

SUBSIDIARY LEGISLATION 499.03
MOORING SERVICES REGULATIONS

1st August, 2012*

LEGAL NOTICE 253 of 2012.

Preliminary

1. (1) The title of these regulations is the Mooring Services Regulations. Citation and scope.

(2) The scope of these regulations is to regulate the mooring services provided at terminals that accommodate ships which are obliged to navigate under the direction of a Pilot as stipulated in the Maritime Pilotage Regulations and the applicable tariffs for these services, within the ports of Malta, in accordance with the provisions of the Act. S.L. 499.26

2. In these regulations, unless the context otherwise requires: Interpretation.

"the Act" means the Authority for Transport in Malta Act; Cap. 499.

"assistant mooring man" means a mooring man who is employed by the Service Provider and who works under the direction of licensed mooring men to provide mooring services;

"the Authority" means the Authority for Transport in Malta as established by the Act;

"the Board" means the Mooring Services Board set up in accordance with the provisions of regulation 9;

"licensed mooring man" means a mooring man in possession of a licence issued by the Authority in terms of regulation 5 to provide mooring services;

"master" shall have the same meaning as assigned to it in the Act;

"the Minister" means the Minister responsible for ports and shipping;

"mooring man" means a person either licensed or engaged by a terminal operator, as the case may be, in terms of these regulations to provide mooring services;

"mooring service" means the act, carried out by a mooring man, of assisting the master and, or the Pilot in safely securing a ship at a terminal including unmooring or changing the mooring of the ship, and includes any other work connected thereto;

"mooring service tariff" shall be the whole amount due by the ship for the provision of the mooring service as specified in the Second Schedule;

"Pilot" shall have the same meaning as assigned to it in the Act;

*See regulation 1(3) of these Regulations, as originally promulgated.

"port" shall have the same meaning as assigned to it in the Act;

"Service Provider" means that association, cooperative society or company composed of a group of licensed mooring men formed and established according to the provisions of regulation 6;

"ship" shall have the same meaning as assigned to it in the Act;

"terminal" means any place where ships are moored, berthed or docked; and

"terminal operator" means a person who is either authorised or recognised by the Authority as the person responsible for the management, control and operation of the terminal.

Mooring Services

Mooring services.

3. (1) Mooring services in the terminals, quays, wharfs and berths listed in the First Schedule shall only be provided by the Service Provider in terms of these regulations.

(2) Mooring services shall at all times be under the supervision, control and regulation of the Authority.

Mooring services agreement between the Authority and the Service Provider.

4. (1) Subject to the provisions of the Act, the Authority shall organise and ensure the provision of mooring services in the areas referred to in regulation 3(1) by entering into a mooring services agreement with the Service Provider in terms of regulation 32.

(2) Prior to entering into an agreement with the Service Provider, the Authority shall ensure that the structures of the Service Provider is such as to allow for the adequate provision of mooring services in accordance with the provisions of these regulations and of the mooring services agreement.

(3) If the Service Provider fails to maintain adequate structures as required in sub-regulation (2) or fails to provide the mooring services in accordance with the provisions of these regulations or of the mooring services agreement, the Authority shall temporarily engage competent persons to ensure the proper provision of the mooring services.

(4) The Authority shall establish, in accordance with the mooring services agreement, the number of licensed mooring men required for the provision of the mooring services at any one time, taking into account applicable regulations, market considerations and the efficacy of the service to be provided.

Licensed Mooring Men

Mooring men's licence.

5. (1) For the purposes of the provisions of the Act and of these regulations, the Authority may grant a licence to an individual person to act as a mooring man.

(2) No person shall be licensed to serve as a licensed mooring man unless such person:

- (a) is a citizen of the European Union;
- (b) is more than eighteen years of age;
- (c) produces satisfactory evidence of good character and sobriety of conduct by producing a certificate of good

conduct issued by the Police;

- (d) has been declared to be physically fit to perform the duties of a mooring man by a medical board appointed by the Authority;
- (e) is in possession of the qualifications and experience that may be determined by the Authority from time to time; and
- (f) has satisfied such other conditions as may be prescribed from time to time by the Authority.

