**Law n. 17/2014, of 10 of April**

(*Unofficial translation*)

CHAPTER I

**General provisions**

Article 1

**Object and scope**

1 – The present law establishes the bases of the policy of spatial planning and management of the national maritime space identified in the following article.

2 – The policy of spatial planning and management of the national maritime space defines and integrates the actions promoted by the Portuguese State, in order to ensure an adequate organization and utilization of the national maritime space for the purpose of its valorisation and safeguard, aiming to contribute to the sustainable development of the country.

3 – Without prejudice to the following number, the present law does not apply to activities which, by their nature and given their object, exclusively envisage the national defence or internal security of the Portuguese State.

4 – In the course of the activities referred in the preceding number, the Government acts in accordance with the principles and objectives of the spatial planning and management of the national maritime space pursuant to the present law and its developing legislation.

Article 2

**National maritime space**

1 – The national maritime space extends from the baselines to the outer limit of the continental shelf beyond 200 nautical miles and is organized geographically in the following maritime areas:

*a)* Between the baselines and the outer limit of the territorial sea;

*b*) The exclusive economic zone;

*c*) The continental shelf, including beyond 200 nautical miles.

2 – For the purposes of the present law and in accordance with the United Nations Convention on the Law of the Sea, baselines mean:

*a*) The low-water line along the coast, as marked on officially recognized large-scale charts;

*b*) In the mouths of rivers that flow directly into the sea and in the lagoons[[1]](#footnote-1) open to the sea, the straight baseline between the points on the low-water lines of its banks.

3 – In ports and port works, the baseline is the contour line formed by the low-water line along the outer protective piers and the closing line at the entry to the port or port works.

Article 3

**Principles**

In addition to the principles established in the Base-Law of the Environment,[[2]](#footnote-2) the spatial planning and management of the national maritime space must comply with the following principles:

*a*) The ecosystem approach, which takes into account the complex nature and dynamics of the ecosystems, including the preservation of the good environmental status of the marine environment and coastal areas;

*b*) Adaptive management, which takes into account the dynamics of the ecosystems and the evolution of knowledge and activities;

*c*) Integrated, multidisciplinary and cross-sector management, ensuring:

*i*) The coordination and compatibility of the spatial planning and management of the national maritime space with the policies on economic, social, environmental and spatial planning development;

*ii)* The coordination and compatibility of the spatial planning and management of the national maritime space with the sectorial policies that have an impact on the national maritime space, ensuring the adequate consideration between the public and private interests concerned;

*iii*) Coherency between the spatial planning of the national maritime space and the spatial planning of the land territory, in particular of coastal areas;

*d*) Improvement and promotion of economic activities in a long-term perspective and that ensures the effective use of the abilities granted by the titles of private use, under the stipulated conditions;

*e*) Regional and cross-border cooperation and coordination, ensuring cooperation and coordination of the various uses and activities, on-going or to be developed, in the national maritime space, considering the effects that may potentially arise from the use of the national maritime space for neighbouring international maritime spaces or those of other States.

Article 4

**Objectives of spatial planning and management of the national maritime space**

1 – The spatial planning and management of the national maritime space have as an objective the promotion of the sustainable economic, rational and efficient exploitation of marine resources and of the ecosystem services, ensuring the compatibility and sustainability of the different uses and activities developed therein, considering the intra and intergenerational responsibility in the use of the national maritime space and towards job creation.

2 – The performance of actions undertaken within the spatial planning of the national maritime space must consider the preservation, protection and restoration of the natural values and of the coastal and marine ecosystems and the attainment and conservation of the good environmental status of the marine environment, as well as the prevention of risks and the minimization of the effects of natural disasters, climate change or human activities.

3 – Actions undertaken within the spatial planning and management of the national maritime space must ensure the legal security and the transparency of the procedures granting the titles of private use, as well as allow the exercise of the rights of information and participation referred in the present law.

4 – The spatial planning and management of the national maritime space also seek the utilization of the available information regarding the national maritime space.

5 – Without foregoing article 11, the spatial planning and management of the national maritime space must prevent or minimize possible conflicts between uses and activities carried out in the national maritime space.

Article 5

**Competence**

1 – The Government is competent for promoting active policies on spatial planning and management of the national maritime space and to continue the necessary activities for the implementation of the present law and its developing legislation.

