

# The Maritime Spatial Planning (General Provisions) Regulations of 2021 <sup>1</sup>

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<sup>1</sup> **Editorial Note:** *These Regulations were published in the Greek language in the Official Gazette of the Republic of Cyprus No. 5492, Supplement III(I), dated 26.03.2021. This is an “unofficial” translation into English prepared by the Shipping Deputy Ministry (SDM) and does not intend to replace any translation prepared by the Law Commissioner’s Office.*

*According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English is **not the authentic version. The authentic and therefore legally binding version, is the Greek version of this Law.***

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144(l) of 2017  
34(l) of 2021.

The Council of Ministers, exercising the powers granted to it by Sections 11, 24 and 26 of the *Maritime Spatial Planning and Other Related Matters Laws of 2017-2021*, issues the following Regulations:

Short  
title.

1. These Regulations will be referred to as the Maritime Spatial Planning (General Provisions) Regulations of 2021.

## PART I – INTERPRETATIVE PROVISIONS

Interpretation.

- 2.– (1) In these Regulations unless the text has a different meaning -

“applicant” means any entity applying for an operation licence in accordance with the provisions of Regulation 5;

“change of the ownership status of the licensee” means–

(a) the acquisition, by any other company, consortium or a natural person, of the control of the ownership of the licensee;  
or

(b) any other transaction relating to the shares of the licensee, which is required to be notified in accordance with the *Companies Law* and the Regulations and Orders issued thereunder;

Cap. 113.

“Committee” means the Maritime Spatial Planning Committee as referred to in section 7 of the Law;

“entity” means a natural or legal person or a group of legal persons applying for or likely to apply for or hold an operation licence;

“Law” means the *Maritime Spatial Planning and Other Related Matters Laws of 2017-2021*;

“operation licence” means the licence to exercise a use or activity not subject to regulated licensing under the existing legislation in force in the Republic and issued in accordance with the provisions of

these Regulations as referred to in section 24 of the Law;

Provided that such a licence does not constitute a disposal or concession of sea space by the State;

“Plan” means the Maritime Spatial Plan referred to in section 2 of the Law.

(2) Unless otherwise defined by the text, terms not otherwise defined in these Regulations shall have the meaning provided by the Law.

## **PART II - SUSPENSION OF MARITIME SPATIAL PLAN**

Object and conditions of the suspension of the Plan.

**3. – (1)** According to section 11 of the Law, the Maritime Spatial Plan may be partially or wholly suspended for a maximum period of one year by virtue of a decision of the Council of Ministers and upon a relevant proposal made by the Deputy Minister of Shipping and a prior preliminary approval by the Interministerial Committee and provided the House of Representatives is consulted in advance.

(2) The suspension of the Plan is only intended for reasons of public interest.

(3) The decision of the Council of Ministers to partially or wholly suspend the Plan shall contain in detail the grounds justifying the suspension in which grounds the occurrence of damage to the public interest appears, for example:

(a) if there are essential omissions and/or inaccuracies in the Plan,

(b) if it is considered that the negative consequences resulting from the implementation of the Plan, are more serious than the benefits of its implementation,

(c) if the implementation of the Plan is contrary to National or European Union legislation,

(d) if the implementation of the Plan adversely affects the Republic's external relations with neighboring States.

*Processes  
for the  
suspension  
of the Plan.*

4.–(1) The Shipping Deputy Minister shall prepare a relevant explanatory and reasoned report/proposal stating the grounds and/ or the causes for suspending the Plan, in whole or in part, and the time frame of the suspension, which shall not exceed one year.

(2) The Shipping Deputy Minister shall arrange for the submission of his report / proposal for the suspension of the Plan to the Interministerial Committee for obtaining its preliminary approval.

(3) The decision of the Council of Ministers to suspend the Plan shall be published in the Official Gazette of the Republic, in at least two daily newspapers in the Republic and on the internet for the purpose of informing all interested parties about the suspension of the Plan and providing them with all necessary information, with the exception of confidential information.

(4) Information related to the suspension of the Plan shall be made available to the public during working days and hours at the offices of the Competent Authority.

