of its powers.

13. Contact

Andrew Watson at the Marine Management Organisation email: Andrew.watson@marinemanagement.org.uk can answer any queries regarding the instrument.