2 – The member of the Government responsible for the area of the sea is competent for developing and coordinating the necessary actions for the spatial planning and management of the national maritime space, without prejudice to the powers exercised within the framework of shared management with the autonomous regions, and, whenever necessary, to ensure the adequate coordination and compatibility with the spatial planning and management of the land territory.

Article 6

**System of spatial planning and management the national maritime space**

The system of spatial planning and management of the national maritime space includes:

*a*) Strategic instruments of policy on spatial planning and management of the national maritime space, namely the National Ocean Strategy;

*b*) Spatial planning instruments of the national maritime space referred in article 7. º.

CHAPTER II

**Spatial planning of the national maritime space**

Article 7

**Spatial planning instruments**

1 – The spatial planning of the national maritime space is carried out through the following instruments:

*a*) Situation plans for one or more areas and or volumes of the areas of the national maritime space referred in article 2(1), with the identification of the sites for protection and preservation of the marine environment and the distribution in space and time of current and potential uses and activities;

*b*) Allocation plans for areas and or volumes of the areas of the national maritime space referred in article 2(1) for different uses and activities.

2 – The approval of allocation plans is preceded by the evaluation of the effect of the plans on the environment, in accordance with the applicable law.

3 – Allocation plans must be compatible or made compatible with the situation plans, and, once approved, will be automatically integrated in the situation plans.

Article 8

**Elaboration and approval of spatial planning instruments**

1 – The spatial planning instruments of the national maritime space applicable to the area between the baseline and the outer limit of the territorial sea, the exclusive economic zone and the continental shelf up to 200 nautical miles are elaborated by the Government, with prior consultation of the government of the autonomous regions.

2 – The spatial planning instruments of the national maritime space applicable to the areas identified in the preceding number that are adjacent to the archipelago of the Azores or the archipelago of Madeira may also be elaborated by the governments of the autonomous regions, with prior consultation of the Government.

3 – The spatial planning instruments of the national maritime space applicable to the continental shelf beyond 200 nautical miles are prepared by the Government after hearing the governments of the autonomous regions.

4 – The spatial planning instruments of the national maritime space referred in the preceding numbers are approved by the Government.

5 – All those concerned may submit to the entity referred in article 5(2), proposals for the elaboration of allocation plans referred to in lit. *b*) of article 7(1).

Article 9

**Amendment and review of spatial planning instruments**

1 – The situation plans of the national maritime space referred to in lit. *a*) of article 7(1) are amended in the following situations:

*a*) Whenever so determined by the evolution of the environmental conditions or of the predictions for economic and social development;

*b*) Following the approval of the allocation plans referred to in lit. *b*) of article 7(1).

2 – The situation plans of the national maritime space are reviewed in the timeframe and conditions established in specific legislation.

Article 10

**Suspension of spatial planning instruments**

The spatial planning instruments of the national maritime space can be totally or partially suspended in accordance with the conditions to be defined in specific legislation and only when pursuing the national interest is at stake.

Article 11

**Conflict of uses or activities**

1 – In case of conflict between on-going or developing uses or activities in the national maritime space when elaborating allocation plans, and in order to ensure the good environmental status of the marine environment and the good condition of the coastal areas, the following preference criteria are followed for the determination of the prevailing use or activity:

*a*) Greater social and economic benefit for the country, particularly by creating jobs and qualification of human resources, by creating value and by contributing towards sustainable development;

*b*) Maximum coexistence of uses or activities.

2 – The preference criteria indicated in the preceding number are applicable by the referred descending order and shall be excluding, being sequentially applicable when, pursuant to the higher criterion, the outcome of the assessment and valuation of the conflicting uses and activities is identical, or when the previous criterion does not apply.

3 – The entities referred in article 8(1) and (2) shall, in each case, assess and value the preference criteria referred in number 1.

4 – The preference for a use or activity pursuant to the previous numbers, may require the relocation of on-going uses or activities, in the conditions to be defined in specific legislation.

Article 12

**Rights of information and participation**

1 – All those concerned have a right to be informed and to participate in the procedures for the elaboration, alteration, revision and suspension of the spatial planning instruments of the national maritime space, namely through the use of electronic means.