(5) Any decision by the Council of Ministers to extend the duration of the suspension of the Plan as well as its new duration of suspension, which shall not exceed the total period of suspension of the Plan, i.e. one year, shall be published in the Official Gazette of the Republic, in at least two daily newspapers in the Republic and on the Internet, as soon as possible and especially before the end of the initial suspension date.

### **PART III - USES AND ACTIVITIES NOT SUBJECT TO REGULATED LICENSING UNDER EXISTING LEGISLATION**

*Licensing  
obligation.*

5.–(1) The exercise of a use or activity in the marine waters of the Republic, as provided for in section 24 of the Law, is subject to licensing.

(2) The operation licence shall be granted to the applicant by a decision of the Council of Ministers, after examination of his application and preparation of a proposal by the Committee, as provided for in sections 7 (5) (d) and 24 of the Law.

*Application  
for an  
operation  
licence.  
Schedule.*

6.–(1) The applicant shall submit a written application for an operation licence to the Committee by using the relevant standard form and pay a relevant fee to the Permanent Secretary, as provided in the Table of the Schedule to these Regulations.

Provided that in the case of an application for an operation licence within the Exclusive Economic Zone and / or the Continental Shelf,

and where the applicant is a natural person, who does not hold the Cypriot nationality or where he is a legal person, not having its seat or registered office in the Republic, the application shall be submitted to the Minister of Foreign Affairs through the Ministry of Foreign Affairs or through the diplomatic mission of the State of his nationality or of the State where it has his seat or registered office, depending on the case. The Minister of Foreign Affairs shall forward the application to the Committee.

(2) The application for an operation licence shall be accompanied by the following:

- (a) full details of the applicant's identity and legal form;
- (b) presentation of the applicant's past, current and future activities, the technical and financial aspects of the project, including its financial viability, the relevant experience and know-how and the financial strength of the applicant;
- (c) full and accurate description of the use or activity for licensing its operation, including the relevant construction drawings;
- (d) full details of the constructor to undertake the construction of possible infrastructures;
- (e) full details of the natural or legal persons involved in the activity;
- (f) Environmental Impact Assessment Report or information report and/or Appropriate Assessment Report;
- (g) a topographic plan, or a plan signed by an engineer of the relevant speciality, stating the proposed location or alternative locations of the use or activity;
- (h) documentation study in relation to the criteria set out in Regulation 9, including a study of the social, economic and cultural benefits and impacts justifying the granting of the operation licence;

Provided that the submission of such information does not in any way exempt the applicant from the obligation to provide any information as may be required by other relevant regulatory provisions or legislation.

*Procedure for examining the application.*

7.– (1) On receipt of the application and following the issuance in advance of :

- (a) an environmental approval by the Environmental Authority if required,
- (b) a relevant Certificate of Compliance or a Certificate of Compatibility by the Committee,

copies of the application and the accompanying supporting documents shall be forwarded to the members of the Committee, for examination and submission of the required opinions on the requested operation licence for the use or activity.

(2) The Committee may ask the applicant for any further information it considers necessary for the examination of the submitted application in relation to the file submitted. Failure to disclose or refuse to provide any requested information or data within the deadline set by the Committee, which must be reasonable, may lead to the rejection of the application.

(3) When examining the application, the Committee may invite the applicant to a hearing in accordance with the provisions of section 7 (5) (e) of the Law.

(4) (a) The Committee shall set the timeframe, which shall not be less than sixty (60) days from the date of the relevant notice being posted on the Competent Authority's website and published in two daily newspapers in the Republic within which representations or objections may be made by any person in respect of the proposed application.

(b) In relation to the possibility and the timeframe for submitting representations and /or objections in respect of a proposed application by any person, in accordance with the provisions of paragraph (a) above, the Committee shall inform by a letter the Union of Cyprus Municipalities and the Union of Cyprus Communities.

(c) For the purposes of broader information and transparency, the Committee shall ensure that a concise electronic file of the applications submitted is kept, posted and updated on the Competent Authority's website.

