
Law 13/2011, of 27 May, on the regulation of gambling.

Head of State
"BOE" number 127, 28 May, 2011
Reference: BOE-A-2011-9280

CONSOLIDATED TEXT
Latest modification: 5 June 2013.

JUAN CARLOS I

KING OF SPAIN

Addressed to those who should witness and hear the document herein

Let it be known: That the Parliament has issued its approval and I hereby enact the following Law.

PREAMBLE

I

Ever since gaming was decriminalised by Royal Decree-Law 16/1977, of 25 February, which regulates the Penal, Administrative and Fiscal Aspects of Games of Chance, Betting and Gambling, and mainly due to the advent of the new electronic communication services and the use of interactive online gaming, the traditional conception of gaming has radically changed in both Spain and other surrounding countries.

The legal framework for gaming has hardly changed in many years. However, recently, as a consequence of the previously mentioned advent of online games and betting and the fact the territorial borders of traditional commercial relationships have been crossed, the doctrine of the European Court of Justice has pointed out the need to establish a proportioned gaming offer.

Parallel to this change are new operators who have appeared in the gaming market and for whom the legislation in force fails to offer an adequate regulatory answer.

The lack of appropriate regulatory instruments for responding to the questions that stem from the new market situation of the market has created the need to establish new regulatory mechanisms in the gaming sector that offer legal security to operators and participants in the different games, without forgetting the essential protection of minors, of those people who, at their own will, have requested not to participate, as well as the protection of public order and the prevention of phenomena of money laundering and terrorist financing.

II

Advances in communication services and, as a result of applying them to gaming, the dissociation of this type of territorial activities, have brought on the need to initiate a new route for gaming regulation, to ensure greater efficiency in compliance with the unavoidable targets of safeguarding and socially protecting minors and gaming participants, while trying to reach other aims such as preventing fraudulent activities and money laundering; all this via a proportional gaming offer, regulating those games that can be authorised, as well as the public control of the sector.

The said targets, as well as the need to provide the sector with an adequate regulation, have appeared in different parliamentary initiatives and in petitions made to the Government such as that established, on a national scope, in additional Provision twenty of Law 56/2007, of 28 December, on Measures to Promote the Information Society and, at a Community level, in the European Parliament Resolution of 10 March, 2009, on the integrity of online gambling.

In conclusion, with the maximum respect for the competency framework defined for the Constitution and Statutes of Autonomy, it is absolutely necessary to provide a new legal framework for gaming operation and management activities at a State level, paying special attention to those games that are played with electronic, computerised, telematic and interactive means and those in which personal attendance is of an accessory nature.

The development of a regulatory framework that responds to the needs of the gaming sector has to be carried out notwithstanding the total recognition of the powers on gaming matters that the Statutes of Autonomy grant the respective Regions, which, in some cases, include their capacity to collaborate in exercising State powers related to gaming activities. This circumstance has made it necessary to design asymmetrical procedures and mechanisms that permit the necessary collaboration and coordination of the State and the Autonomous Regions in the exercise of the state powers on gaming matters.

III.

To comply and develop the mandate set forth in the previously mentioned additional Provision twenty of Law 56/2007, of 28 December, on Measures to Promote the Information Society, and with the aim of controlling gaming activities at a State level, especially if they are carried out via electronic, computerised, telematic and interactive means, it has been necessary to establish a system for planning and accessing the development of the activity, determine State powers on matters related to regulation and control and define a system of infringements and sanctions that guarantee the effectiveness of the regulatory framework.

Consequently, these aims represent one of the essential purposes of this Law and that must form the sectorial standard of reference for matters related to gaming operation via electronic, computerised, telematic and interactive means at State level, whilst ensuring the coordination or integration of the regulation that is now being approved with the general standard for gaming activities in our country, and with other sectorial standards over which our Law could have influence, such as, for example, the General Advertising Law 34/1988, of 11 November, Organic Law 15/1999, of 13 December, on Personal Data Protection and other complementary regulations, and Law 34/2002, of 11 July, on Information Society and Electronic Commerce Services.

This Law, based on the existence of a proportional offer, aims to regulate how national gaming activity operation is accessed, likewise opening the sector to a variety of gaming. However, it is an opening of the sector that should be controlled for the purpose of guaranteeing the safeguard of all the interests involved and preserving public order with full respect for the main principles that inspired Community Law.

The high volume of games associated to lotteries, as well as the possibility that a type of document that pays the holder for their lottery tickets can be used

as an instrument for laundering money, requires reserving this activity for specific operators, whether they be public or private, that must remain subject to a strict public control, thus ensuring that the interests of the State against fraud and crime are protected, therefore preventing the damaging effects of gaming for consumers.

In this respect, it is totally necessary to exclusively reserve national lottery operation in favour of the publicly owned National Lottery and Betting Organisation and the National Organisation for Blind People in Spain (ONCE), since they are gaming operators that, to date, have been offering these lotteries in a controlled manner.

The publicly owned National Lottery and Betting Organisation will continue to be subject to a public system that controls its activity given the high gaming volume it manages and its extensive commercial network, which has been well rooted in Spain for over 250 years. On the other hand, the National Organisation for Blind People in Spain (ONCE), which since 1938 has been established in Spain as a unique social institution with the purpose of caring for disabled people, will continue to maintain its legal singularity regarding gaming activities, as established in additional Provisions one, two and three of the Law herein.

With this purpose, the Ministry of Economy and Finance and the National Gaming Commission are entrusted with establishing the authorising procedures and adopting the measures that can monitor and control operators that offer reserved gaming activities by virtue of this Law herein, and controlling the compliance of any conditions that may be established, especially in relation to protecting public order and preventing money laundering and terrorist financing.

IV

With maximum respect for the powers of the Autonomous Regions, the Law herein is based on numbers 6, 11, 13, 14 and 21 of Section one of Article 149 of the Spanish Constitution and on the reiterated doctrine of the Constitutional Court, stated in numerous judgements, among which it is worth noting number 163/1994, of 26 May, which declares the existence of a State power on gaming matters must be exercised by the State on behalf of general interest, notwithstanding the recognised powers regarding gaming matters of the Autonomous Regions in their respective Statutes of Autonomy.

State-wide gaming regulation has been drafted in accordance with the mandate mentioned in Section six of additional Provision twenty of Law 56/2007, of 28 December, on Measures to Promote the Information Society. However, the State powers for gaming matters must be understood without prejudice of the full recognition of the powers that in this matter the Statutes of Autonomy grant their respective Autonomous Regions, which has made it necessary to design coordination procedures and mechanisms between the State and the Autonomous Regions. For these purposes, the Gambling Policy Council is created as an associated body that shall ensure the participation of the Autonomous Regions in setting the principles of gaming standards and protective measures for minors and dependent people. In all cases, the actions taken by the State and Autonomous Regions associated to granting licences shall be coordinated by the Gambling Policy Council.

The Law herein establishes that the regulation for gambling and gaming activities carried out via electronic, computerised, telematic and interactive channels and in person shall be of an accessory nature, except the "in person" gaming activities marked as reserved and developed by the bodies the law appoints that, due to their nature, are the exclusive competence of the State.

With the purpose of totally respecting the powers of the Autonomous Regions for "in person" gaming, this Law obliges the Autonomous Regions to issue a report on the permits that could affect their territory. To grant any type of authorisation

to set up or open "in person" gaming premises open to the public or install equipment that enables people to participate in the games, administrative authorisation will be required from the Autonomous Region, which will be granted in accordance with their own proportional gaming policies for each one of them.

V

The Law herein is divided into seven titles, with 49 articles, six additional provisions, nine temporary provisions, one repealing provision and 11 final provisions.

Title I, "Purpose and Scope of Application", regulates the purpose of the Law and its area of application, from both an objective (regulated activity) and territorial perspective (ambit of the activity). Thus, the scope of said standard extends to all activities related to the organisation, exploitation and development of gaming activities at a State level played via electronic, computerised, telematic and interactive means, in which "in person" means are of an accessory nature, as well as the advertising associated with the same, whenever the activities are directed towards the whole State, adopting the competent distribution criteria established in other sectorial standards, such as Law 34/2002, of 11 July, on Information Society Services and Electronic Commerce. Likewise, it includes different definitions of games, including those of a sporadic nature, and it establishes the reservation and control system for lotteries.

Title II, "General Provisions", contains gaming requirements, as well as the objective and subjective prohibitions of the activities being regulated, anticipating the creation or adaptation of the necessary administrative instruments to guarantee compliance with subjective prohibitions. In the same manner, gaming advertisements are regulated under the protection of the State powers referred to in Section one of Article 149 of the Spanish Constitution, with the individual regard to the protection of minors, guaranteed in Section four of Article 20 of the Spanish Constitution. Additionally, it includes the principles and practices to be adopted in order to protect public order, guaranteeing gaming integrity, as well as preventing and mitigating gambling addiction and the harmful effects it could produce, while simultaneously optimising the benefits for society.

Title III, "Operating Permits", establishes the features of the different types of permits, licences and authorisations, and the authorising system applicable to operators as gaming operators, anticipating a granting procedure that respects the general principles of Community Law.