2 – In the elaboration, alteration, revision and suspension of the spatial planning instruments, it is guaranteed:

*a*) The involvement of the various ministries that oversee the sectors of activities carried out in the national maritime space and of the public entities responsible for the administration of the areas or volumes included in the situation plan or the allocation plan;

*b*) The participation of the authorities of the autonomous regions of the Azores and Madeira, in the area of their competence;

*c*) The participation of the municipalities directly concerned;

*d*) The involvement of scientific, professional, union and business associations, directly or indirectly related to maritime activities;

*e*) The participation of all those concerned through the process of public discussion;

*f*) The prior publication of the proposals of spatial planning instruments of the national maritime space and of all proposals and opinions received during the process of public discussion.

3 – The spatial planning instruments of the national maritime space are published in the Official Gazette.[[3]](#footnote-3)

Article 13

**Monitoring of spatial planning**

Instruments on permanent monitoring and technical evaluation of the spatial planning of the national maritime space are created, under the conditions to be defined in specific legislation.

Article 14

**Legal regime**

The legal regime applicable to the elaboration, approval, alteration, revision and suspension of the instruments of spatial planning of the national maritime space is defined in specific legislation.

CHAPTER III

**Use of the national maritime space**

Article 15

**Common use**

1 – The national maritime space is for public use and benefit, particularly regarding in its leisure functions.

2 – The common use of the national maritime space is not subject to a title of use, as long as it complies with the law and constraints defined in the applicable plans and does not harm the good environmental status of the marine environment and the good condition of coastal areas.

Article 16

**Private use**

The private use of the national maritime space is permissible subject to the reservation of an area or volume for the development of the environment, marine resources or ecosystems services that is greater than that which is achieved through common use.

Article 17

**Titles for the private use**

1 – The private use of the national maritime space is carried out under a title of use issued in accordance with the terms and conditions determined in the present law and other applicable legislation.

2 – The right to private use of the national maritime space can only be granted by concession, license or authorization, irrespective of the nature and legal status of its holder.

3 – The titles of private use expire at the end of their respective term and in accordance with the conditions defined in specific legislation.

4 – The granting of a title of private use determines for its holder an obligation of effective use and the duty to ensure, at all times, the adoption of the necessary measures for the maintenance of the good environmental status of the marine environment and of coastal areas, and being bound, after termination of the respective title, to perform the necessary measures for the reconstitution of the altered physical conditions that do not result in a benefit, under the conditions to be defined in specific legislation.

Article 18

**Issuance of other concessions, licences or authorizations**

1 – The granting of a title of private use does not give its holder the right to use or exploit the resources of the national maritime space.

2 – Where the exercise of a use or activity depends on the issuance of other concessions, licences or authorizations in addition to the title of private use, the various procedures are coordinated in accordance with the conditions to be defined in specific legislation.

Article 19

**Use subject to concession**

1 – Without foregoing article 21, the prolonged private use of an area or volume of the national maritime space is subject to prior concession.

2 – Prolonged use is defined as uninterrupted use and that has a duration superior to 12 months.

3 – A concession may have a maximum duration of 50 years, to be granted in accordance with the terms and conditions defined in specific legislation.

Article 20

**Use subject to license**

1 – Without foregoing the following article, the temporary, intermittent or seasonal private use of an area or volume of the national maritime space is subject to a prior license.

2 – A license has a maximum duration of 25 years, to be granted in accordance with the terms and conditions defined in specific legislation.

Article 21

**Use subject to authorization**

Private use of the national maritime space in the framework of pilot-projects for new uses or technologies or activities without a commercial character is subject to authorization.

Article 22

**Requirements and conditions for granting titles for private use**

The granting of titles for private use must ensure:

*a*) The compliance with the rules and principles of the present law and other applicable legislation;

*b*) The compliance with the spatial planning instruments of the national maritime space.

Article 23

**Prior information request**

1 – All those concerned may forward to the competent entity referred in article 5(2) a request of prior information on the possibility of utilization of the national maritime space for uses and activities not foreseen in the instruments of spatial planning of the national maritime space.

2 – The prior information is binding only with respect to the possibility of using the national maritime space for the intended use or activity, in accordance with the conditions defined in specific legislation.

Article 24

**Economic and financial regime**

The economic and financial regime concerning the private use of the national maritime space is defined in specific legislation, which shall promote:

*a*) The economic, social and environmental sustainability of the utilization of the national maritime space;

*b*) The development of activities of marine scientific research deemed of public interest or conducted within the framework of research programmes promoted by the Portuguese State.