*Processing of an application.*

**8.–(1)** The Commission shall examine:

- (a) the application, the supporting documents and particulars and any further information submitted by the applicant;
- (b) the opinions and/or oppositions expressed by the members of the Committee and any other persons on the basis of the provisions of section 7 (5) (g) of the Law;
- (c) any representations or objections made under Regulation 7(4);
- (d) any other information it deems necessary;

(2) Following the expression of any opinions and/or oppositions and/or objections under the procedures described in subparagraphs (b) and (c) of the previous paragraph, the processing of the application is carried out by applying the criteria laid down in Regulation 9.

*Criteria for making a proposal.*

**9.–(1)** In order to make a proposal to the Council of Ministers regarding the acceptance or rejection of the application for an operation licence, the Committee shall take into account the following criteria:

- (a) the suitability of the use or activity for reasons of national security and/or public interest.

Provided that in case the public interest is invoked by the Committee, such invocation must be sufficiently reasoned by reference to specific real facts;

- (b) the suitability of the coast and of marine waters in relation to the hydromorphological characteristics of the seabed and the physical characteristics of the seabed and the waters.
- (c) the suitability of the coast and of marine waters in relation to the geological characteristics of the seabed and the subsoil, including the seismicity of the wider area;
- (d) the technical suitability, strength and stability of the relevant infrastructures (facilities, structures) for the requested use or activity;
- (e) the safety and health of workers, and / or of users and/ or of visitors;
- (f) the financial strength of the applicant and the financial



viability of the requested use or activity;

(g) the wider social, economic and cultural benefits of the requested use or activity;

(h) the wider social, economic and cultural negative impacts of the requested use or activity;

(i) the interaction of the use or activity with the land.

(2) In addition to the criteria set in paragraph (1) above, the Committee should take into account all relevant laws and regulations in force, plans and programs in order to formulate the relevant proposal to be submitted to the Council of Ministers through the Shipping Deputy Minister, regarding the requested operation licence.

*Making  
of the proposal .*

**10.**– (1) Within a reasonable period of time not exceeding six (6) months from the date when the application was deemed complete, the Committee shall submit its reasoned proposal on whether or not to grant the operation licence for each application under examination, to the Council of Ministers through the Shipping Deputy Minister.

(2) In its reasoned proposal, the Committee may include suggestions on the terms, conditions and limitations which the Committee deems necessary to include in the operation licence.

*Terms and  
conditions  
of the  
operation  
licence.*

**11.** The Competent Institutions may impose terms and conditions on the operation licence with respect to the following matters:

(a) the period of validity of the operation licence, which may not exceed ten (10) years;

(b) its suspension, renewal, transfer, amendment and termination;

(c) the persons authorised to carry out the associated infrastructure works and/or to exercise the use or activity;

(d) the geographical limits within which the use or activity will be exercised;

(e) the design and technical specifications of the relevant infrastructures;

(f) the purpose and functional requirements of the use or activity;

- (g) the compliance with any terms and conditions mentioned in the approval of the Environmental Authority;
- (h) any actions that the applicant shall not make in connection with the operation of the use or activity without the prior authorisation or approval by the Republic;
- (i) the compulsory insurance in the event of liability of the applicant to a third party for any damage caused by the exercise of the use or activity;
- (j) the obtainment of other additional authorisations and/ or approvals by the Republic in accordance with other applicable laws and/or regulations and the compliance with any conditions imposed by them;
- (k) any other terms they deem reasonable and / or necessary.

*Licensing.*

**12.-** (1) Subject to the provisions of section 24 of the Law, the Council of Ministers shall decide whether or not to grant the operation licence. Such a decision must be reasoned and be communicated in writing to the applicant.

(2) The decision of the Council of Ministers shall be published in the Official Gazette of the Republic within one month of its date of adoption and shall be notified to the House of Representatives.

(3) The decision of the Council of Ministers to grant an operation licence shall determine its terms, conditions, its period of validity and the supervisory authority/service to assess compliance with the terms and conditions of the operation licence.

Provided that the period of validity of the operation licence may not exceed ten (10) years.

