



REGULATION

EXPLOITATION AND USAGE OF THE MARINAS OF THE AZORES

Date: january 2022

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1. MODIFICATION REGISTRATION

REVIEW	DATE	PAGES CHANGED	REASON
00	29/01/2008	Not applicable	Initial version
01	17/01/2022	Not applicable	Initial version Adaptation of the document to the Management System model

2. RESPONSIBLE FOR THE DOCUMENT

DROPE is responsible for the update of this regulation document, on its own initiative, or under the proposal of the hierarchy.

QASST is responsible for codifying and making available the last updated version.

ADMIN is responsible for the approval and promotion of this document.

3. ACRONYMS AND ABBREVIATIONS

Not applicable.

4. PURPOSE

Not applicable.

5. SCOPE

Not applicable.

6. PROCEDURE

REGULATION OF EXPLOITATION AND USAGE OF THE MARINAS OF THE AZORES

Considering that the exploitation and use of the marinas of the Autonomous Region of the Azores are infrastructures of high importance for the Region, both in the development of quality tourism and providing a service to the population of the Archipelago;

Considering that it is required to have a Regulation which assures a proper and normal operation of the marinas, as well as uniform rules;

Thus, with the implementation of the Regulation of the Tariff System of the Ports of the Autonomous Region, approved by Regional Legislative Decree No. 14/2002/A, of April 12, the port authority of the Azores has the duty to submit for approval by the Regional Secretary with competence in the port sector, the Regulations for the operation of the marinas of the Autonomous Region of the Azores.

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CHAPTER I - General dispositions**Article 1 - Subject**

1. The operating entity responsible for the marinas under the jurisdiction of Portos dos Açores, S.A. designated by Marinas, is Portos dos Açores S.A. itself.¹
2. The marina explorer shall be obliged to disclose to its users, by the means they consider most appropriate, the rules contained in this Regulation, the opening hours and tariff to be applied in each marina.

Article 2 - Area of application

The usage of the marinas is guided by the dispositions stated in this Regulation, which are applicable to all users who are inside the marinas' area of exploitation.

Article 3 - Definitions

In order to interpret the current Regulation correctly, a list of expressions is presented below:

- a) "Marina's exploitation area" – areas for the use of recreational and sea-tourist vessels, as well as inherent activities, under the jurisdiction of Port Administration;
- b) "Marina Administration" – Is the entity that operates and manages the marinas;
- c) "Berthing contract" – contract which is celebrated between the marinas explorer and the user in relation to short or long-term berthing;
- d) "Pleasure craft boat" – boat which is registered as such by the competent authorities, destined to be used for leisure or nautical sports, on a non-profit basis;
- e) "Maritime tourism boat" – boat which follows the rules of the Regulation of Maritime Tourism Activities of the Azores, approved by the Regional Legislative Decree no. 23/2007/A, from the 23rd of October;
- f) "Berthing" – boats that berth within the marinas' area of exploitation;

¹ Following the Regional Legislative Decree no. 24/2011/A, of 22 August 2011, Portos dos Açores, S.A. was created as a result of the merger of the three Port Administrations existing so far and which were part of Portos dos Açores SGPS, APSM, S.A. (Administração dos Portos das Ilhas de São Miguel e Santa Maria), APTG, S.A. (Administração dos Portos da Terceira e Graciosa) and APTO, S.A. (Administração dos Portos do Triângulo e do Grupo Ocidental), therefore, the change of the its no. 1 of article 1 of the Regulation of Exploitation and Usage of the Marinas of the Azores, approved by the Guardianship, on January 29th, 2008, as set out in the annex.

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- g) “Dry docking” – boats that stay on land, in the appropriate areas;
- h) “Short-term berthing” – berthing for less than one year;
- i) “Long-term berthing” – berthing for one year or more;
- j) “Marinas” – recreational ports and nautical recreation centres which operate under the jurisdiction of the Port Administration;
- k) “Non-residents in the Azores” – everyone not included in paragraph o) of the current regulation;
- l) “Berth” – place destined for mooring boats to a fixed or floating structure;
- m) “Owner” – a singular or collective person which owns the boat’s registry certificate;
- n) “Representant” – a singular or collective person, duly credited, which represents or replaces the owner for all due intents, including taking charge of the boat;
- o) “Residents in the Azores” – everyone who resides in the Azores, in the terms of the general law, subject to be proven by the competent authorities;
- p) “Client” – everyone who uses any of the marinas’ facilities or services.