Article 25

**Other utilizations**

The utilizations of the national maritime space not included within the scope of the present law and that are subject to rules and principles of international law and international conventions applicable in the national legal order and to which the Portuguese State is bound to, must be regulated by the Government towards their respective integration in the spatial planning of the national maritime space pursuant to the present law.

CHAPTER IV

**Supplementary, transitional and final provisions**

Article 26

**Financing of public policies on spatial planning and management of the national maritime space**

The financing of public policies on spatial planning and management of the maritime space is provided by the State budget, funds of the European Union and by the revenues gained from licenses, concessions and authorizations of private use of the national maritime space, in accordance with the terms defined in specific legislation.

Article 27

**Coordination and compatibility with spatial planning instruments**

1 – The coordination and compatibility of the instruments of spatial planning of the national maritime space with other instruments of spatial planning with legal or regulatory nature that are applicable to the national maritime space, are made in accordance with the conditions to be defined in specific legislation.

2 – The instruments of spatial planning of the national maritime space ensure the respective coordination and compatibility with land programs and spatial plans, whenever they focus on the same area or areas over which the structural or functional interdependence of its elements require an integrated coordination.

Article 28

**Use of coastal and brackish waters for aquaculture purposes**

The use of coastal and brackish waters for aquaculture purposes, including fish and shellfish waters, as well as production areas for bivalve molluscs, shall be subject, with the necessary adaptations, to the regime provided in this law and respective complementary legislation.

Article 29

**Information availability**

1 – The base data relating to the spatial planning and management of the national maritime space, produced by public entities or made available in compliance with legal obligations, must be accessible to the public and free of charge, namely through the use of information and communication applications that allow search, display and availability services.

2 – The provisions of the preceding number shall not prejudice the possibility of charging fees, when there is the need to significantly process the data, which may be subject to exemptions in specific situations duly justified.

3 – The provisions of the preceding numbers shall not prejudice the safeguarding of data confidentiality or the protection due to other existing rights, including commercial and industrial or intellectual property rights, when properly justified.

Article 30

**Developing legislation**

Within six months from the date of publication of the present law, the respective developing legal acts are approved that define:

*a*) The instruments for permanent monitoring and technical evaluation of the national maritime space;

*b*) The legal regime applicable to the elaboration, alteration, revision and suspension of the instruments of spatial planning of the national maritime space;

*c*) The legal regime applicable to the titles of private use of the national maritime space and the economic and the economic and financial regime concerning the private use of the national maritime space;

*d*) The regulation of the financing means of the policies on spatial planning and management of the national maritime space.

Article 31

**Reports on the state of spatial planning and utilization of the national maritime space**

1 – Every three years, the Government submits to the Parliament a report on the state of spatial planning and management of the national maritime space, including monitoring and evaluation of the status of the good environment status of the marine environment and coastal areas, in order to ensure sustainable development.

2 – The Government gives knowledge of the report referred in the previous number to the government of the autonomous regions.

Article 32

**Transitional provision**

1 – Until the entry into force of the developing legislation referred in article 30, the utilization of the national maritime space continues to be governed by the legal provisions in force.

2 – The titles of use of the resources of the national maritime space issued under previous legislation shall remain in force in accordance with the applicable terms, particularly in what concerns the respective inherent rights of spatial use.

Article 33

**Repealing clause**

The provisions included in Law n. 58/2005, 29 December, republished by Decree-Law n. 130/2012, 22 June, Decree-Law n. 226-A/2007, 31 May, and its developing legislation, which are contrary to the present law, shall be considered revoked with the entry into force of the developing legislation referred in article 30.

Article 34

**Entry into force**

The present law enters into force on the day following its publication.

1. In Portuguese it also includes “*rias*”. [↑](#footnote-ref-1)
2. Law n. 19/2014, 14 April, Official Gazette, 1st Series, n. 73, 14 April 2014. Law n. 19/2014 revoked Law n. 11/87, 7 April 1987, which was in force at the time LBOGEM was approved and published. [↑](#footnote-ref-2)
3. In Portugal the Official Gazette is the *Diário da República*, online: https://dre.pt/. [↑](#footnote-ref-3)