

Act on maritime spatial planning¹

WE MARGRETHE THE SECOND, by the grace of God Queen of Denmark hereby witness:
Folketinget has adopted and We with Our consent hereby enact the following act:

Part 1

Purpose and application

Section 1. This act establishes the framework for the implementation of spatial planning of Danish marine areas.

Subsection 2. The purpose of the act is to:

- 1) promote economic growth, the development of marine areas and the use of marine resources on a sustainable basis;
- 2) contribute to achieving the goals of maritime spatial planning stipulated in this act;
- 3) take account of land-sea interaction; and
- 4) strengthen cross-border cooperation in accordance with the provisions of United Nations' Convention on the Law of the Seas (UNCLOS) of 1982.

Section 2. The act covers Danish marine areas, cf. however subsection 2.

Subsection 2. The act shall not apply to activities the sole purpose of which is defence or national security; and coastal waters as regards types of use covered by guidelines laid down in municipal plans, cf. section 11a(1)(xix) of the act on spatial planning (*lov om planlægning*).

Subsection 3. The act shall not affect the sovereign rights and jurisdiction of Denmark or other States over marine areas which derive from international law, including UNCLOS of 1982. In particular, the application of this act shall not influence the delineation and delimitation of maritime boundaries in accordance with the provisions hereon in UNCLOS.

Part 2

Definitions

Section 3. For the purposes of this act, the following definitions shall apply:

- 1) "Marine waters" means territorial waters and the exclusive economic zones, cf. the act on delimitation of territorial waters (*lov om afgrænsning af søterritoriet*) and the act on exclusive economic zones (*lov om eksklusive økonomiske zoner*).
- 2) "Marine region" means the North Sea (including the Kattegat) and the Baltic.
- 3) "Maritime spatial planning" means a process by which the relevant authorities analyse and organise human activities in marine areas to achieve economic, ecological, and social objectives.

¹ The act contains provisions implementing parts of directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning, Official Journal 2014, L 257, p. 135.

- 4) "Maritime spatial plan" means regulations with associated chartlets established by the Minister for Business and Growth, stipulating the physical and temporal distribution of activities and uses of the maritime space in Danish marine waters.

Part 3

The goals of maritime spatial planning, etc.

Section 4. The Minister for Business and Growth shall implement maritime spatial planning for Danish marine areas in accordance with this act and provisions laid down in pursuance of the act.

Section 5. The Minister for Business and Growth shall, when implementing maritime spatial planning, take account of economic, social and environmental conditions as well as safety aspects to support sustainable development and growth in the maritime sector, applying an ecosystem-based approach, and to promote the coexistence of various relevant activities and uses.

Subsection 2. In order to achieve the goals stipulated in subsection 1, maritime spatial planning shall aim to contribute to sustainable development of

- 1) the energy sector at sea;
- 2) maritime transport;
- 3) fishing and aqua culture;
- 4) the extraction of raw materials from the sea; and
- 5) the preservation, protection and improvement of the environment, including resilience to the consequences of climate change.

Subsection 3. With a view to achieving the goals stipulated in subsection 1, the maritime spatial planning may furthermore aim to contribute to the promotion of sustainable tourism, recreational activities, outdoor life, etc.

Section 6. When implementing the maritime spatial planning pursuant to section 5, account shall be taken of

- 1) the special conditions that apply in each individual marine region;
- 2) relevant existing and future activities and uses and their impact on the environment and natural resources; and
- 3) land-sea interaction.

Section 7. In order to achieve the goals stipulated in section 5, the Minister for Business and Growth shall determine the physical and temporal distribution of relevant existing and future activities and uses in the maritime spatial plan.

Section 8. In order to promote sustainable uses of the maritime space, account shall be taken of the coexistence between existing and future activities and uses as well as interests when drawing up the maritime spatial plan.