Article 4 - False and incorrect statements

1. False statements given by the boat’s owner are a violation of the norms defined in this Regulation and can lead to the immediate rescission of the contract or the overruling of the authorisation request.
2. The above point will be applicable to anyone who does not supply mandatory information or if the given information is insufficient.

Article 5 - Duty of information

1. The Marina Administration is required to supply, orally or in writing, in whatever way requested, all the information needed by the client, and related to its normal functioning.
2. The owner or the co-owner’s phone number and address have to be delivered in the Marina’s services in order to contact them in case of emergency.
3. The infringement of the above point will be punishable with a fine from € 25,00 to € 1000,00.

Article 6 - Liability for damage

1. The clients must use the marinas with care and take the necessary precautions to avoid accidents, given the natural risks to which the port facilities are subject.
2. The entity which exploits the marinas will not take responsibility for any accidents that may happen to its clients inside the marina's area of exploitation, nor for any accidents which may occur during its usage or during handling of the boats, unless the motive can be imputable.
3. The entity which exploits the marinas, unless the motive can be imputable, will not take responsibility for any damage in boats or assets, nor for any damage that may occur in the berthing area and in the dry docking area, caused by adverse weather conditions or similar.
4. The owners of the boats will take responsibility for all acts and conducts performed by their crew, guests or others.
5. Only the owners of the boats and their representatives are responsible before the entity which exploits the marinas as far as the deficient and the improper usage of the berths is concerned.
6. The owners of the boat are the sole responsible for its maintenance and for keeping it in good floatability and safe navigability conditions.
7. For all due purposes of everything stated in the above points, the following motives are considered to be imputable to the marinas' exploiting entity:
 - a) The lack of proper and permanent surveillance;
 - b) Improper maintenance that may eventually lead to accidents;
 - c) The lack of proper signalling of restricted areas.

Article 7 - Usage of the facilities

1. All clients will have to use the facilities according to the current Regulation, or other Regulations that may be created, as well as to accept the established ways and manners, namely when it comes to:
 - a) Keeping the boats clean and well conserved;
 - b) Having proper fenders, also well conserved and correctly placed, thus protecting the boat and assets belonging to other clients and to the marinas' exploiting entity;
 - c) Circulating inside the marinas respecting legal speed limits, as well as signalling, without jeopardizing the security of people and assets;

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- d) Clearing the access ways to locations where cranes, ramps and fuel pumps are installed, as well as to the surrounding area, so that there are no obstructions and no risks inherent to operating that equipment;
 - e) Not mooring to the floating pontoons;
 - f) Not throwing solid or liquid waste or other substances to the ocean, rather using proper containers that exist in the facilities;
 - g) Not disturbing the other clients through whatever means in general, or through the usage of the boats.
2. The Marina Administration is obliged to offer the usage of the marinas according to the law and regulations in effect, to provide customers with normal conditions of security, cleanliness and restfulness, thus assuring:
- a) The interdiction of people to the pontoons, unless they are the owners or guests;
 - b) The interdiction of activities which may disturb the clients of the marina, in the terms of the law;
 - c) The signalling of the reception peer;
 - d) The maintenance of the pontoons and berths;
 - e) The suppliance of identity cards to the boats owners or co-owners.

Article 8 - Prohibitions

1. The following behaviours, besides other acts stated in the legislation or regulations in effect, are forbidden:
- a) Boating at a speed higher than three knots inside the harbour and on its entrance and exit;
 - b) Advertising of any kind, unless authorized by the entity which exploits the marinas;
 - c) Establishing electrical connections to terminals with plugs not advised by the Marina Administration;
 - d) Making fires, throwing waste or handling and abandoning objects that may damage the floating pontoons or harm other clients;
 - e) Making repairs to boats that are moored, without authorization from the Marina's Administration, as well as using the floating structures as a support to the repairs;
 - f) Cleaning and washing with products that may harm the floating pontoons;

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- g) Using mooring systems that might need shackles or other metallic pieces to connect to the cleats;
 - h) Landing fish, unless it is duly packed;
 - i) Fishing, underwater hunting, swimming or diving, unless it is previously authorised;
 - j) Walking animals, unless they have a health bulletin, and don't cause any kind of disturbance to the clients;
 - k) Dumping oil, toxic residues or any other kind of harmful products coming from the cleanliness of the boats.
2. The infringement of the above point will be punishable with a fine from € 25,00 (minimum) to € 1000.00 (maximum);

