

Subsidiary Legislation made under s.18(c).

**Environment (Maritime Spatial Planning)  
Regulations 2016**

**LN.2016/179**

*Commencement* **18.9.2016**

Amending enactments	Relevant current provisions	Commencement date
Act. 2018-19	r. 4(3)(b)	26.9.2019
LN. 2021/374	rr. 3, 5(1), (3)-(4), 8(4)(f)-(g), 10(3)(a)-(b), 11-13	1.1.2021

**Transposing:**  
Directive 2014/89/E

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*In exercise of the powers conferred upon it by section 18(c) of the Environment Act 2005, and in order to transpose into the law of Gibraltar, Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning, the Government has made the following Regulations-*

**PART 1  
Preliminary**

**Title.**

1. These Regulations may be cited as the Environment (Maritime Spatial Planning) Regulations 2016.

**Commencement.**

2. These Regulations come into operation on 18 September 2016.

**Interpretation.**

3. In these Regulations—

“BGTW” means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

“competent authority” has the meaning given by regulation 5;

“Directive 2008/56/EC” means Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) as it had effect immediately before 1 January 2021;

“Directive 2014/89/EU” means Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning, as it had effect immediately before 1 January 2021;

“marine region” means—

- (a) the marine region of the Mediterranean Sea as defined in Article 4(1)(c) of Directive 2008/56/EC, and

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(b) the marine subregion of the Western Mediterranean Sea as defined in Article 4(2)(b) of Directive 2008/56/EC;

“marine waters” means BGTW;

“maritime spatial planning” means a process by which the competent authority analyses and organises human activities in marine areas to achieve ecological, economic and social objectives.

**Scope and application.**

4.(1) These Regulations apply in relation to marine waters.

(2) These Regulations do not apply in relation to activities the sole purpose of which is defence or national security.

(3) The Government and competent authority shall—

(a) design and determine the extent and coverage of maritime spatial plans within the marine waters;

(b) communicate in maritime spatial plans where areas of the marine waters are excluded from the plans because they are otherwise provided for in the Town Planning Act 2018; and

(4) Where areas of the marine waters are excluded from maritime spatial plans in accordance with subregulation 3(b), these Regulations do not apply in relation to those areas.

**PART 2  
General Obligations**

**The competent authority.**

5.(1) The Department of the Environment and Climate Change of the Government is designated as the competent authority for Gibraltar for the purposes of these Regulations.

(2) The competent authority shall exercise its functions under these Regulations so as to secure compliance with the requirements of Directive 2014/89/EU.

**Functions of the competent authority.**

6.(1) The competent authority shall establish and implement maritime spatial planning in accordance with these Regulations.

(2) When establishing and implementing maritime spatial planning, the competent authority must, as soon as possible, set up maritime spatial plans.

(3) Maritime spatial plans set up in accordance with subregulation (2) must—

(a) contribute to the objectives set out in regulations 7 and 8(1) by identifying the spatial and temporal distribution of relevant existing and future activities and uses in marine waters; and

(b) take into consideration relevant interactions of activities and uses.

(4) The competent authority may design and determine the format and content of maritime spatial plans.

(5) The competent authority shall consult the departments, authorities and organisations it considers necessary in order to develop maritime spatial plans.

(6) The competent authority must—

(a) establish the maritime spatial plan before 31 March 2021; and

(b) review the maritime spatial plans at least every 10 years.

(7) In this regulation, activities, uses and interests may include—

(a) aquaculture areas;

(b) fishing areas;

(c) installations and infrastructure for—

(i) the exploration, exploitation and extraction of—

(A) oil, gas and other energy resources, or

(B) minerals and aggregates,

(ii) the production of energy from renewable sources;

- (d) maritime transport routes and traffic flows;
- (e) military training areas;
- (f) nature and species conservation sites and protected areas;
- (g) raw material extraction areas;
- (h) scientific research;
- (i) submarine cable and pipeline routes;
- (j) tourism; or
- (k) underwater cultural heritage.