Part 4

Acquisition and amendment of the maritime spatial plan as well as the involvement of the general public

Section 9. The Minister for Business and Growth shall lay down regulations on an overall maritime spatial plan for Danish marine areas (the maritime spatial plan) in accordance with the procedures stipulated in sections 10-12.

Section 10. Before the maritime spatial plan is promulgated, a proposal for a plan shall be published with a commenting period of at least six months.

Subsection 2. The Minister for Business and Growth shall issue the maritime spatial plan no later than by 31 March 2021. The maritime spatial plan shall be revised and updated at least every tenth year.

Subsection 3. The Minister for Business and Growth may decide that the commenting period stipulated in subsection 1 may be deviated from in special cases.

Subsection 4. The proposal for a maritime spatial plan mentioned in subsection 1 shall be drawn up in consultation with the other ministries affected and with the involvement of coastal municipalities and coastal regions as well as any relevant business and interest organisations.

Section 11. During the planning period, the Minister for Business and Growth may lay down regulations on amendments of the maritime spatial plan.

Subsection 2. Before issuing an amendment to the maritime spatial plan, a proposal for an amended plan shall be published with a commenting period of at least eight weeks. Section 10(4) shall apply correspondingly.

Subsection 3. If a proposal for an amendment of the maritime spatial plan involves amendments of the plan that are so comprehensive that it is in effect a new maritime spatial plan, the amendments shall be implemented only in accordance with the procedure stipulated in section 10.

Subsection 4. The Minister for Business and Growth may decide that the commenting period stipulated in subsection 2 may be deviated from in special cases.

Section 12. At the same time as the proposal for a maritime spatial plan pursuant to section 10(1) or a proposal for amendments of the maritime spatial plan pursuant to section 11(2), the first sentence, is being published, the Minister for Business and Growth shall inform the affected Government, regional and municipal authorities, the EU member States and third countries as well as any parties whose interests are affected about the draft maritime spatial plan or draft amendments hereof.

Subsection 2. In connection with the rendering of information, the Minister for Business and Growth shall inform about the commenting period in pursuance of the provisions mentioned in subsection 1.

Section 13. The involvement of the general public and the publication of a proposal for a maritime spatial plan and amendments to the maritime spatial plan may be made only digitally.

Part 5

Legal effects of the maritime spatial plan

Section 14. With the exceptions mentioned in sections 15 and 16, Government authorities shall not, in accordance with other legislation, adopt plans for or grant permission, etc. for installations or area uses which are contrary to the maritime spatial plan, or which anticipate a proposal for a maritime spatial plan or amendments of the maritime spatial plan published by the Minister for Business and Growth.

Subsection 2. The legal effect of proposals for a maritime spatial plan and amendments of the maritime spatial plan in pursuance of subsection 1 shall lapse if the Minister for Business and Growth decides that the proposal is not to be implemented; however, no later than two years after the completion of the public consultation.

Section 15. A Government authority may adopt a plan on or grant permission for installations or the use of areas contrary to the maritime spatial plan or proposals for a maritime spatial plan or amendments of the plan if

- 1) the plan or the permission is intended to ensure compliance with EU legal or international obligations, and
- 2) the adoption of the plan or the granting of the permission cannot await amendments of the maritime spatial plan.

Subsection 2. The adoption of a plan or the granting of permission, etc. pursuant to subsection 1 shall take place in consultation with the Minister for Business and Growth.

Section 16. The Minister for Business and Growth may, irrespective of the provisions of section 14, when necessary and urgent, take measures, issue prohibition notices or issue enforcement notices pursuant to section 6 of the act on safety at sea (*lov om sikkerhed til søs*) or establish navigation systems and aids to navigation pursuant to section 8 of the act on safety at sea (*lov om sikkerhed til søs*).

Subsection 2. The Minister for Business and Growth shall, without undue delay, inform other ministers affected about decisions taken pursuant to subsection 1 when they deviate from the maritime spatial plan or proposals for a maritime spatial plan or amendments hereof published by the Minister for Business and Growth.