(3) The person in whose favour a licence is issued shall pay to the Authority a fee of twenty-five euro (€25) *per annum* to the Authority.

(4) Such licence may be revoked by the Authority in terms of these regulations.

(5) When issuing a licence under these regulations, the Authority may attach to the licence such conditions as it deems fit.

6. (1) The licensed mooring men shall form and establish a mooring men cooperative society, or association or company. Each licensed mooring man shall be entitled to form part of this society, association or company.

Establishment of a mooring men group.

(2) The number of licensed mooring men shall be adequate to provide prompt and efficient mooring services as shall be determined by Authority from time to time. The Service Provider may also employ a number of assistant mooring men to work under the direction of licensed mooring men and assist in the provision of the mooring services.

(3) The Service Provider shall provide mooring services as determined by the mooring services agreement.

7. (1) The Authority shall, when it deems proper but at least once every five years, appoint a medical board, at its own cost and expenses, to examine whether a licensed mooring man is physically fit for the proper discharge of his duties.

Medical examination and retirement age.

(2) If the medical board appointed under the provisions of sub-regulation (1) certifies that a licensed mooring man is permanently unfit to carry out his duties, the Authority shall revoke the licence of such licensed mooring man.

(3) The retiring age for a licensed mooring man shall be when he reaches the statutory pension age.

8. (1) The licence issued to a licensed mooring man shall be automatically cancelled by the Authority when the licensed mooring man resigns or retires on reaching the statutory pension age, or if such licensed mooring man is found to be physically unfit to carry out his duties.

Revocation and suspension of mooring man's licence.

(2) The Authority may also suspend or revoke the licence issued to a licensed mooring man as a consequence of the award by a disciplinary committee.

(3) Subject to any condition which the Disciplinary Committee may make, the Authority may re-issue a licence to a licensed mooring man whose licence has been revoked under sub-regulation (2).

(4) A licence issued to a licensed mooring man shall be surrendered to the Authority whenever it is for any reason cancelled, suspended or revoked. In such cases, the licence shall be returned to the Authority within twenty-four hours.

(5) A licensed mooring man whose licence has been cancelled, suspended or revoked shall have a right to appeal to the Board by application within fifteen days of the notification to him of the decision.

Mooring Services Board.

9. (1) There is hereby established a Board, to be called the Mooring Services Board, which shall exercise and perform the functions assigned to it by these regulations.

(2) The Board shall consist of the following members:

- (a) a Chairperson appointed by the Minister;
- (b) a member nominated by the Authority;
- (c) a member nominated by the licensed mooring men; and
- (d) a secretary with no voting powers to be appointed by the Minister.

(3) The Board shall exercise and perform the following functions:

- (a) to establish the curriculum and conduct examinations in connection with the licensing of prospective licensed mooring men and to advise the Authority accordingly;
- (b) to appoint panels of examiners for the purpose of the examinations aforesaid;
- (c) to hear appeals from the decisions of the Authority in terms of regulation 8(5);
- (d) to advise the Authority on any matter that the said Authority may refer to it from time to time in connection with mooring services; and
- (e) to perform such other functions as may be prescribed to it from time to time by the Authority.

(4) The quorum of the Board shall consist of the Chairman and two members.

(5) The Board shall reach its decisions by means of a majority vote. The Chairman shall have a casting vote.

(6) The decisions of the Board shall be final and binding.

(7) The Board shall meet at least twice a year, or more frequently as required, at such date, time and place as the Chairman may appoint.

(8) Subject to the provisions of these regulations, the Board

may otherwise regulate its own procedures.

10. (1) The Board shall establish the minimum manning scales for specific mooring services performed by the licensed mooring men. Manning scales.

(2) When establishing such minimum manning scales, the Board shall take into account the size of ships, types of moorings and mooring ropes and the berths where ships are moored or berthed.

11. (1) The Service Provider shall provide the mooring services round the clock on a shift basis, each shift being known as "the watch". Watch duties.

(2) The number of watches to be worked, the duration of each watch and the number of licensed mooring men in each watch shall be as prescribed in the mooring services agreement.