Title IV, "Control of the Activity", establishes the minimum technical requirements that are subject to a higher level of specification by means of a later specific regulatory development, which must be met by the equipment and technical systems that support the activity of authorised games and which must guarantee the access to games played via telematic and interactive means is blocked for minors and disabled people and other people who, either at their own will or as the consequence of a legal judgement, are forbidden to play.

Title V, "Gaming Administration", establishes the powers that correspond to the Ministry of Economy and Finance in regard to gaming matters. A regulating body is created, the National Gaming Commission, which has been granted all the necessary powers to safeguard and ensure the integrity, security, reliability and transparency of gaming operations, as well as compliance with the regulations in force and the conditions established for operating games. Furthermore, this sole regulating body shall channel demand, proportioning the offer for gaming activities, preventing the exploitation of gaming activities with fraudulent aims and establishing the appropriate framework for protecting minors and preventing phenomena such as dependency. Lastly, the Gambling Policy Council is established as the participating body of the Autonomous Regions.

Title VI, "Sanctioning System", establishes the infringement and sanction system related to the activities that comprise the subject matter of the Law herein, as well as the sanctioning procedure, including provisions for acting against unauthorised gaming by

means of blocking the activity that can be carried out via electronic, computerised, telematic and interactive means.

And, finally, Title VII, "Taxation System", pursuant to the provisions established in additional Provision twenty of Law 56/2007, of 28 December, on Measures to Promote the Information Society, determines the tax system applicable to the development of the games regulated in the Law herein, notwithstanding the maintenance of what is established in Articles 36 and following of Decree 3059/1966, of 1 December, approving the Consolidated Text for Tax Rates and in Royal Decree

-Law 16/1977, of 25 February, regulating Penal, Administrative and Fiscal Aspects of Games of Chance, Betting and Gambling, which will remain in force as regards the tax rates assigned within the scope of their competence.

This new state-wide tax is applied to gaming operations, as well as random combinations with advertising or promotional purposes, even though they are not games.

Besides the foregoing, the participation Autonomous Regions in the new gaming tax is regulated by means of assigning the corresponding tax income obtained from games played by the residents in each Region. The State will reserve the tax income on behalf of the players who do not reside in Spain and the amount that corresponds to State mutual sports betting and State parimutuel horse racing betting.

As mentioned, the new tax does not affect the rates for gambling in force, which is compatible with the current rates, still considered to be taxable income assigned wholly to the Autonomous Regions.

Lastly, a tax rate is established for the activities and services offered to the operators by the National Gaming Commission.

VI

The Law herein has been submitted to the information procedure of the standards, technical regulations and regulations related to information society services, regulated in Royal Decree 1337/1999, of 31 July, for the purposes of complying with what is stipulated in the European Parliament and Council Directive 98/34/EC, of 22 June 1998, amended by the European Parliament and Council Directive 98/48/EC, of 20 July 1998.

TITLE I

Purpose and Scope of Application

Article 1. *Purpose.*

The purpose of this Law is to regulate gaming activities, in their different forms, developed within the scope of the State in order to guarantee the protection of public order, as well as to fight against fraud, prevent addictive behaviour, protect the rights of minors and safeguard the rights of whoever participates in the games.

In particular, the Law regulates the gaming activities referred to in the previous paragraph when they are carried out via electronic, computerised, telematic and interactive means, in which "in person" means should have an accessory nature, as well as the games developed by bodies assigned by the Law herein to carry out activities marked as reserved, regardless of the channel used for advertising them.

Article 2. *Scope of Application.*

1. Included within the purpose defined in the previous Article, the following gaming activities are included in the scope of application of the Law herein, when the activity is carried on a State level:

a) Gaming activities associated to lotteries, betting and any other which is understood to mean any activity involving risking sums of money or items of economic value in whatever form, on future and uncertain results which depend to some degree on chance, and which allow these sums to be transferred between the participants, regardless of whether the level of skill of the players is decisive in the results or they depend wholly or fundamentally on luck, stakes or chance.

b) Raffles and contests in which participation is carried out by means of a monetary consideration.

c) Games played occasionally, which are differentiated from the other games mentioned in previous paragraphs due to their sporadic nature.

d) Cross-border gaming activities; that are games conducted by legal persons who reside outside Spain and who organise or offer gaming activities to Spanish residents.

Likewise, the scope of application of the Law herein includes activities related to advertising, promotion and sponsorship related to the gaming activities listed in this paragraph.

2. The following are excluded from the scope of application of this Law:

a) Games or contests played purely for leisure, as a hobby or for recreational purposes, which constitute social uses and are played within the scope of the State, as long as they do not produce economically assessable transfers, with exception of the cost for using the means required for playing and when this does not represent financial profit for the promoter or operators of any type.

b) Gaming activities carried out via electronic, computerised, telematic or interactive means not included within the scope of the State.

c) Random combinations with advertising or promotional aims, notwithstanding what is established under Title VII of the Law herein.

Article 3. Definitions.

For the purposes of the Law herein, the terms used shall be interpreted in the manner established in this Article.

a) Game. Gaming is understood to mean any activity involving risking sums of money, or items of economic value in whatever form, on future and uncertain results which depend to some degree on chance, and which allow these sums to be transferred between the participants, regardless of whether the level of skill of the players is decisive in the results or they depend wholly or fundamentally on luck, stakes or chance. The prizes may be in cash or in kind, depending on the type of game.

b) Lotteries. Lottery is understood to be a form of gambling which involves giving prizes to the holders of a number or combination of numbers and signs on a ticket or electronic equivalent drawn at random on a preset date or prior programme in the case of instant or pre-drawn lottery. Lotteries are marketed in tickets or any other means to participate with a material, computerised, telematic, telephonic or interactive support.

c) Bets. A bet is understood to be a gaming activity in which sums of money are risked on the results of a previously determined event, whose final result is uncertain and unknown to participants. The sum of the prize money depends on the amounts risked or other factors that are previously set by the regulation of the specific type of bet.

Depending on the event on whose result the bet is placed, it can

correspond to:

1. Sports betting: the competition to predict the result of one or several sporting events, included in the programmes previously established by the organising body, or based on sporting facts or activities that form part or are carried out by the gaming operators within the framework of such events or competitions.

2. Horse racing betting: the competition to predict the result of one or several horse races included in the programmes previously established by the organising body.

3. Other betting: the competition to predict the result of one or several events other than those listed above included in the programmes previously established by the gaming operator.

Depending on the organisation and distribution of the sums bet, the bet can be:

1. Parimutuel betting: a game in which a percentage of the sum of the amount bet is distributed among the betters who have correctly guessed the result associated with the bet.

2. Fixed odds betting: a game in which the person betting bets against a gaming operator. The prize is obtained by multiplying the sum of the winning predictions by the coefficient the operator has previously validated for the same.

3. Cross betting: a game in which an operator acts as an intermediary and guarantor of the amounts bet between third parties, subtracting the amounts or percentages the operator has previously set.

d) Raffles. A raffle is understood to be a type of game that consists in adjudicating one or several prizes by means of holding a raffle or random selection among the people who have purchased tickets or any other documents or supports for participating that are different to one another, whether they are of a material, computerised, telematic or interactive nature. The raffle takes place on a previously determined date and always when an economic contribution has been required for playing. Raffle prizes may include movable or fixed assets, livestock or rights linked to the same, as long as the prizes are not money.

e) Contests. A contest is a type of game that is offered, played and resolved via a means of communication, whether it be television, radio, the Internet or any other, as long as the gaming activity is connected or subordinated to the main activity. In order to have the right to obtain a prize, either in cash or in kind, participation in this type of game is carried out either directly, by means of a financial outlay, or through telephone calls, the sending of text messages or any other electronic, computerised or online procedure for which there is an additional tariff system. It does not matter if prizes are awarded only on the basis of chance or if they are also based on successfully completing contest, knowledge or skills tasks.

For the purposes of the present definition, contests will not be understood as those programmes in which although there is a prize, the contestant does not have to pay any money to participate, whether directly or by means of telephone calls, sending text messages or using any other electronic, computerised, telematic or interactive procedure for which there is an additional rate.

f) Other games. These correspond to all games that do not match the definitions above, such as, for example, poker or roulette, in which there is a component of randomness or luck and those in which sums of money or financially assessable items are risked.

g) Games played "in person". These correspond to the games in which the bets, predictions or combinations have to be formulated inside an establishment of a gaming operator via an online terminal, either by presenting a ticket, pamphlet or a specially established document on which the predictions, combinations or bets have been assigned, either typing them into the corresponding terminal or requesting the terminal to automatically assign them, based on luck. Any one of the previously mentioned formulas will be transmitted to a central system and then the terminal will issue one or several receipts, which will contain at least the following information: the type of game and the form in which the participant can access or obtain the regulations or terms and conditions of the game, the predictions made, date, event or period in which the person is participating, number of bets or combinations played and control numbers. Besides the said receipt or receipts, there will be a sole receipt issued by the terminal located at the point of sale in question, which will contain at least the previously mentioned

information, and which constitutes the only valid instrument to request the payment of the prizes and the only evidence that the person has participated in the contest.

h) Games played by electronic, computerised, telematic and interactive means. These games use any mechanism, installation, equipment or system that makes it possible to produce, store or transmit documents, data and information, including any open or restricted network such as television, the Internet, mobile and landline telephones or any other, or interactive communication, whether it is in real or delayed time.

i) Random combinations with advertising or promotional purposes. These are understood to be raffles aimed exclusively at advertising or promoting a product or service, whose sole consideration is the consumption of said product or service, without surcharge or tariff, which offer cash, in kind or service prizes and, in certain cases, require registering as a client of the entity being advertised or promoted.