Part 6

Data use and data sharing

Section 17. The Minister for Business and Growth shall ensure the organisation and use of the best available data and the sharing of information necessary for maritime spatial planning.

Part 7

Cooperation with EU member States and third countries

Section 18. As part of the planning and management process and with a view to achieving the goals of this act, the Minister for Business and Growth shall cooperate with other EU member States bordering the same marine areas as Denmark. The purpose hereof is to ensure that the maritime spatial planning is coher-

ent and coordinated across the marine region concerned. Such cooperation shall take into account, in particular, issues of a transnational nature.

Section 19. The Minister for Business and Growth shall endeavour, where possible, to cooperate with third countries about their actions with regard to maritime spatial planning in the relevant marine regions. This shall be in accordance with international law and international conventions, such as by means of existing international bodies or cooperation within the framework of regional institutions.

Section 20. The Minister for Business and Growth may lay down regulations for compliance with agreements concluded with other States about common measures to be taken to fulfil the purpose of the act.

Part 8

Administrative provisions

Section 21. The Minister for Business and Growth may authorise the Danish Maritime Authority or, following negotiations with the relevant minister, other Government authorities to perform the powers vested with the Minister pursuant to this act. However, the first sentence shall not include the powers of the Minister for Business and Growth under section 9, section 10(2) and section 11(1).

Subsection 2. The Minister for Business and Growth may lay down more detailed provisions on the exercise of the powers that another Government authority is authorised to exercise pursuant to subsection 1, the first sentence, following negotiation with the relevant minister.

Subsection 3. The Minister for Business and Growth may lay down regulations on the access to appeal decisions taken pursuant to authority granted under subsection 1, including that it shall not be possible to appeal such decisions.

Section 22. The issue whether a decision to grant a permission or the final adoption of a plan is contrary to the maritime spatial plan or a proposal for a maritime spatial plan, cf. section 14, may be appealed against in accordance with the appeals provisions of the legislation in accordance with which the permission has been granted or the plan has been adopted.

Subsection 2. To the extent that the legislation described in subsection 1 makes it possible to appeal against the disregard of procedural regulations, it shall nevertheless be possible to appeal against the granting of permission or the adoption of a plan contrary to the maritime spatial plan.

Section 23. Legal proceedings for scrutiny of decisions taken under this act or regulations laid down pursuant to the act shall have been instigated within six months after the person concerned has been informed about the decision. If the decision has been publically announced, the deadline shall, however, be counted from the announcement.

Part 9

Entry into force, etc.

Section 24. This act shall enter into force on 1 July 2016.

Subsection 2. In the act on spatial planning (*lov om planlægning*), cf. consolidated act no. 1529 of 23 November 2015, as amended most recently by section 1 of act no. 1879 of 29 December 2015, the following amendments shall be made:

1. In *section 11(4)(v)*, "or" shall be deleted
2. In *section 11(4)(vi)*, "the act on raw materials" shall be amended to "the act on raw materials, or".
3. In *section 11(4)*, the following shall be inserted as *item (vii)*:
"7) the maritime spatial plan in pursuance of the act on maritime spatial planning or proposals for a new maritime spatial plan or proposals for amendments of the maritime spatial plan when the proposal has been published with a view to consultation."
4. In *section 13(1)(vi)*, "or" shall be deleted.
5. In *section 13(1)(vii)*, "the act on raw materials" shall be amended to "the act on raw materials, or".
6. In *section 13(1)*, the following shall be inserted as *item (viii)*:
"8) the maritime spatial plan in pursuance of the act on maritime spatial planning or proposals for a new maritime spatial plan or proposals for amendments of the maritime spatial plan when the proposal has been published with a view to consultation."

Section 26. This act shall not apply to the Faroe Islands and to Greenland.

Given at Christiansborg Castle, 8 June 2016
MARGRETHE R. / Troels Lund Poulsen