**PART 3  
Elements of Maritime Spatial Planning**

**Objectives of Maritime Spatial Planning.**

7.(1) Maritime spatial planning must–

- (a) aim to contribute to the objectives prescribed in this regulation; and
- (b) fulfil the requirements set out in regulations 6 and 8.

(2) When producing maritime spatial plans, the competent authority must aim to contribute to–

- (a) the sustainable development of–
  - (i) energy sectors at sea;
  - (ii) the fisheries and aquaculture sectors; and
  - (ii) maritime transport; and
- (b) the preservation, protection and improvement of the environment, including resilience to climate change impacts.

(3) When producing maritime spatial plans, the competent authority may pursue objectives such as–

- (a) the promotion of sustainable tourism; and
- (b) the sustainable extraction of raw materials.

(4) The competent authority may determine how different objectives are reflected and weighted in maritime spatial plans.

**Requirements for maritime spatial planning.**

8.(1) When establishing and implementing maritime spatial planning, the competent authority must consider economic, social and environmental aspects so as to–

- (a) support sustainable development and growth in the maritime sector, applying an ecosystem based approach; and
- (b) promote the coexistence of relevant activities and uses.

(2) When establishing maritime spatial planning, the competent authority must have due regard to–

- (a) the particularities of the marine region;
- (b) relevant existing and future activities and uses and their impact on the environment and natural resources; and

take account of land-sea interactions.

(3) The competent authority must establish procedural steps to contribute to the objectives set out in regulation 7 and subregulation (1), taking into account relevant activities and uses in marine waters.

(4) When establishing procedural steps under subregulation (3), the competent authority must–

- (a) take into account land-sea interactions;
- (b) take into account environmental, economic and social aspect, as well as safety aspects;

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- (c) aim to promote coherence between maritime spatial planning and the resulting plan and other processes, such as integrated coastal management or equivalent formal or informal practices;
- (d) ensure the involvement of stakeholders in accordance with regulation 9;
- (e) organise the use of the best available data in accordance with regulation 10;
- (f) *Omitted*
- (g) promote cooperation with countries outside Gibraltar in accordance with regulation 12;

(5) In order to take account of land-sea interactions in accordance with regulation 8(2), where it does not form part of the maritime spatial planning process, the competent authority may use other formal or informal processes such as integrated coastal management.

(6) The use of formal or informal processes under subregulation (5) and the outcome of such use must be reflected by the competent authority in the maritime spatial plan.

(7) Without prejudice to regulation 4(3)(a) and (4), the competent authority must aim, through maritime spatial planning, to promote coherence of maritime spatial plans with other relevant processes.

(8) When establishing and implementing maritime spatial planning, the competent authority may include or build on existing Government policies, regulations or mechanisms that are established before the entry into force of these Regulations, provided that they conform with the requirements of these Regulations.

**PART 4**

**Procedural requirements.**

**Public participation.**

9.(1) The competent authority must establish a process of public participation whereby, at an early stage of the development of maritime spatial plans, it–

- (a) informs all interested parties; and
- (b) consults–
  - (i) relevant stakeholders and authorities; and



(ii) the public concerned.

(2) The maritime spatial plan shall be accessible to—

- (a) relevant stakeholders and authorities; and
- (b) the public concerned.

**Data Use and Sharing.**

10.(1) The competent authority must organise—

- (a) the use of best available data; and
- (b) the sharing of information;

necessary for maritime spatial plans.

(2) In subregulation (1), data may include—

- (a) environmental social and economic data pertaining to activities referred to in regulation 6;
- (b) marine physical data about marine waters.

(3) When implementing the requirement in subregulation (1), the competent authority shall, as far as reasonably possible, make use of relevant instruments and tools including those already available under any retained EU law.

11. *Omitted*

**Cooperation with countries outside Gibraltar.**

12. The competent authority shall endeavour, where possible, to cooperate with countries outside Gibraltar on their actions with regard to maritime spatial planning in the marine region and in accordance with international law and conventions, such as by using existing international forums or regional institutional cooperation and shall where possible take into account issues of a transnational nature.

13. *Omitted.*