Article 4. Lotteries.

1. State lotteries shall be reserved for the operators appointed by Law.

2. It corresponds to the Minister of Economy and Finance to authorise the marketing of state-wide lotteries. The authorisation will set the conditions for gaming management regarding:

a) The minimum and maximum percentage destined for prizes.

b) The conditions and requirements for holding lotteries, when applicable, and the setting of the number of lotteries held.

c) The participants' rights and claim procedures.

d) The conditions under which it is allowed to carry out activities related to advertising and sponsoring of the authorised activities.

e) Measures to protect minors, dependent persons and to prevent fraud and money laundering and terrorist financing under the terms stipulated in Law 10/2010, of 28 April.

3. In regard to the operation and marketing of lotteries, authorised operators shall cooperate with the State to eradicate illegal games, pursue fraud and crime and prevent the harmful effects of gaming.

4. Authorised operators, notwithstanding compliance with the obligations referred to in Article 8 of the Law herein, will notify the National Gaming Commission about a Plan of Measures which specifies the additional commitments acquired by the operator stemming from responsible gaming management, participation in repairing its negative effects and the authorised operator's contribution to plans, projects or actions in benefit of society.

TITLE II

General provisions

Article 5. Gaming regulation.

1. The Ministry of Economy and Finance shall establish by Ministerial Order the basic regulations for developing each game or, in the case of one-off games, the general bases to approve playing or their development.

2. The establishment of the requirements to develop or modify the games, as appropriate, will be understood as authorisation for new types of games or permission to modify existing games.

3. Any type of non-regulated gaming will be considered forbidden.

4. Depending on the nature of the game, the regulation or bases will lay down the requirements in such a way as to prevent access to minors or disabled and prevent the use of any images, messages or objects that could either directly or indirectly violate the dignity of persons and their fundamental rights, as well as any possible form of

racial or sexual discrimination, incitement to violence or offensive activities.

Article 6. *Subjective and objective prohibitions.*

1. All activities are forbidden that are related to the organisation, operation and development of the games subject to the Law herein that, due to their nature or the object they deal with:

a) Violate people's dignity, right to honour, personal and family privacy and a person's image, the rights of young people and children, or any constitutionally recognised right or freedom.

b) Are grounded on committing offences, misconduct or administrative infringements. c) Are concerned with events forbidden by the legislation in force.

2. From a subjective point of view, the following people are forbidden to play the games subject to the Law herein:

a) Minors and people who have been declared disabled by law or judicial resolution, pursuant to civil legislation.

b) People who have voluntarily requested their access to gaming be prohibited or their access has been forbidden by a final unappealable court resolution.

c) Shareholders, owners, significant participants or members of the gaming operator, management staff and employees directly involved in the development of the games, as well as their spouses or the people with whom they live, first-degree relations, in the games managed or operated by them, regardless of whether any one of the foregoing directly or indirectly participates in the games through third-party individuals or legal entities.

d) Athletes, trainers or any other person who directly participates in the sporting event or activity on which the bet is placed.

e) The managers of participating sporting bodies or organisers related to the sporting event or activity on which the bet is placed.

f) The judges or referees who exercise their duties during the sporting event or activity on which the bet is placed, as well as the people who resolve appeals against decisions made by the judges or referees.

g) The Chairman, directors and executives of the National Gaming Commission, as well as their spouses or the people with whom they live, first-degree relations and all the National Gaming Commission staff who are in charge of carrying out inspections and controls of gaming matters.

h) Any others established in accordance with regulations.

3. With the purpose of guaranteeing the effectiveness of the previous subjective prohibitions, the National Gaming Commission shall establish the measures that, depending on the nature of the game and the potential damage for the participant, may be demanded from operators to ensure their effectiveness. Likewise, the General Register of Gaming Access Bans and the Register of People Linked to Gaming Operators will be created, both within the scope of the State.

Article 7. *Advertising, sponsorship and promotion of gaming activities.*

1. In accordance with General Law 34/1988, of 11 November, on Advertising, any form of advertising, sponsorship or promotion of games of chance or betting and the advertising and promotion of gaming operators is prohibited when advertising is not authorised in the authorisation.

To carry out gaming activities on audiovisual programmes, news media or websites, gaming operators must have an authorisation. This includes gaming activities in which participants must use telephone or text message-based premium rate services to obtain a prize.

2. Regulations shall establish the conditions that will be included in the respective permits that authorise advertising and their limits, especially in regard to:

a) Sending advertising or promotional communications by email or any other electronic or equivalent means, which will only be possible if it has previously been authorised by the recipient, pursuant to Section one of Article 21 of Law 34/2002, of 11 July, on Information Society and Electronic Commerce Services.

b) Inclusion of gaming advertisements or other advertising methods in means of communication and other advertising supports.

c) Sponsorship of sporting events on which bets can be placed.

d) Inclusion of posters that advertise gaming in places that hold events whose results are the object of betting or lotteries.

e) Television contests and the obligation to provide information about the essential requirements of the game.

f) Any others established in accordance with regulations.

3. Anybody, advertising agency, audiovisual or electronic communication service provider, means of communication or information society service that disseminates the direct or indirect advertisement or promotion of games or their operators shall confirm that whoever has requested the advertisements or advertising slogans holds the corresponding permit issued by the National Gaming Commission, which has given its permission to make the requested advertisement. Advertising shall be prohibited without the corresponding authorisation. Via its website, the National Gaming Commission will keep the information about authorised operators updated and accessible.

4. In the exercise of its administrative authority to request gaming advertisements to be stopped, the National Gaming Commission will address the corresponding body, advertising agency, audiovisual or electronic communication service provider, means of communication or information society service, stating the grounds for the infringement of the applicable regulations.

Within two calendar days, the body, advertising agency, electronic or audiovisual communication service provider or information society service shall communicate compliance with the requirement. In the event the advertised message was issued a previous positive enquiry report by a self-regulatory advertising system with which the National Gaming Commission has one of the collaboration agreements mentioned in Section 5 of Article 24 of this Law, it will be understood that the action was made in good faith if adherence was made to said previous positive enquiry report, in the event administrative action is taken within the framework of disciplinary proceedings.

Article 8. *Consumer protection and responsible gaming policies.*

1. Responsible gaming policies mean that gambling activities shall be approached from a comprehensive corporate social responsibility policy that considers gambling as a complex phenomenon in which preventive, awareness-raising, intervention and control measures must be combined, in addition to measures to remedy any negative effects caused.

The preventive actions will focus on raising awareness, informing and disseminating good gambling practices, as well as the possible effects that inappropriate gambling practices can cause.

Gaming operators shall draw up a series of measures related to mitigating the possible damaging effects that gambling may cause to persons, and they shall incorporate the basic regulations for a responsible gaming policy. Therefore, in regard to consumer protection it is necessary to:

a) Pay proper attention to risk groups.

b) Provide the public with the information needed to make a conscious choice about their gambling activities, promoting moderate, non-compulsive and responsible attitudes to gambling.

c) According to the nature and means used in each game, inform of the prohibition to participate in games by minors and persons included in the General Register of Gaming Access Bans, or in the Register of People Linked to Gaming Operators.

2. Operators will be unable to grant loans or any other type of credit or financial assistance to participants.

TITLE III

Authorising permits

Article 9. *Gambling activity subject to previously obtaining an authorisation.*

1. Exercising the unreserved activities object of this Law is subject to first obtaining the relevant licence, under the terms set forth in the articles below. In accordance with this Law, gambling licences and authorisations are authorising permits.

The Autonomous Regions shall issue a mandatory report on the authorising permit applications made to the National Gaming Commission that could affect their region. For these purposes, gambling activities will be deemed to affect an Autonomous Region when the gaming operators have their residence, registered office or, where this does not coincide with either of the latter, the place where the administration and management of their business is actually based, in the Region.

The installation or opening of in-person premises open to the public or of equipment that allows the public to engage in gambling shall, in any case, require administrative authorisation from the Autonomous Region whose legislation so requires. These authorisations shall be governed by the relevant regional legislation on gambling.

The National Gaming Commission shall notify the competent regional bodies when gambling authorising permits that affect their territory have been granted. The same procedure shall be followed in the case of amendment, transfer, revocation and termination of the authorising permits, as well as in the case of sanctions on the activities subject to the same.

2. Any activity included in the scope of this Law that is carried out without the mandatory authorisation or any breach of the conditions and requirements set forth therein, shall be considered prohibited by law and anyone who promotes or carries out such activities shall be liable to the sanctions set forth in Title VI herein.