12. (1) The Service Provider shall provide and maintain in good working order and condition such minimum communications, safety and other equipment that is necessary to enable its members to provide efficient mooring services, in accordance with the mooring services agreement and the directives the Authority may issue from time to time. Equipment for licensed mooring men.

(2) If the Service Provider fails to abide by any directives issued under the provisions of sub-regulation (1), the Authority may provide such equipment as may be so required and the Authority may deduct the costs so incurred from the mooring dues that are remitted to the Service Provider for the services rendered.

13. Licensed mooring men shall be covered by a personal insurance policy, the premium of which shall be paid by the Service Provider. The insurance must cover adequate compensation in the case of loss of life or injuries resulting directly from their work. Personal injuries scheme.

14. (1) Licensed mooring men and assistant mooring men employed by the Service Provider shall wear a uniform whilst they are on duty. Licensed mooring men to wear uniform.

(2) The form of such uniform shall be determined by the mooring services agreement and approved by the Board.

(3) The Service Provider is responsible for the provision of the uniforms.

(4) Disciplinary action shall be taken against licensed mooring men who, while on duty, fail to wear the full and complete uniform.

15. (1) The Authority shall institute disciplinary proceedings against a licensed mooring man who has contravened any provisions of these regulations, or who in the course of or in connection with his duties is negligent or misbehaves or fails to comply with any directive given by the Authority, Disciplinary proceedings.

(2) In the case of a serious breach of a licensed mooring man's obligations, the Authority shall have the right to temporarily suspend a licensed mooring man's licence pending the disciplinary

action by the Disciplinary Board.

Penalties over licensed mooring men.

16. (1) If a licensed mooring man is found guilty of having contravened any one of the provisions of the Act or of these regulations, or if in the course of or in connection with his duties is found to have been negligent or of having misbehaved, or of having failed to comply with any directives given by the Authority, the Disciplinary Board may, without prejudice to the provisions of any other law, recommend to the Authority to impose administrative fines and:

- (a) fine such licensed mooring man a penalty of not less than fifty euro (€50) and not exceeding one hundred euro (€100); and, or
- (b) suspend his licence for a period not less than ten days and not exceeding three months, during which time no remuneration shall be paid to or received by such licensed mooring man; or
- (c) revoke his licence forthwith.

(2) Any administrative fine inflicted by the Authority according to the provisions of these regulations shall be recoverable by the Authority as a civil debt.

Criminal proceedings against licensed mooring men.

17. Any disciplinary proceedings taken against a licensed mooring man under the provisions of these regulations shall be without prejudice to any criminal proceedings which may be taken against him under the Act or any other law; and any proceedings taken under any of such laws shall be without prejudice to any such disciplinary proceedings.

Administration of tariff for mooring services performed by the licensed mooring men.

18. (1) The administration, collection and recovery of the tariff for mooring services performed by the licensed mooring men and the disbursements of this tariff shall be the responsibility of the Authority.

(2) The master of a ship, the ship agent, the terminal operator or other person requesting mooring services shall be responsible to pay directly to the Authority, promptly and fully, the mooring services tariff within ten working days from the date of the invoice.

(3) The Authority may charge interest on any overdue tariff for mooring services from the date of presentation of the invoice until full payment is effected at the rate established by the laws of Malta.

Deposit or bank guarantee.

19. (1) The Authority may require any person or client who in terms of regulation 18 is bound to pay the tariff for mooring services to make a deposit or to furnish a bank guarantee issued by a local bank in favour of the Authority in such amount as it considers sufficient to cover the payment of such tariff.

(2) The Authority may recover any tariff for mooring services out of such deposit or bank guarantee if such tariff is not paid within ten working days from the date of the invoice.

(3) The bank guarantee or deposit shall be reintegrated by the person or client to its original sum within ten days of being notified of any deduction.

20. (1) The Authority shall maintain appropriate accounts regarding the tariff for mooring services collected and shall remit the relative part of the tariff to the Service Provider. Remittance of proceeds to the Service Provider.

(2) The Authority shall forward a copy of such accounts to the Service Provider every three months.

(3) Such accounts shall contain sufficient details to determine applicable tariffs.

