
ENVIRONMENT (MARITIME SPATIAL PLANNING)
REGULATIONS 2016

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Subsidiary
2016/179

Subsidiary Legislation made under s.18(c).

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(LN. 2016/179)

Commencement 18.9.2016

Transposing:
Directive 2014/89/E

ARRANGEMENT OF REGULATIONS.

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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—

“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 amended from time to time;

“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 amended from time to time;

“EU Integrated Maritime Policy” means a European Union policy, whose aim is to foster coordinated and coherent decision-making to maximise the sustainable development, economic growth and social cohesion of Member States, and notably the coastal, insular and outermost regions of the European Union, as well as maritime sectors, through coherent maritime-related policies and relevant international cooperation;

“marine region” means—

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- (a) the marine region of the Mediterranean Sea as defined in Article 4(1)(c) of Directive 2008/56/EC, and
- (b) the marine subregion of the Western Mediterranean Sea as defined in Article 4(2)(b) of Directive 2008/56/EC;

“marine waters” means—

- (a) waters, the seabed and subsoil on the seaward side of the baseline from which the extent of territorial sea is measured extending to the outmost reach of the area where a Member State has or exercises jurisdictional rights, in accordance with the United Nations Convention on the Law of the Sea 1982; and
- (b) coastal waters as defined by rule 2(1) of the Public Health (Water Framework) Rules 2004, their seabed and their subsoil;

“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; and

“Member State” means a member state of the European Union.

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; 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 implementation of Directive 2014/89/EU.

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

(3) The Minister with responsibility for the environment must ensure that the European Commission is provided with the following information—

- (a) the name and address of the competent authority;
- (b) a brief description of the legal status of the competent authority;
- (c) a brief description of the legal and administrative responsibilities of the competent authority and its role in relation to the marine waters;
- (d) if the competent authority acts as a coordinating body for other competent authorities, a list of those competent authorities, together with a summary of the institutional relationships established, in order to ensure coordination;
- (e) a summary of the mechanisms established in order to ensure coordination between Gibraltar and Member States where the waters to which Directive 2014/89/EU apply fall within the same marine region.

(4) The Minister with responsibility for the environment must ensure that the European Commission is informed of any changes to the designation of the competent authority referred to in subregulation (1) within six months of such change coming into effect.

Functions of the competent authority.

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

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(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;
- (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;

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- (e) organise the use of the best available data in accordance with regulation 10;
- (f) ensure trans-boundary cooperation between Gibraltar and Member States in accordance with regulation 11;
- (g) promote cooperation with countries that are not Member States 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—

- (a) the EU Integrated Maritime Policy; and
- (b) other relevant European Union policies such as those mentioned in the Environment (Infrastructure for Spatial Information) Regulations 2010.

Cooperation with Member States.

11.(1) As part of the planning and management process, the competent authority shall cooperate with relevant authorities in Member States with bordering marine waters.

(2) Cooperation under subregulation (1) shall—

- (a) be conducted with the aim of ensuring that maritime spatial plans are coherent and coordinated across the marine region;
- (b) be pursued through—

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- (i) existing regional institutional cooperation structures such as Regional Sea Conventions;
- (ii) networks or structures of Gibraltar and Member States' competent authorities; or
- (iii) any other method that meets the requirements of subregulation (1), for example in the context of sea-basin strategies; and

(c) take into account issues of a transnational nature.

Cooperation with countries outside the European Union.

12. The competent authority shall endeavour, where possible, to cooperate with countries outside the European Union 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.

Reporting of plan.

13. The Minister with responsibility for the environment shall ensure the European Commission and any Member States concerned are provided with copies of the maritime spatial plans, including existing explanatory material on the implementation of Directive 2014/89/EU, and all subsequent updates within 3 months of their publication.