3. The authorising permits required to exercise the gambling activities subject to this Law cannot be assigned or used by third parties. The licence may only be transferred in the event of a merger, spin-off or contribution of a business line resulting from corporate restructuring and such a transfer remains subject to prior authorisation from the National Gaming Commission.

4. Authorising permits issued by other States shall not be valid in Spain. Operators recognised by other European Economic Area States must fulfil the requirements and complete the process established by the legislation in force. The procedure by which the National Gaming Commission can ratify the documentation already submitted by an operator authorised in the European Economic Area shall be established in regulations, exempting such operators from having to resubmit the documentation in Spain.

5. The licences and authorisations regulated herein shall be terminated in the following circumstances:

- a) By express waiver in writing from the stakeholder.
- b) When the validity period elapses without a renewal being applied for or granted, when such a renewal would have been set forth in the rules of the notification of the relevant procedure.
- c) By resolution of the National Gaming Commission, which expressly records the occurrence of one of the following grounds for termination:

1. The loss of all or one of the conditions that were decisive factors in granting the licence.

2. The death or incapacity of the authorisation holder where this is an individual, or the dissolution or termination of the company that holds the licence or authorisation, as well as the definitive stoppage of the activity for which the authorising permits were granted, or suspension of activity for at least one year, in the case of licences.

3. The declaration of bankruptcy or insolvency in any other proceedings.

4. Imposition as a penalty in the relevant sanctioning proceedings.

5. Failure to fulfil the essential conditions of the authorisation or licence.

6. The assignment or transfer of the authorisation through a merger, spin-off or contribution of business line without prior authorisation.

7. Obtaining the authorisation through falsehood or alteration of the conditions that were decisive in the granting of same, subject to hearing the stakeholder, where applicable.

6. Obtaining the authorisation referred to in section 1 of this article shall be dependent on the operator being up-to-date on the payment of relevant tax obligations.

Article 10. General licences.

1. Parties interested in undertaking ongoing gaming activities must first obtain, before carrying on any type of gambling, a general licence for each gaming method defined in article 3, letters c), d), e) and f), depending on the type of game they intend to market.

The National Gaming Commission shall be responsible for granting general licences for the operation and marketing of games subject to the appropriate call of a tender procedure that shall be guided by the principles of publicity, competition, equality, transparency, objectivity and non-discrimination, and shall be governed by the tender specifications that, at the National Gaming Commission's proposal, are approved by the Ministry of Economy and Finance and published in the Official State Gazette.

The call for applications for granting general licences for the operation and marketing of games shall be promoted by the National Gaming Commission either *ex officio* or at the behest of any stakeholder. Calls for applications at the behest of a stakeholder shall take place within six months from the date the request is received unless the National Gaming Commission has reason to not carry out the requested call for applications procedure for reasons of safeguarding public interest, protecting minors or preventing gambling addiction.

Stakeholders may request a new call for general licences for the operation and marketing of certain games at least 18 months after the last call for the same gambling method took place.

The specifications that govern the call shall not limit the number of licences that may be granted, unless the National Gaming Commission puts forward a proposal and, based on the procedure initiated for this purpose in which any stakeholders shall be heard, it is deemed necessary to define the size of the gambling offer that is the subject of the call and therefore limit the number of operators. The limitation on the number of operators shall be solely founded on reasons of protecting public interest, protecting minors and preventing gambling addiction.

The rules of the notification may include criteria that must be taken into consideration in granting licences such as the experience of the applicants, their solvency and the resources they have at their disposal to operate the licence.

2. The procedure specifications mentioned in the previous section shall establish the minimum share capital, total and paid-up, needed to take part in the call for applications. In addition to the request to take part in the call, the applicant must present an operating plan that takes into account principles of responsible gaming, employee training, distribution channels, game design and other aspects of their activity that may be established in regulations.

3. The resolution to grant the general licence shall include the content that may be defined in regulations and, in any case, the following:

-
- a) Name, duration, address and share capital and, where applicable, the percentage shareholding of non-EU capital.
 - b) List of members of the board of directors, executives, managers or agents where applicable.
 - c) Nature, methods and types of activity subject to licence, as well as the events on the basis of whose results these are performed.
 - d) Territory in which the activity subject to licence will be carried on.
 - e) Conditions of the prizes to award per game or bet and amount of same, which under no circumstances may exceed the percentage set for this purpose in the rules of the notification.
 - f) List of the systems, equipment, applications and technical instruments that will be used in operating the activity.
 - g) Authorisation to undertake the advertising, sponsorship or promotion activity.
 - h) Fraud prevention mechanisms and money laundering and terrorist financing prevention systems as per Law 10/2010 of 28 April, on preventing money laundering and terrorist financing.
 - i) Validity period, possibility of extension and grounds for terminating the licence.
 - j) The established systems, procedures or mechanisms, in line with the nature of the game, in order to prevent access by persons affected by any of the subjective prohibitions set forth in article 6 herein and especially those aimed at ensuring that the age of participants has been confirmed.

4. Licensees shall have the following rights and obligations:

- a) To carry on the gambling activity in state territory, with the rights and obligations set forth in the tender specifications and in the granting resolution.
- b) To obtain the specific operating licence for each method and type of game, provided that the set requirements are met.
- c) Pay any charges that may be set arising from the gambling regulation activity.
- d) Create a specific website with an ".es" domain name in order to develop and market those gambling activities that fall within the scope of this Law via the Internet.
- e) Redirect any users who connect in Spanish territory or using a Spanish account to the specific '.es' domain website from any domain other than '.es' owned or controlled by the gaming operator, its parent company or subsidiaries.

5. With regard to the responsible management of gambling, operators authorised to carry on gambling activities must assume the following commitments:

- a) To ensure compliance with the laws and regulations in force, especially the obligations set forth in Law 10/2010 of 28 April, on preventing money laundering and terrorist financing.
- b) To ensure the integrity and security of the games, guaranteeing participation, transparency in the draws and events, in the calculation and payment of prizes and the professional and diligent use of the funds, in the broadest possible sense.
- c) To channel the demand for participation in an appropriate manner.
- d) To reduce any risk of potential harm to society, including combating illegal gambling and related criminal activities.
- e) In accordance with the regulations in force, to cooperate actively with the money-laundering prevention authorities.

Responsible management of gambling shall be understood to mean the set of principles and practices to adopt with a view to protecting public order, guaranteeing the integrity of the game while simultaneously optimising benefits for Society.

The National Gaming Commission shall verify that operators fulfil their commitments without prejudice to the supervisory powers of the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences in relation to preventing money laundering and terrorist financing as per

article 45.4 f) of Law 10/2010 of 28 April, on preventing money laundering and terrorist financing.

6. General licences shall be valid for 10 years and may be renewed for an equal period of time.

In those cases where the number of operators of a particular game has been limited, in accordance with the provisions of section one of this article, the general licence shall not be renewed and may only be granted through a procedure called for these purposes when the following requirements are met:

- a) There is/are a third party/parties interested in obtaining the licence.
- b) It has been requested at least 24 months in advance of the expiry date.
- c) The applicant or applicants provide proof of compliance with the requirements that were taken into account in obtaining the licence by the holder or holders.

Article 11 *Specific licences.*

1. The operation of each type of game included in the scope of each general licence shall require the granting of a specific operating licence.

2. The granting of specific licences and the renewal of same shall be subject to the requirements and conditions that the National Gaming Commission may set within the context of regulating each gambling method.

3. Operators authorised with a general licence may apply for specific licences. The specific licence may only be requested for that activity whose regulation has been published in advance. In the event that such an activity is not regulated, the gaming operator may apply to the competent body to have the activity regulated and the latter may reject such an application providing reasons for the rejection, where applicable.

4. The procedure for obtaining specific licences shall be defined in regulations. The requirements that may be set in the context of the procedure for obtaining specific licences shall fulfil the principles of transparency, objectivity and non-discrimination, and shall be proportional to the aims of protecting public health, minors and dependants and the aims of preventing fraud, money laundering and terrorist financing.

5. Specific licences shall remain valid for at least one year and at most five years and shall be renewable for subsequent periods of the same length. The regulations for each type of game will determine the duration of the corresponding specific licences and the conditions and requirements to be met for their extension.

6. The loss of a general licence shall also entail the loss of the specific licences linked thereto.

Article 12. *Authorisations for occasional gaming.*

1. Conducting any gaming activities that are subject to this Law on an occasional or one-off basis is subject to prior authorisation, in line with the procedure defined in regulations.

2. The National Gaming Commission is responsible for granting authorisations to conduct occasional gaming and it may set a limit on the prize amount.

3. The persons or entities that request authorisation must pay the relevant charges.

4. Once one month has passed from the application without any notification that the application has been granted, such a failure to respond shall be understood to mean that the application has been rejected.

TITLE IV

Control of the activity

CHAPTER I

Operators

Article 13. *The operators.*

1. The organisation and operation of the activities subject to this Law may, depending on the case, be carried out by individuals or legal persons, public or private entities, with Spanish nationality or a nationality of a European Economic Area country that have at least one permanent representative in Spain.

Only legal persons with a public limited company status whose sole object is the organisation, marketing and operation of games, being incorporated as gambling or betting operators for this purpose, may participate in the tender procedure for general licences for the operation and marketing of ongoing games.