CHAPTER II - Entry, stay and exit from the marina

Article 9 - Entry formalities

1. When entering the Marina all boats must have the Portuguese flag, as well as the flag of their own nationality, raised.
2. During their permanence in the Marina, all boats should hoist, in the same mast, and immediately below the Portuguese flag, the Autonomous Region of the Azores flag, as well as their own nationality flag, at stern.
3. When entering the Marina, all boats, except in cases of emergency, must berth at the reception quay in order to follow the necessary formalities:
 - a) Settlement of the boats check-in procedure in the reception services;
 - b) The complying of all required legal obligations before the Maritime Authorities;
 - c) Payment of a deposit for a berth place, as referred to in article 28.
4. Whenever the circumstances demand, the berthing manoeuvre can be assisted by the Marina's maritime staff.
5. The infringement of the above point will be punishable with a fine from € 25,00 (minimum) to € 1000,00 (maximum).

Article 10 - Obligations

1. While staying at the Marinas, the owner of the boats, or their representatives must:

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- a) Maintain boats in a duly legalised situation before the Marinas' services, the Maritime Authorities and Customs;
 - b) Keep the boats well tied in their berths and with proper fenders, so that no exterior parts can damage the floating docks and prevent free passage;
 - c) Keep the exterior of the boats clean and tidy;
 - d) Keep the name and the port registration of the boat in a visible place;
 - e) Respect the essential rules of good neighbourhood;
 - f) Pay attention to the Marina's administration rules regarding mooring, noise, other forms of pollution, and illumination intensity levels;
2. During the time that the boats are berthed, the owners of the boats or their representatives must inform the administrative services of the marina when they intend to be absent, indicating the best way to contact them in case of need.

Article 11 - Authorizations

Only the Marina Administration can authorize the permanence of the boats in the liquid area of the Marina, namely in berth places, quay zone and in other Marina's area of exploitation.

Article 12 - Usage periods

The authorizations mentioned in the preceding article are granted for undetermined time and accordingly to what is mentioned in the present Regulation.

Article 13 - Counting of usage periods

1. Berthing contract invoices are made following indivisible periods of time of one day, thirty days, ninety days, one hundred and eighty days, and one year.
2. Mooring fees are understood to be for indivisible periods of 24 hours.
3. Tariffs which are applied to contracts mentioned on no. 1, as well as to other rendered services are present, either in the Marina's Regulation of Tariffs or in the Port Administration Regulations of Tariffs.

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CHAPTER III - Usage of the berthing places**Article 14 - Short and long-term berthing**

1. The usage of berthing places can be divided into:
 - a) Short-term berthing;
 - b) Long-term berthing.
2. The violation of the previous number subjects the infringers to the sanctions foreseen in this Regulation.

Article 15 - Berthing authorizations

1. The request for a long-term berthing contract must be presented in the Marina office, and must be accompanied by the boat's certificate of registry.
2. After the approval of the request mentioned above, the celebration of the berthing contract can only be made through the presentation of an insurance document which covers possible damages caused by the boats, within the Marina's area of exploitation.
3. After the celebration of the contracts, all clients must occupy their respective places in four months, otherwise they might be considered invalid.
4. The authorization requests which cannot be authorised due to the lack of berthing places will appear on a list organized by age and class. This list will be posted in a visible place in the marina's reception service.
5. The documents required above can be replaced by copies.

Article 16 - Parking

Reducing the time previously established in the berthing contract for reasons not attributable to the Marina does not imply the return of the amounts already invoiced to the clients.

Article 17 - Renewal of the berthing contracts

Berthing contracts can be renewable for equal periods of time, with prior approval of the Marina's Administration, with the exception of the long-term contracts which are automatically renewed for periods of one year, since there is compliance to what it's referred in this Regulation.

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Article 18 - Rescission of contract

1. Long-term contracts can be rescinded through the following terms:
 - a) At the request of owners, with 30 days notice regarding their expiration date;
 - b) By the Marina Administration if there are any outstanding debts after the 90 days foreseen by the law or stipulated in the contract;
 - c) By the Marina Administration if, within 60 days, the owners do not deliver in the marina's reception the documents mentioned in article 15 of this Regulation;
 - d) By the Marina Administration if the owner of the boat or its representative don't use the berthing place for one year or more;
 - e) By the Marina Administration if the client doesn't meet the standards set in the present Regulation or its orders and instructions which are necessary for the Marina's good functioning;
 - f) By the Marina Administration if the berths are used to any other purpose than those included in the contract;
 - g) By the Marina Administration if an unauthorized cession of the rights which are present in the contracts is given.
2. For the purposes of the preceding paragraphs it is considered a serious matter when the Marina's client doesn't respect the orders, instructions and obligations requested by the Marina, 30 days after its request.
3. If the penalty is the rescission of the contract, the clients, within 10 days can make an appeal to the Marina's Administration Board and to the Port Administration, which will assess the evidences and make a decision.
4. If the Marina Administration Board as well as the Port Administration decides to keep the penalty, the infringement of their decision might lead to the boat's removal.

