

EXPLANATORY MEMORANDUM

THE YARMOUTH (ISLE OF WIGHT) HARBOUR COMMISSIONERS (REMOVAL OF PILOTAGE FUNCTIONS) ORDER 2015

2015 No. 132

1. 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order removes pilotage functions from the Yarmouth (Isle of Wight) Harbour Commissioners, the harbour authority for Yarmouth in the Isle of Wight.

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

3.1 None.

4. Legislative Context

4.1 Part 1 of the Pilotage Act 1987 provides that certain harbour authorities are competent harbour authorities (CHAs) and imposes on CHAs duties in respect of harbour pilotage. These include keeping under review whether any, and, if so, what pilotage services need to be provided in respect of its harbour and whether pilotage should be compulsory. Section 1(4A), inserted by section 1 of the Marine Navigation Act 2013, enables the Secretary of State, by Order, to remove a harbour authority's status as a CHA, so that it is no longer required to discharge the duties imposed by the Pilotage Act.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Under section 2 of the Pilotage Act 1987 a CHA has a duty to keep under consideration whether pilotage services are needed for its area and to provide such services as it considers are needed.

7.2 The Department has published the Port Marine Safety Code (PMSC), which applies to all marine facilities in the UK. It establishes a national standard for every aspect of port marine safety and aims to enhance safety for those who use or work in ports, ships, passengers and the environment. It encourages harbour authorities to keep their powers under review. The PMSC can be found at the following link:

<https://www.gov.uk/government/publications/port-marine-safety-code>

7.3 The Yarmouth (Isle of Wight) Harbour Commissioners, who are a CHA, reviewed their powers and concluded that pilotage was not required to ensure the safe navigation of the types of ship that use the harbour, nor was there any prospect of that situation changing. Furthermore, so far as the Commissioners could tell from their records, they had never employed pilots and so pilotage services had not been offered by them. They therefore wished to be relieved of their duties under the Pilotage Act and wrote to the Department asking that their status as a CHA be removed.

7.4 Having considered the evidence available, the Department was minded to remove the Commissioners' CHA status. The Department consulted in accordance with section 1(8A) of the 1987 Act. This process is explained in section 8 below.

7.5 The Commissioners' status and functions as the statutory harbour authority are unaffected.

- Consolidation

There are no related Orders.

8. Consultation outcome

8.1 The Department invited comments from the Yarmouth (Isle of Wight) Harbour Commissioners and thirteen other bodies who were consulted about the Government's proposal to remove the status of CHA from the Commissioners.

8.2 The consultation period was for six weeks as this was considered to be adequate time to undertake a question and response process and gather information from all the local bodies who would have an interest in the maritime operations of Yarmouth (IoW) harbour.

8.3 Of the bodies that were consulted, seven responses were received. All but one respondent agreed with the Government's proposal to remove CHA status from Yarmouth Harbour, taking the view that there would be no increase in risk to maritime safety at Yarmouth Harbour if its CHA status were removed.

8.4 The one objection to the proposal cited concerns that at times highly experienced ferry personnel might not be available (e.g. through illness) and might be replaced by temporary, inexperienced staff. However, the objection was not deemed pertinent as the risk would not be affected by the removal of CHA status at Yarmouth Harbour.

8.5 Having considered the consultation responses the Minister decided to make an Order for removal of the CHA status from the Yarmouth (Isle of Wight) Harbour Commissioners.

8.6 Information on the Consultation Response is at:
www.gov.uk/government/consultations/yarmouth-harbour-change-in-status

9. Guidance

9.1 None.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument

10.2 There is no quantifiable impact on business, charities or voluntary bodies.

10.3 There is no impact on the public sector.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Under the PMSC, harbour authorities are encouraged to keep their powers under review and may seek to amend those powers where necessary to ensure safe and efficient operations. The Department responds to requests by individual harbour authorities where an amendment to their CHA status is required in accordance with the PMSC and the Pilotage Act 1987.

13. Contact

Paul Whiteside at the Department for Transport can answer any queries regarding the instrument. Tel: 0207 944 6079 or email: paul.whiteside@dft.gsi.gov.uk