Terminal Operators

21. (1) The Authority may authorise a terminal operator to provide, within the terminal under its control and management, its own mooring services by personnel who are either employed or subcontracted. Employment of mooring men.

(2) The terminal operator shall, for all intents and purposes, be responsible for:

- (a) ensuring mooring men are adequately trained;
- (b) ensuring that the mooring operations are performed in a safe manner including the use of the necessary mooring equipment, personal protective equipment and communication equipment;
- (c) appointing a person or persons to coordinate and ensure the provision of mooring services; and
- (d) provide an appropriate insurance cover for damages to property and third parties during the provision of mooring services.

(3) A terminal operator may choose to enter into a mooring services agreement with the Service Provider. The mooring services agreement has to be in compliance with the provisions of regulation 32(1).

22. (1) The terminal operator shall establish the minimum manning scales for specific mooring services in agreement with the Authority and Pilots. Manning scales.

(2) When establishing such minimum manning scales, the terminal operator shall also take into account the size of ships, types of moorings and mooring ropes and the berths where ships are moored or berthed.

(3) In the case that the terminal operator and the Pilots cannot agree on the manning scales, the Authority shall establish such manning scales.

23. (1) The administration, collection and recovery of the tariff for mooring services and the disbursements of this tariff shall be the responsibility of the terminal operator. Administration of tariff for mooring services.

(2) The person requesting the services, the ship agent or the person who was provided with mooring services shall be responsible for the prompt and full payment of the mooring services tariff.

Responsibility of terminal operators. **24.** A terminal operator is responsible to ensure that the ships in the terminal are safely secured by mooring men who are adequately trained to provide mooring services.

Provision of Mooring Services

Mooring of ships. **25.** A mooring man shall not moor, unmoor or change the mooring of any ship from her berth without the approval of the Authority, the terminal operator and of the person who has engaged his services whichever is the case.

Mooring men to obey orders of the master or Pilot. **26.** All mooring men shall obey all lawful and legitimate orders and instructions given by the master or the Pilot during mooring operations.

Standard of care and skill. **27.** When providing mooring services, each mooring man shall implement a high standard of care and skill.

Reports of accidents. **28.** (1) A mooring man shall immediately notify the Authority or the Terminal Operator of any incident or accident involving the ship which he is serving, particularly any incidents or accidents that may have resulted in injuries or loss of life or damage to port facilities and, or property of third parties, and any near collisions or misses or any concerns in respect to navigation, as expressed by the master or Pilot whilst piloting a ship.

(2) The Service Provider and or the Terminal Operator shall ensure that the Authority is informed in writing immediately of such report.

Tariff for mooring services. **29.** The remuneration for all mooring services, whether provided by the terminal operator or the Service Provider shall be in accordance with the tariff for mooring services that is found in the Second Schedule.

Social security contributions. Cap. 318. **30.** The social security contributions payable by an employed person and an employer in accordance with the provisions of the Social Security Act shall be deemed to form part of the tariff.

Over-charging. **31.** (1) The Service Provider, mooring man or terminal operator or any other person providing mooring services shall not demand or receive any dues or other remuneration in respect of mooring services other than those specified in the Second Schedule.

(2) No person shall pay the Service Provider or mooring man any dues or other remuneration in respect of mooring services other than those specified in the Second Schedule.

General Provisions

Mooring services agreement. **32.** (1) A mooring services agreement shall, as a minimum, include the following:

- (a) a description of the services to be provided, including the resources to be made available, the service performance levels and health and safety standards to be met by the parties to the agreement;
- (b) the administration, collection and recovery of the tariff for mooring services;

- (c) the person or persons to coordinate and ensure the provision of mooring services;
- (d) the services that are required to be provided;
- (e) the mechanisms for dispute resolution in case of disagreement between the parties;
- (f) the hours of work, including rosters and shift systems allocation;
- (g) the ordering procedure;
- (h) the disciplinary procedures that may be taken including, but not limited to, the non-attainment of agreed minimum service performance; and
- (i) the appropriate insurance cover to hold the mooring men harmless for damages to property and third parties during the provision of mooring services.

(2) The tariff for the mooring services provided may also be regulated by a mooring services agreement but cannot exceed the tariff found in the Second Schedule and any other law that the Authority is entitled to enforce.