Companies that request the operation or organisation of the games set forth herein must provide proof of their technical, economic and financial solvency, under the terms that may be established in regulations.

Direct or indirect shareholdings held by non-EU capital are limited to the amount set in the legislation in force concerning foreign investment in Spain.

2. The individuals or legal persons involved in any of the following circumstances cannot hold the licences and authorisations set forth in Title III herein:

a) Having been convicted under a final judgement within the four years preceding the date of the authorisation application for a crime against public health, falsehood, illegal association, contraband, against assets and against the socio-economic order, against the Public Authorities or against the Treasury and Social Security, as well as any criminal breach arising from the management or operation of games for which they were not authorised.

b) Having applied for voluntary bankruptcy, having been declared insolvent in any proceedings, finding themselves declared bankrupt, unless an agreement was made effective, being subject to legal intervention or been disqualified in accordance with Law 22/2003 of 9 July on bankruptcy and insolvency, without having completed the disqualification period set in the of bankruptcy evaluation ruling.

c) The individual, legal person or its members, executives or directors having been penalised through a final administrative resolution for two or more very serious breaches in the past four years for failure to comply with the State or Autonomous Regions gambling regulations.

d) The individual or legal person having been found guilty thus giving rise to the final termination of any contract entered into with the General State Administration.

e) The individual, directors of commercial companies or those that act as the legal representatives of other legal persons, being involved in any of the circumstances set forth in Law 5/2006 of 10 April on regulating conflicts of interest of members of the Government and Senior Positions in the General State Administration, in Law 53/1984 of 26 December, on incompatible activities for Personnel working in Public Authorities, or involving any of the elected roles regulated in Organic Law 5/1985 of 19 June on the General Electoral System, under the terms set forth in same or in the Autonomous Region regulations that govern such matters.

f) Not being up-to-date in complying with their tax obligations or Social Security obligations imposed by the provisions in force.

g) Not being up-to-date in the payment of their subsidy repayment obligations.

h) The individual or legal person having been penalised through a final resolution, thereby losing the option to obtain subsidies according to Law 38/2003 of 17

November, the General Subsidies Act, or Law 58/2003 of 17 December, the General Tax Act.

- j) The individual or legal person having been penalised through a final resolution for very serious breaches as set forth in Law 10/2010 of 28 April, on preventing money laundering and terrorist financing.
- j) Entities that take part in or organise sporting events or any other event on which bets are placed.

These prohibitions affect those legal persons whose directors or representatives, still in their term in office or with valid power to act as representatives, find themselves in such a situation as a result of the actions undertaken on behalf of these legal persons, or wherein the conditions, qualities or relations are met that require the corresponding figure to be a perpetrator of same.

Prohibitions on obtaining the authorisations shall also affect those companies that, by virtue of the people that manage them or other circumstances, can be assumed to be a continuation of or derived from other companies that incurred such prohibitions by means of transformation, merger or succession.

Regulations shall define the method of evaluating and the scope of the prohibitions, as well as the justification from the persons or entities of not being involved in the prohibitions.

3. Those legal persons that intend to organise, operate and carry out gambling activities subject to the Law by applying for a general licence must request provisional registration in the General Register of Gaming Licences, under the terms that may be set in regulations.

Article 14. *Security that may be required of operators.*

1. Operators that obtain a general licence must provide a security under the terms, methods and amounts that may be set in regulations.

2. The security mentioned in the previous section shall be linked to the fulfilment of the obligations set forth herein and especially to the payment of prizes, the responsibilities arising from the sanctioning system and the payment of the charges accrued in relation to gambling when these have not been settled once the period set in regulations has passed. Once the reasons for providing the security no longer exist and provided that there is no knowledge of pending obligations or responsibilities, the security shall be returned at the stakeholders' request, subject to relevant payments, where applicable.

3. Additional securities may be required, associated with the granting of specific licences that shall be determined by the National Gaming Commission for each type of game, under the conditions and with the limits set in the Ministerial Orders that establish basic gaming regulations. These additional securities shall be linked to the fulfilment of the specific obligations of the payment of prizes and compliance with any other obligation on the operator.

4. The securities must be kept up-to-date. If it is not updated within one month from the notice, the stakeholder may give rise to grounds for revoking the authorisation.

CHAPTER II

Participants

Article 15. *Rights and obligations of game participants.*

1. Game participants have the following rights:

a) To receive clear and accurate information about the rules of the game in which they wish to participate.

b) To collect any prizes owed to them in the time and form established, in accordance with the specific regulation of each game.

-
- c) To file claims with the National Gaming Commission against operators' decisions that affects their interests.
 - d) To play for a period of time which corresponds to the price they have paid for the round in question.
 - e) To play freely, without coercion or threats from other players or from any other third party.
 - f) To have information at all times on the amount they have played or bet, as well as knowing the balance of any user account they have opened with the gaming operator, where applicable.
 - g) To provide proof of identity securely using their national identity document, passport or equivalent or through a recognised electronic signature system, as well as having their personal data protected as per the provisions of Organic Law 15/1999 of 13 December, on Personal Data Protection and its implementing regulations.
 - h) To have information on the identity of the gaming operator at all times, especially in the case of electronic games, as well as knowing the identity of the personnel who interact with the participants in the event of claims or possible breaches.
 - i) To receive information on responsible gaming.

2. Game participants have the following obligations:

- a) To identify themselves to the game operators under the terms set forth in regulations.
- b) To comply with the standards and rules that are established in relation to participants in the ministerial orders approved in accordance with article 5 herein.
- c) To not alter the normal progress of the games.

3. The relationship between the participant and the authorised operator is a private relationship and, therefore, any disputes that may arise between the parties shall be subject to the civil courts, without prejudice to the National Gaming Commission exercising its power to impose penalties as one of the powers granted to it under this Law.

4. Authorised operators shall establish the appropriate procedures to ensure user data remains private in accordance with Organic Law 15/1999 of 13 December, on Personal Data Protection and its supplementary regulations.

Operators shall only process participants' data needed for properly carrying out the gambling activity for which they have been authorised and in order to comply with the obligations set forth herein. Data shall be deleted once the purposes for which it is processed have been completed.

In any case, in accordance with the provisions set forth in article 5 of Organic Law 15/1999 of 13 December, on Personal Data Protection, operators must inform users regarding the processing of their personal data and the purposes for which processing is performed, as well as the rights to which they are entitled in accordance with the regulations in force concerning personal data protection.

Operators must also implement the security measures established in the regulations in force concerning personal data protection over files and processing and comply with their duty of secrecy as imposed by said regulations.

CHAPTER III

APPROVING TECHNICAL GAMBLING SYSTEMS

Article 16. *Approval of the technical game systems.*

1. Entities that organise, operate and carry out games regulated herein shall have the duly approved software, equipment, systems, terminals and instruments generally needed to perform these activities.

2. Approval of the technical game systems, as well as establishing the specifications required for their operation, falls within the remit of the National Gaming Commission, which shall approve the certification procedure for technical game systems including approval of the game material, where applicable, within the context of the criteria set by the Ministry of Economy and Finance and the Gambling Policy Council. The National Gaming Commission shall monitor to ensure that the establishment of such specifications, as well as the certification and approval procedures for game material does not introduce obstacles that could distort market competition without justification.

3. The approvals and certifications validated by the competent bodies of the Autonomous Regions for granting authorising permits of a regional nature may affect the procedures regulated herein under the terms that may be set forth in regulations.

4. The National Gaming Commission shall request a report from the Spanish Data Protection Agency on the approval procedures for the technical gaming systems that could have a considerable impact on the processing of personal data by operators.

Article 17. *Technical system requirements.*

1. The technical system to organise, operate and develop games by electronic, information technology, telematic and interactive means, irrespective of the provisions of article 24 herein for inspection and control purposes, shall be formed by the Central Gaming Unit and the series of systems and technical or electronic instruments that enable games to be organised, marketed and held through these means.

2. The technical system, which shall meet the conditions set by the National Gaming Commission, must have sufficient authentication mechanisms to ensure the following, amongst others:

- a) The confidentiality and integrity of communications.
- b) The participants' identity, where the games are carried on through electronic and interactive means, as well as the confirmation, under the terms set forth in regulations, that they are not included in the Register mentioned in article 22.1.b) herein.
- c) The authenticity and calculation of the bets.
- d) Control to ensure it is operating properly.
- e) Compliance with the subjective prohibitions regulated in article 6 herein.
- f) Access to the information system components is exclusively reserved to authorised personnel or the National Gaming Commission, under the conditions that the latter may set.

Article 18. *Central Gaming Unit.*

1. Operators authorised to organise, operate and develop permanent gaming activities subject to this Law must have a Central Gaming Unit that shall meet the specifications that the National Gaming Commission may establish for this purpose and which shall be able:

- a) To register all the actions and operations performed from the equipment and the users connected to same.
- b) To guarantee the proper operation of the gaming activities.
- c) To check, at any time and wherever necessary, the operations performed, the participants in same and the results, if the nature of the game permits, as well as reconstructing all the actions and operations performed through it in a reliable manner.