(4) The operation licence shall be issued by the Committee and signed by its Chairman upon the positive decision of the Council of Ministers on the basis of the relevant standard form as provided in Regulation 22 and upon payment of the fees payable to the Permanent Secretary in accordance with the Table of the Schedule.

*Schedule.*

(5) The granting of the operation licence does not remove the obligation and responsibility of the applicant to obtain all other necessary authorisations, approvals and permits required under any other legislation in force in the Republic. Provided that in the event of expiration of any relevant authorisation, approval or permit before the

expiry of the operation licence, the obligation of the applicant to reobtain the relevant authorisation, approval or permit shall not be waived.

*Individual  
nature  
of the  
operation  
licence.*

**13.-(1)** The operation licence is personal and the holder of this operation licence is not entitled to assign its rights or to transfer it to a different entity.

(2) In case of intention to change the ownership status of the operation licensee, the prior approval of the Council of Ministers is required. Otherwise, the operation licence will be terminated and the new owner of the legal person will have to submit anew to the Committee an application for an operation licence, as provided for in Regulations 5 and 6.

*Renewal  
of operation  
licence.*

**14.- (1)** The operation licence may be renewed by a decision of the Council of Ministers for a maximum period of ten (10) years, upon request made by the entity to the Committee by using the relevant standard form provided for in Regulation 22 and upon a proposal from the Committee, provided:

(a) the request has been made within eighteen (18) months and no later than twelve (12) months prior to the expiry of the operation licence,

(b) the operation licence is not suspended,

(c) the entity has furnished all the documents and particulars substantiating the grounds for renewal referred to in paragraph (2) , and

(d) the entity has paid to the Permanent Secretary the renewal fees payable in accordance with the Table in the Schedule of these Regulations.

*Schedule.*

(2) The application for the renewal of an operation licence shall be accompanied by:

(a) the documents and particulars listed in Regulation 6(2) if they have changed, with the exception of the documents of paragraph (f) which must be submitted,

(b) an assessment of social, economic and cultural benefits and impacts as a result of the operation licence already granted, as well as their assessment for the requested renewal period.

(3) When examining the application for renewal of the operation licence, the criteria referred to in Regulation 9 shall be taken into account.

*Amendment  
of operation  
licence.*

**15.** (1) The Council of Ministers may amend any operation licence in accordance with the procedures laid down in this Regulation.

(2) The Committee may, in response to information received, or in response to a request from an entity, or *ex officio*, propose an amendment of any operation licence issued pursuant to section 24 of the Law.

(3) The Committee, before submitting, through the Shipping Deputy Minister, to the Council of Ministers, any proposal to amend the operation licence-

(a) Notifies any interested operation licensee and

(i) states that it proposes an amendment of the operation licence by specifying the content of this amendment,

(ii) states the reasons for proposing such amendment,

(iii) sets the timeframe, which shall not be less than sixty (60) days from the date on which the relevant notice was posted on the Competent Authority's website within which representations or objections may be made with respect to the proposed amendment by any person affected from this amendment.

(b) Takes into account any representation or objection within the above specified timeframe.

(c) Takes into account the opinions of the Environmental Authority on the updated Environmental Impact Assessment submitted.

(4) Within reasonable time, the Committee, after having duly examined any representations or objections made, shall submit its proposal on the amendment to the Council of Ministers through the Shipping Deputy Minister.

(5) The Council of Ministers shall decide whether or not to amend the operation licence as provided for in the provisions of Regulation 12, by a reasoned decision that is notified in writing to the entity by the Committee.

Provided that in the event of an amendment of the operation licence the fees payable to the Permanent Secretary shall be paid in

Schedule. accordance with the Table in the Schedule.

*Obligation to provide information.*

**16.-** (1) The licensee shall immediately inform the Committee and the supervisory authority as specified in the relevant operation licence for any change in the operation and/or for any handling, damage, malfunction or anomaly in relation to the use or activity licenced.