(3) Without prejudice to the provisions of sub-regulations (1) and (2), the mooring services agreement made between the Authority and the Service Provider shall include provisions relating to mooring services, the management of the group and persons forming part of the Service Provider.

33. The Authority shall have the right to demand and receive such statistical information in respect of mooring services from the terminal operator or the Service Provider in such format as the Authority may from time to time prescribe.

Statistical information.

34. Any person, Service Provider or terminal operator who contravenes any of the provisions of these regulations shall be guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not less than two hundred euro (€200) but not exceeding twelve thousand euro (€12,000) for any one occurrence or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Penalties.

35. Proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

Proceedings before the Court of Magistrates.

Cap. 9.

36. Any obligation, liability, penalty or punishment incurred under the Mooring Services Regulations, 2011, revoked by these regulations, or in connection with any breach of the provisions of those regulations, or any proceedings or remedy relating to any such obligation, liability, penalty or punishment, shall not be affected by their revocation.

Saving.
L.N. 100 of 2011.

FIRST SCHEDULE

Regulation 3

List of terminals, quays, wharfs and berths

Grand Harbour:

Barriera Wharf
Bighi Bay
Boiler Wharf (today known as Senglea Wharf)
Coal Wharf (Outer)
Deep Water Quay
Flagstone Wharf
Gun Wharf
Laboratory Wharf
Lascaris Wharf
Magazine Wharf
Pinto Wharves
Ras Hanzir Fuel Dolphin
Wine Pressers Wharf

Port of Marsaxlokk:

Delimara Power Station Quay
MEDSERV Facility
Oil Tanking Malta Limited, Jetties 1, 2, 3 and 4

Other:

International vessels, subject to compulsory Pilotage, at Sa Maison, Ċirkewwa South Quay and Mġarr Gozo.

AND at such other terminals, quays, wharfs and berths as established, from time to time, by the Authority.

SECOND SCHEDULE

Regulation 29

Tariff for Mooring Services

1. For the purposes of this Schedule:
"ton" means gross tonnage (GT) of a ship determined in accordance with the provisions of the International Convention on Tonnage Measurement of Ships, 1969, as amended;
2. (1) For mooring or unmooring a ship on entering, leaving or shifting berth at

any berth, except at a buoy berth there shall be charged:

(a) Ships not exceeding 30,000 tons	€100
(b) Ships exceeding 30,000 tons and not exceeding 80,000 tons .	€150
(c) Ships exceeding 80,000 tons and not exceeding 110,000 tons	€200
(d) Ships exceeding 110,000 tons and not exceeding 140,000 tons	€250
(e) Ships exceeding 140,000 tons and not exceeding 170,000 tons	€300
(f) For every additional 10,000 tons or part thereof in excess of 170,000 tons	€15

(2) Additional mooring or unmooring dues at the rate of 15% on the standard rates shall be payable in respect of services rendered between 1900 hrs and 0700 hrs and on Sundays and public holidays.

3. When a cancellation for a request for a mooring or unmooring service is made, the following dues shall be applicable:

(a) when a cancellation notice is made prior to two hours before commencement of operation	No charge
(b) when a cancellation notice is made within the two hours immediately preceding the commencement of operation	25% of standard rate
(c) when the mooring man has, on request, reported aboard for an operation which is later cancelled	50% of standard rate

4. A surcharge of 10% on the standard rate shall be payable for tankers.

5. In respect of disabled vessels, there shall be payable in respect of mooring men €100 per operation irrespective of number of mooring men.

6. A transport allowance in addition to the standard rate shall be payable for mooring services:

(a) at Bighi Bay and Boiler Wharf within the Grand Harbour and at berths within the ports of Marsaxlokk and Ċirkewwa	€25
(b) at berths within Gozo	€40

7. For the handling of ropes or wire ropes by using a mooring boat, per rope

€25

8. A levy of 5% on the gross expenses incurred for mooring services shall always be charged.

9. For any other particular mooring services not otherwise specifically provided for in this Schedule, the dues payable shall be determined by the Authority who shall, as far as possible, assimilate them to the appropriate dues specified in this Schedule.