2. Operators must ensure that the necessary backup copies exist and that the technical measures and contingency plans are applied to ensure data recovery in the event of any type of incident.

3. Operators must have a replica of their Central Gaming Unit that can enable gaming activities to continue as normal, with full guarantees, in the event that the Main Unit is out of service.

4. Both the Central Gaming Unit and its replica shall contain secure connections compatible with the National Gaming Commission's systems that enable the latter to perform monitoring and control, in real time should it be required, of the gaming activity carried out, the prizes awarded and the identity of the people participating and winning in the same and, where applicable, any possible return of prizes as a result of the cancellation of the games, all of the foregoing without prejudice to the option of conducting in-person inspections. The Central Unit must be able to be monitored from Spanish territory by the National Gaming Commission irrespective of its location. The National Gaming Commission may require that secondary units of the operator's systems be located in Spain with a view to checking and controlling information.

TITLE V

Administration of Gaming

CHAPTER I

The Ministry of Economy and Finance

Article 19. *Powers of the Ministry of Economy and Finance.*

The Minister of Economy and Finance shall have the following powers:

1. To establish the basic regulation of each game and, in the case of one-off games, the general conditions for the practice or development of the same, based on the criteria set by the Gambling Policy Council.
2. To approve the tender specifications of the calls for applications mentioned in article 10.1 herein, in accordance with the framework established in the regulation of licences and its implementing regulations.
3. To prepare and amend the gaming standards deemed necessary in order to fulfil the aims of this Law.
4. To authorise the marketing of lotteries and impose the corresponding penalties for breaches classified as very serious, in accordance with the provisions set forth in articles 4.2 and 42.3 herein, respectively.
5. To propose the appointment of the Chairperson and members of the National Gaming Commission.
6. To process the termination of National Gaming Commission members as mentioned in article 29. f) herein.
7. Any and all other powers that may be established herein.

CHAPTER II

The National Gaming Commission

Article 20. *Object and legal status.*

(Abrogated)

Article 21. *Duties.*

The National Gaming Commission has the following duties:

1. To develop basic gaming regulations and the general conditions of one-off games when so deemed in the Ministerial Order approving them.

2. To propose to the Minister of Economy and Finance the tender specifications mentioned in article 10.1 herein and to grant the authorising permits required to carry on the regulated activities subject to this Law.

3. To prepare mandatory reports on the authorisation of lottery activities subject to reservation.

4. Issue general instructions to gambling operators.

5. To establish the technical and functional requirements of the games, the technological operations and quality certification standards, and the processes, procedures, disaster recovery plans, business continuity and information security plans, in line with the provisions contained in the relevant regulations and the criteria set by the Gambling Policy Council.

6. To approve the software and the technical, computer or electronic systems required to conduct the games, as well as the standards of same, including the mechanisms or systems capable of identifying the participants. In exercising this duty, the National Gaming Commission shall monitor to prevent any unjustified obstacle to competition in the market.

7. To supervise, control, inspect and, where applicable, penalise gaming-related activities, especially activities related to those gaming activities reserved for certain operators by virtue of this Law, without prejudice to the powers granted to the fair competition authorities.

8. To prosecute unauthorised gaming, whether carried out within the Spanish state or from outside Spain and directed towards state territory, and can require any payment service provider, audiovisual communication services provider, information society or electronic communication services provider to supply information concerning operations performed by the various operators or by organisers that do not hold an authorisation or to cut off any services they may be providing.

9. To ensure that the interests of the participants and of vulnerable groups are protected, and to ensure compliance with the regulations and principles that govern them in order to defend public order and prevent unauthorised gaming.

10. To establish the appropriate channels to provide the participant with accurate and adequate information on the gaming activities and effective claims procedures.

11. To resolve any claims that participants may file against operators.

12. To manage the registers provided for herein.

13. To promote and conduct studies and research into the issue of gaming, as well as on its influence or impact on society.

14. To cooperate in compliance with the legislation to prevent money laundering and terrorist financing and to supervise compliance with same, without prejudice to the powers of other administrative bodies in relation to the operators who carry on gaming activities subject to reservation by Law.

15. **(Abrogated)**

16. **(Abrogated)**

17. Any other responsibility of a public nature and the administrative powers that the General State Administration and its Public Bodies currently hold in relation to gaming, with the exception of the policing duties that fall within the remit of the

Security Forces, without prejudice to the powers granted to the fair competition authorities.

18. Any other duty granted by law.

Article 22. *Gaming sector registers.*

1. The National Gaming Commission shall create the following state Registers under its control:

a) The General Register of Gaming Licences which shall contain the provisional registrations of the companies that are taking part in the tender procedures

for general licences, as well as the permanent registrations of those entities that have obtained a licence to undertake gaming activities.

b) The General Register of Gaming Access Bans, which shall include the information needed to enforce citizens' right to be banned from participating in gaming activities in those cases where identification is required. In addition, it shall also include information concerning those other persons who are prohibited from accessing gaming or are legally disabled by court ruling. The mandatory subjective requirements for registration in this register shall be determined by the National Gaming Commission. The information contained in this register shall be provided to gaming operators with a view to preventing the persons registered from accessing gaming activities.

Regulations shall establish the procedure to coordinate the communication of data between the Register of Gaming Access Bans of the various Autonomous Regions and the General Register of Gaming Access Bans.

c) The Register of People Linked to Gaming Operators, which shall contain the details of the shareholders, members or significant owners of the gaming company, its management personnel and employees directly involved in developing the games, as well as their spouses or cohabitants and first-degree relatives.

2. The processing of the personal data in the files and registers mentioned in the previous section for the purposes set forth herein shall not require the holders' consent.

Regulations shall determine the specific content of the registers mentioned in this article. The registers shall only include the data strictly needed for the purposes of the fulfilling the requirements of this Law.

The content of the registers mentioned in this article is not public and communication of the data contained therein is exclusively and solely limited to the purposes provided for herein.

3. Regulations shall establish the organisation and operation of the gaming sector registers. In this context, the National Gaming Commission and the competent bodies of the Autonomous Regions may enter into collaboration agreements in order to interconnect their gaming registers and enable the exchange of data and tax information, in full compliance with personal data protection legislation.

Article 23. *Regulatory competence.*

1. The National Gaming Commission can issue such provisions as are required for the implementation and execution of the rules contained herein, in the Royal Decrees approved by the Government or in the Orders of the Ministry of Economy and Finance, provided that these provisions expressly empower it to do so. These provisions shall be prepared by the National Gaming Commission, subject to the appropriate technical and legal reports from the relevant departments and in consultation with the Autonomous Regions, where applicable. Such provisions shall be approved by the Board of the National Gaming Commission and shall not take effect until they are published in the "Official State Gazette" and shall enter into force in accordance with the provisions of section 1 of article 2 of the Civil Code.

2. When provisions are issued that could have a significant impact on the competition conditions of gaming operators, the National Gaming Commission must first request a report from the competent body in the area of fair competition.

3. The provisions or resolutions that the National Gaming Commission may issue in exercising the administrative powers granted to it by this Law shall put an end to administrative proceedings and an appeal for reconsideration may be lodged in accordance with the provisions of Law 30/1992 on the Legal System for Public Administrations and Common Administrative Procedure or may be directly challenged in the

contentious-administrative jurisdiction in accordance with the provisions of the law regulating said jurisdiction.

Article 24. *Inspection and Control.*

1. With a view to guaranteeing that the provisions set forth herein and any supplementary provisions are fulfilled, the National Gaming Commission shall be responsible for auditing, supervision, inspection and control of all the administrative, economic, procedural, technical, computer, electronic and documentation aspects and standards relating to developing the activities subject to this Law.

Moreover, the National Gaming Commission shall be responsible for the investigation and prosecution of illegal gaming, without prejudice to the powers granted to the competent Security Forces and the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences under the terms of article 45.4 f) of Law 10/2010, of 28 April, on preventing money laundering and terrorist financing. The National Gaming Commission shall establish the procedures required for the fulfilment of the above-mentioned duties.

In accordance with article 12.1.A), letter d), of Organic Law 2/1986, of 13 March, on the State Security Forces, the State Security Forces shall cooperate with the National Gaming Commission in the supervisory and inspection duties concerning compliance with gaming regulations. Should signs that a breach has been committed be found as a result of the inspection activity carried out by the State Security Forces in exercising their cooperation duties with the National Gaming Commission, the relevant deed shall be executed and shall be sent to the competent bodies in order to launch sanctioning proceedings.

2. The National Gaming Commission shall establish the additional procedures to monitor and control operators who carry out gaming activities subject to reserve by virtue of a law and on the compliance with the conditions that are set forth therein, especially in relation to protecting public order and preventing money laundering and terrorist financing. In the event that the inspections conducted by the National Gaming Commission detect possible breaches of the obligations set forth in Law 10/2010 of 28 April on preventing money laundering and terrorist financing, it shall notify the Secretariat of the Commission for the Prevention of Money Laundering and Monetary Offences under the terms of article 48.1 of the above-mentioned Law.