(2) In the event of non-compliance with the obligation to provide information and without prejudice to other sanctions or liability for payment of damages, the Committee shall prepare a proposal to be submitted to the Council of Ministers through the Shipping Deputy Minister, and the Council of Ministers may amend, suspend or terminate the operation licence.

*Inspection.*

**17.-** (1) The licensee shall comply with any requirement of the authorities of the Republic for inspection of the use or the activity and for the control of compliance with the terms of the operation licence, according to any legislation in force.

(2) In the event that following an inspection by any authority of the Republic, non-compliance of the licensee with the conditions of its operation licence is ascertained, the Committee shall be informed immediately and shall carry out an investigation and invite the said licensee to submit written explanations and /or invite him to a hearing before the Committee.

(3) The Committee shall submit a proposal to the Council of Ministers, through the Shipping Deputy Minister, for the adoption of temporary management measures for the exercise of the use or activity or for the suspension or termination of the operation licence by virtue of the provisions of Regulations 18 and 19.

*Suspension of operation licence.*

**18.-**(1) The operation licence may be suspended for a certain period of time by the Council of Ministers upon a proposal made by the Committee submitted through the Shipping Deputy Minister in any of the following cases:

(a) non-compliance with the general or special terms or conditions of the operation licence;

(b) violation of the provisions of the Law, of these Regulations and of any applicable legislation in force;

(c) non –payment of the operation licence fees;

(d) non-compliance with the obligation laid down in Regulation 16; and/or

(e) for compelling reasons of public order, safety and health.

(2) The Committee may request from the licensee to submit written explanations and or invite him/her to a hearing before making a proposal to the Council of Ministers for the suspension of the operation licence.

(3) When the operation licence is suspended, the Shipping Deputy Minister shall take all necessary measures to secure the safe suspension of operation in order to ensure the protection of the environment and property. To this end, the Shipping Deputy Minister may instruct the licensee to take appropriate action or to use the services of third parties to ensure the protection and safety of the environment and property.

Provided that any costs incurred shall be borne by the licensee.

*Termination  
of operation  
licence.*

**19.** -(1) The Council of Ministers may terminate the operation licence issued pursuant to these Regulations upon a proposal made by the Committee submitted through the Shipping Deputy Minister in any of the following cases:

(a) violation of the provisions of the Law, of these Regulations and of any applicable legislation in force;

(b) non-compliance with any term or condition of the operation licence;

(c) submission of inaccurate or incomplete or false information or data referred to in these Regulations by the licensee;

(d) suspension of the operation licence for a period exceeding six (6) months;

(e) non-payment of the operation licence fees; and /or

(f) for reasons of national security and / or public interest.

(2) Provided that if the period of validity of the operation licence expires and the licensee did not request to renew it, the operation licence shall end on the day immediately following the expiry date.

## PART IV – MISCELLANEOUS & FINAL PROVISIONS

*Certificate of Compatibility for uses or activities under section 23 of the Law.*

**20.** For the issuance by the Committee of the Certificate of Compatibility for the exercise of a use or activity falling within the provisions of section 23 of the Law, the relevant approval by the Environmental Authority must be submitted to the Committee.

*Forms for the Certificate of Compliance and the Certificate of Compatibility.*

**21.** The Certificate of Compliance and the Certificate of Compatibility provided for in section 22 of the Law shall be issued on the basis of a standard form as provided in Regulation 22.

*Standard forms.*

**22.** The standard forms required by the provisions of these Regulations shall be determined by a Notification issued by the Permanent Secretary of the Shipping Deputy Ministry, published in the Official Gazette of the Republic.

*Criminal offences and penalties.*

**23.-** (1) Any person who fails to conform with the mandatory and/or prohibitive provisions of Regulations 5(1), 13, 18(3), and 19(1)(c) and/or with the terms of the operation licence issued, is guilty of an offence and, upon conviction, is liable to a fine of fifty thousand euro (€ 50.000) up to two hundred thousand euro (€ 200.000) or to a sentence of imprisonment for a term not exceeding four (4) years or to both such sentences.