Article 19 - Berthing authorizations

1. The permission to berth is granted to a singular or collective person who owns the boat's registry certificate.
2. What is mentioned in the previous paragraph doesn't prevent the possibility of changing the boat, as it is mentioned on article 21.

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3. If there is extinction or a change of title, the boat's owner loses his right to use his berth, except if the title is legally transmitted to one or more shareholders that must attest their legal situation to the Marina Administration.
4. The evidence mentioned in the preceding paragraph only refers to long-term moorings and must be presented within 30 days from the date of the change's request.
5. In case of collective ownership it is everybody's responsibility if any damage caused by themselves or by their boats occurs within the Marina's area of exploitation.
6. Any change of ownership must be communicated to the Marina Administration, within 30 days.
7. The infringement to what is mentioned in the numbers 1, 3 and 6 will lead to the removal of the boat and will be punishable with a fine from € 25,00 (minimum) to € 1000,00 (maximum).

Article 20 - Transfer of berthing place

1. Only the Marina Administration can transfer a long or a short-term berthing place.
2. The transfer of a long-term berthing place can happen due to someone's death. In this situation, the heir-at-law must present to the Marina's administration a legal document confirming his situation within 30 days.

Article 21 - Boat exchange

1. Whenever the owner or the shareholders of the boat want to exchange the boat, they must communicate this situation to the Marina's authorities indicating the characteristics of the boat and the present the boat's registration certificate.
2. The physical dimensions and characteristics of the boat must be compatible with its berthing place.
3. If the above situation does not occur the owner of the boat should request a new berth to the Marina Administration.

Article 22 - Cession of berths

1. All clients must first inform the Marina Administration when their berthing places will be available for more than 24 hours and the date of their reoccupation.

2. The infringement of the above point offers the Marina's Administration the possibility to allow the usage of the available berthing place. In this case the owner of the boat cannot demand an immediate removal of the boat that might be occupying his place.
3. Berthing places which are available for more than 24 hours will be exclusively managed by the Marina's Administration.
4. Marina's clients are not allowed to give their berthing places to anyone.
5. Whenever the Marina's Administration gives a temporarily available berth to another boat, the owners of the boats with short or long-term contracts don't have the right to be refunded.
6. Marina's clients with long-term contracts can receive a refund whenever they communicate to the Marina Administration that their berthing place will be available for 180 days or more and when, during this period of time, their places are occupied by other boats.
7. Only the Marina's Administration can give, through an onerous title, a berthing place.

Article 23 - Temporary or permanent berth change

1. The Marina Administration can remove or change a boat to another compatible berthing place, whenever necessary.
2. The power granted in the preceding point may be applied to any boat.
3. The Marina's Administration must communicate previously to the owner of the boat the necessity to remove or change the boat from its berth, except in case of emergency.
4. The owner of the boat doesn't have the right to receive an indemnification whenever his berthing place is temporarily or permanently occupied.

CHAPTER IV - Other services and utilizations

Article 24 - Dry docking parking

1. The Marina Administration will authorize dry docking parking whenever there is an available place.
2. Dry docking parking can only occur during a short period of time and can only exceed a maximum of 90 days if there are acceptable and justifying motives, and depending of the availability of places.
3. Dry docking parking can be authorized for boats that are berthed in the marina or for any other boats whenever necessary.

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4. Dry docking parking doesn't imply the return of the amount already paid for the berth utilisation.
5. The infringement of the above point will lead to the removal of the boat and will be punishable with a fine of € 25,00 (minimum) to € 1000,00 (maximum).

Article 25 - Damage and unavailability of the equipments

The Marina Administration doesn't take any responsibility for possible damages on water, electronic and sanitation supply systems as well as in communications network and any unavailable equipment.

Article 26 - Environmental care

1. The clients must leave the dry docking parking area clean, otherwise the Marina can charge for waste removal.
2. The clients must use ecological products for all cleaning and/or treatment operations.
3. Dangerous waste like batteries, oil, paint or hydrocarbon should be placed into receptacles provided to receive such waste materials and located in the Marina, dry dock or other places specifically indicated by the Marina's services.
4. The infringement of the above point will be punishable with a fine from € 25,00 (minimum) to € 1000,00 (maximum).