3. The National Gaming Commission may conduct checks on the user account of the participant in gaming activities subject to the Law, as well as on operators or providers of gaming services. The National Gaming Commission shall have access to the personal data contained in participants' user accounts in compliance with the provisions of Organic Law 15/1999, of 13 December, on Data Protection and its implementing regulations at all times. The Public Authorities shall grant the National Gaming Commission access to their databases for the purpose of checking participants' identities and, especially, those they are of legal age.

4. Authorised operators, their legal representatives and any personnel that may be in charge of the activities at the time of the inspection must provide inspectors and their auxiliary staff with access to the premises and to their different offices, as well as allow them to examine the technical and computer media, books, registers and documents required for the inspection. The result of the inspection shall be recorded in a public deed and shall state, unless certified otherwise, the events and circumstances that gave rise to it.

The deed must be signed by the official that drafts it and by the person or representative of the audited entity, who may record as many observations as they deem relevant in said deed. A copy of the deed shall be given to the person or representative of the audited entity, where applicable stating their refusal to sign it or to be present when the inspection was being conducted.

In exercising the inspection duty, National Gaming Commission personnel shall have the status of authority. The exercise of the inspection and control powers may be subject to an agreement with the Autonomous Regions in relation to the activities and the means or instruments located in their territory, with the exception of those of a ruling nature.

The National Gaming Commission shall cooperate with other regulatory bodies in the European Economic Area in prosecuting illegal gaming by adopting coordinating measures to ensure the provision of illegal gaming services is stopped and the exchange of information.

5. The National Gaming Commission can enter into co-regulation agreements that contribute towards the fulfilment of the obligations set forth herein, in particular in relation to advertising, under the terms that shall be defined in regulations. To the extent that such agreements affect the advertising published by audiovisual communication service providers, a report by the State Council on Audiovisual Media must be compiled prior to the signing of these agreements. Self-regulatory systems shall have independent monitoring bodies in place to ensure the effective implementation of the commitments made by the companies. The codes of conduct may include, amongst others, individual or collective advance self-check measures on advertising content and must establish effective extra-judicial claims settlement systems that meet the requirements set forth in EU regulations and, as such, are reported to the European Commission, in accordance with the provisions of the Council Resolution of 25 May 2000 on a Community-wide network of national bodies for the extra-judicial settlement of consumer disputes or any other equivalent provision.

Article 25. *Arbitration by the National Gaming Commission.*

(Abrogated)

Article 26. *The Board. Appointment and term of the members of the Board of the National Gaming Commission.*

(Abrogated)

Article 27. *The Chairperson of the National Gaming Commission.*

(Abrogated)

Article 28. *Duties of the Board members.*

(Abrogated)

Article 29. *Grounds for termination of the role.*

(Abrogated)

Article 30. *Recruitment system.*

(Abrogated)

Article 31. *Personnel system.*

(Abrogated)

Article 32. *Budget and Control System.*

(Abrogated)

Article 33. *Economic-Financial System and resources of the National Gaming Commission.*

(Abrogated)

CHAPTER III
Gambling Policies Council

Article 34. *The Gambling Policy Council.*

1. The Gambling Policy Council shall be the participation and coordination body of the Autonomous Regions and the State on the issue of gaming.

2. **(Abrogated)**

3. The Gambling Policy Council shall be formed by the members that are responsible for gaming issues in all the Autonomous Regions and Cities and by an equal number of representatives of the General State Administration. The chairmanship of the Council shall be held by the Minister of Economy and Finance and the standing Secretary to the Ministry of Economy and Finance.

Both the Chairperson and the other members of the Gambling Policy Council can delegate their duties, attendance and vote.

4. The Gambling Policy Council shall draw up a regulation to govern its operations that shall determine the tender system and approval of agreements. This regulation that governs the operation of the Gambling Policy Council shall be approved by absolute majority of its members.

5. In particular, the Autonomous Regions and the State, through the Gambling Policy Council, shall promote the relevant actions, including the option of putting forward proposals for regulations in accordance with their respective powers, in order to promote the convergence of the legal and tax systems, as well as regulations in relation to advertising, sponsorship and promotion applicable to any gaming method, type of game and operator across all the national territory.

Article 35. *Powers.*

The Gambling Policy Council shall be responsible for the following matters:

- a) Basic regulation of the different games.
- b) Development of basic gaming regulations and the general conditions for one-off games.
- c) Criteria for granting licences.
 - d) Definition of the requirements of technical gaming systems and their approval.
- e) Principles for issuing certifications and approvals of licences granted by the competent bodies in the Autonomous Regions with responsibility for gaming.
- f) Coordination of regulations on the measures to protect minors and dependants.
- g) Study of measures to propose to the State and to the Autonomous Regions that enable progress to be made on the comparability of the legal system, including the tax framework, applicable to gaming through electronic, computer, electronic and interactive means and to in-person gaming, as well as advertising and sponsorship of such activities, promoting consultations with associations representing the sector.
- h) In general terms, any and all aspects of gaming activities that, given their nature, require coordinated action from the State and the Autonomous Regions.

TITLE VI
Sanctioning system

Article 36. *Competence.*

1. The National Gaming Commission and, in those cases mentioned in article 42.3 herein, the Minister of Economy and Finance, shall exercise sanctioning power in relation to any administrative breaches committed concerning the gaming activities subject to this Law.

2. In the event that the breach is committed by an entity subject to the supervision or inspection of a Regulatory Body other than the National Gaming Commission or when, due to the issue in question, another administrative body is responsible, the National Gaming Commission shall, for the purposes of processing the relevant sanctioning proceedings, forward the events that allegedly constituted the breach. In any case, the National Gaming Commission shall be responsible for penalising any breaches committed as set forth in letter e) of article 40 herein.

3. In particular, audiovisual communication, electronic communication and information society service providers will be responsible as administrators for the promotion, sponsorship or advertising of gaming activities as referred to herein when undertaken by persons without an authorisation or when distributed without the licence to advertise them or beyond the limits set therein or in breach of the current rules in force in this regard. The authority to launch proceedings and penalise audiovisual communication service providers lies with the State Council of Audiovisual Media, and in these cases the sanctioning system set forth in Law 7/2010 of 31 March, the General Audiovisual Communication Act, shall apply, except in the case of the exception set forth in the previous section with regard to breaches of article 40, letter e).

4. When the breach is committed by an intermediary whose scope of action is limited to an Autonomous Region or when the promotion, sponsorship and advertising of games through in-person means is undertaken in the territory of an Autonomous Region, then the relevant body in this Autonomous Region shall hold the power to apply sanctions.

Article 37. Breaches.

1. The actions or omissions specified herein and that may be specified in the regulation that implement this Law are considered administrative breaches.

2. Administrative breaches in this area are classified as very serious, serious and minor.

Article 38. Offenders.

1. Those individuals or legal persons who carry out the actions or omissions specified as breaches herein, support, advertise, promote or obtain benefit from same are considered offenders.

2. Those individuals or legal persons who gained a relevant benefit directly associated to developing gambling activities as a result of the actions or omissions mentioned in the previous section are also considered offenders and gaming organisers for the purposes of this article and are equally liable.

Article 39. Very serious breaches.

The following are considered

very serious breaches:

a) The organisation, holding or operation of the activities included within the scope of application of this Law without the relevant authorisation.

b) Performing, promoting, expressly or tacitly permitting or allowing the organisation, holding or operation of the activities subject to this Law in unauthorised media or formats or distribution channels and, in particular, using unauthorised or unapproved software, communication systems, materials or equipment.

c) Assigning the authorisation, as well as transferring the same in the circumstances set forth in article 9.3 herein, without prior authorisation from the National Gaming Commission.

d) Obtaining the relevant authorisations or licences by providing false and inaccurate documents or data.

e) Unjustified and repeated non-payment of the prizes that are owed to the participants in the games.

f) Altering or manipulating previously approved technical systems or any other element relating to obtaining prizes to the participants' detriment.

-
- g) Carrying out gaming activities infringing on the reserve established in article 4 herein.
 - h) Committing two serious breaches within a two-year period, with a final penalty through administrative proceedings.
 - i) The development and online marketing of gaming activities that fall within the scope of application of this Law, that are not carried out on the specific website under the ".es" domain mentioned in article 10.4.d) herein.
 - j) Failure to fulfil the rerouting obligation mentioned in article 10.4. e) herein.

Article 40. *Serious breaches.*

The following are considered serious breaches:

- a) Failure to comply with the requirements and conditions set in the authorisation and, in particular, the control duties to guarantee the security of the games.
- b) Allowing banned persons to access gaming activities, in accordance with article 6 herein, provided that the entity operating the games knows or should be aware of such bans.
- c) Granting loans or any other form of credit to participants by operators.
- d) Promoting, sponsoring and advertising games subject to this Law, or intermediation actions, when the persons doing so do not have an authorisation or when these are distributed in breach of the conditions and limits set in the permit or in breach of the current rules in this regard, irrespective of the medium used.
- e) Failure to fulfil requirements for information or cutting off the provision of services as required by the National Gaming Commission and directed towards payment service providers, audiovisual communication service providers, information society services or electronic communication providers and social media.
- f) Obstructing, resisting or refusing the inspection and control duty as well as hiding or destroying information, documents or formats of same.
- g) Repeated refusal by operators or organisers to provide the information requested by the National Gaming Commission.
- h) Repeated refusal to handle the claims or complaints made by participants or the National Gaming Commission.
- i) Failure to fulfil the obligations to report those amendments made to the composition, registered office, capital and ownership of shares in authorised legal persons within three months from the date such changes take place.
- j) Failure to comply with the technical requirements of the regulations or the tender specifications in relation to the software and the communication systems.
- k) The use of unapproved or unauthorised technical systems.
- l) The manufacture, marketing, maintenance or distribution of gaming material owned by the operators that develop gaming activities subject to the reserve in article 4 herein without due authorisation.
- m) Non-payment of any prizes that may be owed to participants in the games.
- n) Committing two minor breaches within a two-year period, with a final penalty through administrative proceedings.