(2) Where an offence has been committed in violation of these Regulations or of the terms of the operation licence issued and it is proved that such an offence has been committed with the consent or tolerance or that it is due to negligence of any chief executive officer, director, secretary or other officer of a legal person, that person and the legal person shall be guilty of the offence and, in the event of their conviction, shall be subject to the penalties provided for in paragraph (1).

*Administrative fine.*

**24.-**(1) In the event that the Permanent Secretary ascertains that a licensee is carrying out an act or omission in breach of the provisions of Regulations 12(5), 16(1), 17(1) and/or with the terms of the operation licence, the Permanent Secretary may impose on such a licensee, an administrative fine not exceeding two hundred thousand euro (€ 200.000) for any contravention, depending on the gravity of the contravention, notwithstanding whether a case of criminal liability

arises under the provisions of these Regulations or any legislation.

(2) Before imposing an administrative fine, the Permanent Secretary shall notify the licensee of his intention to impose the administrative fine, informing him of the reasons for his intention to do so and giving him the right to submit his statements within a time limit of thirty (30) days from the date of such notification.

(3) The Permanent Secretary shall impose an administrative fine under the provisions of paragraph (1) by means of a written and reasoned decision which he shall send to the licensee:

(a) defining the contravention; and

(b) informing the licensee -

(i) of his right to challenge the decision-

(aa) by hierarchical recourse to the Shipping Deputy Minister,

and

(bb) by a recourse to the Administrative Court in accordance with the provisions of Article 146 of the Constitution and the *Establishment and Operation of the Administrative Court Law*, and

(ii) the time limits within which the above rights may be exercised, and

(c) which becomes enforceable upon such transmission.

(4) The Shipping Deputy Minister shall issue indicative directions for calculating the amount of the administrative fine imposed pursuant to paragraph (1), without thereby limiting the discretionary power of the Permanent Secretary to decide freely on the amount of the administrative fine imposed, on the basis of the actual facts of each case.

(5) In the event of a refusal or omission of the licensee, to pay such fine to the Permanent Secretary, to whom an administrative fine has been imposed under these Regulations, the Permanent Secretary or the person duly authorised by him shall take legal action and collect the amount due as a civil debt owed to the Republic.

131(I) of 2015  
72(i) of 2018.

*Hierarchical  
recourse.*

**25.** -(1) The licensee has a right to file an hierarchical recourse before the Shipping Deputy Minister against a decision imposing an administrative fine, within thirty (30) days from the date of notification of the decision.



(2) The exercise of the hierarchical recourse in accordance with paragraph (1) shall not suspend (stay) the execution of the decision.

(3) The Shipping Deputy Minister shall examine the hierarchical recourse and, after having heard the licensee or giving him the opportunity to express his position in writing, shall decide on the recourse in accordance with paragraph (4) within a time limit of sixty (60) days at the latest.

(4) The Shipping Deputy Minister may issue any of the following decisions:

- (a) to confirm the challenged decision;
- (b) to declare the challenged decision null and void;
- (c) to amend the challenged decision; or
- (d) to issue a new decision in substitution of the challenged decision.

(5) The amount of the administrative fine shall fall and rests definitely to the Republic, if no recourse to the Administrative Court is filed after the lapse of seventy-five (75) days, either from the date of the notification of the decision imposing the administrative fine, or in case where a hierarchical recourse is filed with the Shipping Deputy Minister, from the date of the notification of the Deputy Minister's dismissing decision.

*Jurisdiction of the  
President of the  
District Court.*

**26.** Notwithstanding the provisions of section 23 of the *Courts of Justice Law*, the President of the District Court of Nicosia has exclusive jurisdiction to adjudicate all offences under these Regulations and impose any penalty provided by them.

<b>SCHEDULE</b> (Regulations 6 (1), 14 (1) and 15 (5))	
<u>TABLE</u>	
Fees for an operation licence payable under section 24 of the Law	
1. Examination of the application for the issuance of an operation licence	€30.000
2. Issuance of an operation licence	€10.000
3. Renewal of an operation licence	€10.000
4. Amendment of an operation licence	€10.000
5. Annual fees for an operation licence	€ 5.000

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