CHAPTER V - Final dispositions

Article 27 - Tariff

1. The usage of the Marina's services such as parking, laundry, mooring, towage, and hoisting services is subject to the application of the Marina's or the Port Administration Tariff Regulations.
2. Berthing fees as well as all services rendered by the Marina have to be paid in the Marina's reception, in accordance with the berthing contracts and the invoices' deadlines.
3. The loss, sale, abandonment or modification of the boat for other purposes doesn't invalidate the payment of the fees mentioned on no. 1.

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Article 28 - Payment of fees

1. The payment of fees can be made by any legal means, safe for exceptions foreseen in the law.
2. In order to assure the payment of fees, the Marina can require a deposit, a caution, insurance, a bank guarantee or any equivalent forms.

Article 29 - Coercive payment

The Marina can charge interest for the late payment of the amounts invoiced, until its settlement. Moreover, it can also require coercive payments and apply the sanctions established in this Regulation.

Article 30 - Claims

The clients have the right to claim about any situation that might have offended their moral and/or physical integrity in an appropriate book, authenticated by the competent Authority.

Article 31 - Car parking

1. The owners of the certificate of registry of the boat are allowed to have access to the Marina's parking area.
2. Whenever the clients use their boats, their vehicles can stay parked in the available parking area of the Marina. Moreover, all cards must have an identification card from the Marina or a photocopy, located in a visible place.
3. Due to security reasons, the Marina can restrict or prohibit the access of vehicles to the parking area, for specific periods of time.
4. The infringement of the above point will be punishable with a fine from € 25,00 (minimum) to € 1000,00 (maximum).

Article 32 - Supervision and sanctions

1. The Marina Administration is responsible for the supervision and the accomplishment of the present Regulation.
2. The Port Authority with jurisdiction in the area is not only responsible for the prosecution of the processes regarding the sanctions foreseen in this Regulation, but also for the application of fines or other accessory sanctions.

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3. The Marina Administration will inform the several Public Authorities (Maritime, Public Security and Customs) about any infringement concerning the security rules, discipline and client's behaviour, present in this Regulation or in the Legislation in force.

Article 33 - Validity

The Marina Administration can change the present Regulation whenever it is convenient or necessary, after the approval of the competent entity.

7. DOCUMENTATION RELATED TO THE ACTIVITIES DESCRIBED

Not applicable.

8. DEFINITIONS

Not applicable.

9. ANNEXES

Aprovado
29-1-08
DA

REGULAMENTO DE EXPLORAÇÃO E UTILIZAÇÃO
DAS MARINAS DOS AÇORES

Considerando que a exploração e utilização das marinas da Região Autónoma dos Açores, são infraestruturas de elevada importância para a região, quer no desenvolvimento do turismo de qualidade, quer ainda na prestação de um serviço à população do Arquipélago.

Considerando que quer para o bom e normal funcionamento das marinas, quer para a eficiência na exploração e aproveitamento das mesmas, é necessário a existência de um regulamento que consagre a uniformidade das suas normas de utilização,

Assim, com a entrada em vigor do Regulamento do Sistema Tarifário dos Portos da Região Autónoma dos Açores, aprovado pelo Decreto Legislativo Regional n.º 14/2002/A, de 12 de Abril, ficam as autoridades portuárias da Região Autónoma dos Açores com o dever de submeter para aprovação do Secretário Regional com competência em matéria do sector portuário, o Regulamento de exploração das marinas da Região Autónoma dos Açores.

CAPÍTULO I

Disposições gerais

Artigo 1.º
Objecto

1- As entidades exploradoras e responsáveis pelas marinas sob a jurisdição das Administrações Portuárias da Região Autónoma dos Açores, adiante designadas por marinas, serão a Administração dos Portos do Triângulo e do Grupo Ocidental S.A., a Administração dos Portos da Terceira e Graciosa S.A., e a Administração dos Portos de São Miguel e Santa Maria, S.A.,

2- As entidades exploradoras das marinas ficam obrigadas a divulgar junto dos seus utentes, pelos meios que considerarem mais adequados, as normas constantes do presente Regulamento, o horário de funcionamento e o tarifário a aplicar em cada marina.

Artigo 2.º
Âmbito de Aplicação

A utilização das marinas rege-se pelas disposições constantes do presente Regulamento, aplicável a todos os utentes que se encontrem a qualquer título dentro da zona de exploração.

Artigo 3.º
Definições

Para efeitos de interpretação do presente Regulamento, entende-se por:

10. SOURCES AND BIBLIOGRAPHY

Not applicable.

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