Article 41. *Minor breaches.*

The following are considered minor breaches:

- a) Participating in gaming activities in contravention of the bans established in article 6.2, letters c), d), e), f), g) and h) herein.
- b) Failure to fulfil the obligations contained herein, where these are not expressly specified as serious or very serious breaches.

c) Failure to cooperate with the authority's inspectors or agents in relation to the development of gaming activities or aspects relating to checking the draw or event through which prizes are obtained.

d) Not duly informing the public that minors and persons on the General Register of Gaming Access Bans are prohibited from participating.

e) Not informing the public about the content of the gaming operator's authorisation.

Article 42. Administrative penalties.

1. Breaches classified as minor shall be penalised by the National Gaming Commission with:

a) A written warning.

b) A fine of up to one hundred thousand euros.

2. Breaches classified as serious shall be penalised by the National Gaming Commission with the following penalties:

a) A fine of one hundred thousand to one million euros.

b) Suspension of the activity in Spain for a maximum period of six months.

3. Breaches classified as very serious shall be penalised by the Minister of Economy and Finance, at the National Gaming Commission's proposal, with a fine of one million to fifty million euros. In addition to the fine, the authorisation may be lost, the authorisation to undertake the activities set forth in article 1 herein may be lost for a maximum of four years or the means through which the information society services that support the gaming activities may be closed down.

4. In those cases where the offender does not have an authorisation or this permit has been revoked, the National Gaming Commission may also decide to seize and destroy any component pertaining to carrying out the activity.

5. The amount of the penalties shall be commensurate to the nature of the personal rights affected, the volume of the transactions affected, the benefits obtained, the degree of intent, the recurrence of breaches, the damage and harm caused to the stakeholders and to third parties, and any other circumstance that may be relevant in determining the degree of illegality and guilt in the specific offending action.

6. If, based on the circumstances, there is deemed to be a qualified reduction in the offender's guilt or in the illegality of the event, the sanctioning body shall establish the amount of the penalty applying the scale relating to the class of breaches that immediately precedes the category to which the case in question falls in terms of seriousness.

Article 43. Statute of limitations.

1. Very serious breaches shall expire after four years, serious breaches after two and minor breaches after one year.

Penalties imposed for very serious breaches shall expire after four years, those imposed for serious breaches after two, and for minor breaches after one year.

2. The limitation period for breaches shall be counted from the day the breach is committed. In the case of ongoing breaches, it shall be calculated from the date the last breach was committed. This period shall be interrupted with the launch of the sanctioning proceedings, with the stakeholder's knowledge, and the limitation period shall resume if the sanctioning case is held up for more than three months for reasons not attributable to the alleged offender.

3. The limitation period of the penalties shall be counted from the day following the date on which the final ruling is made imposing the penalty. The limitation period of the penalties shall be interrupted with the launch of the enforcement proceedings, with the stakeholder's knowledge, and shall resume if the proceedings are held up for more than three months for reasons not attributable to the offender.

Article 44. Sanctioning proceedings.

1. The proceedings shall commence automatically by agreement of the National Gaming Commission on its own initiative, as a result of an inspection, due to a justified application from other bodies or as a result of an accusation.

2. The sanctioning proceedings, which shall be resolved within six months from the date of the agreement, and shall follow the provisions set forth in this Law and its implementing regulations, with the provisions of Law 30/1992, of 26 November, on the Legal System for Public Administrations and Common Administrative Procedure, and Royal Decree 1398/1993, of 4 August, which approves the Regulation for the Exercise of Sanctioning Power in the General State Administration being applicable.

Article 45. Appeals system.

Rulings issued by the National Gaming Commission in sanctioning cases shall put an end to administrative proceedings and an appeal for reconsideration may be lodged in accordance with the provisions of Law 30/1992, of 26 November, on the Legal System for Public Administrations and Common Administrative Procedure or may be directly challenged in the contentious-administrative jurisdiction in accordance with the provisions set forth in the law governing said jurisdiction.

Article 46. Precautionary measures.

1. The National Gaming Commission may agree on one or more of the following provisional measures when the proceedings are being conducted or in the commencement agreement itself:

- a) Temporary suspension of the activity that is the subject of the corresponding authorisation.
- b) Seizure or impounding, where applicable, of any asset or documentation related to developing the activity that is the subject of the corresponding authorisation.

2. By justified agreement and before the sanctioning proceedings commence, the National Gaming Commission may take any of the provisional measures highlighted in the previous section, in accordance with the provisions of articles 72.2 and 136 of Law 30/1992, of 26 November, on the Legal System for Public Administrations and Common Administrative Procedure and which are necessary in order to ensure the efficacy of the resolution that may be issued, that the proceedings are completed successfully or to meet the demands of general interests and, more generally, any others that may be declared in other orders.

3. When executing the relevant deed, the National Gaming Commission's duly empowered and authorised inspection and control officials may take the precautionary measures mentioned in the previous section, as well as impounding and storing any elements, equipment, assets and documentation relating to the activity subject to this Law. This precautionary measure must be confirmed or recorded by the body responsible for launching the sanctioning proceedings, under the terms, timeframes and effects established in Law 30/1992, of 26 November, on the Legal System for Public Administrations and Common Administrative Procedure.

Article 47. Measures in relation to intermediation service providers.

1. In exercising its powers under this Law, the National Gaming Commission shall prevent illegal gaming activities carried out by gaming operators through information society service providers.

2. The National Gaming Commission may adopt precautionary or definitive measures in order to stop illegal gaming activities carried out by gaming operators through information society service providers or in order to remove the content that constitutes gaming activities carried out without the relevant authorisation.

3. If the enforcement of a Resolution which stops illegal gaming activities carried out by gaming operators through information society service providers

or the removal of certain content or promotion of activities related to the illegal gaming activity requires cooperation from intermediation service providers, the National Gaming Commission can order the abovementioned providers to suspend the intermediation service or remove the content under the terms set forth in articles 8, 11 and related provisions of Law 34/2002, of 11 July, on Information Society and Electronic Commerce Services.

4. The measures mentioned in this article shall be objective, proportionate and non-discriminatory and shall be adopted as precautionary measures or to enforce any relevant sanctioning resolutions.

TITLE VII Tax System

Article 48. *Tax on gaming activities.*

1. Taxable event.

The taxable event is constituted by the authorisation, holding or organisation of state-wide games, raffles, contests, bets and activities regulated in section 1 of article 2, as well as random combinations for advertising or promotional purposes that are also state-wide, despite the exclusion of the gaming concept, regulated in letter c), section 2 of the same article, without prejudice to the regional tax systems in force in the Basque Country and Navarre, respectively, and the provisions of the International Treaties or Conventions that have come to form part of national regulations.

2. Exemptions.

State-wide lottery games shall not be subject to gaming tax, irrespective of the public or private operator that organises or holds them.

In any case, any and all other games apart from the state-wide lottery that are organised or held by the operators mentioned in the previous paragraph shall be liable for tax.

3. Accrual.

Tax shall be accrued with the authorisation, holding or celebration. In the case of temporary authorisation, holding or organisation, the accrual shall take effect on the first day of every calendar year, with the exception of the year in which the authorisation is obtained, when the accrual shall take effect on the authorisation date.

4. Taxpayers.

The individuals, legal persons or entities mentioned in section 4 of article 35 of Law 58/2003, of 17 December, the General Tax Act, that operate, organise or develop the activities on which this tax is charged shall be the taxpayers.

5. Parties liable for tax.

In general terms, those who offer gaming activities through any means whatsoever to persons with tax residence in Spain, as well as those who obtain profits from developing gaming activities, in both cases irrespective of the territory from which the gaming operator operates, shall be jointly and severally liable for payment of the tax, provided that it is not recorded that the operators hold or organise such gaming activities with the necessary authorising permits. If there are no records of the existence of the abovementioned authorising permits, the owners or entrepreneurs of the infrastructure and information society service providers shall also be jointly and severally liable when they should reasonably assume that such infrastructure or services are specifically used for or serve to conduct the gaming activities regulated herein.

In order to avoid the liability regulated in this section, any person or entity may consult the necessary information on the National Gaming Commission website in order to ascertain if an activity has the authorising permits required, in accordance with the provisions of article 7 herein and other applicable regulations.

6. Taxable base.

Depending on the type of game, the taxable base may be formed by:

a) Gross profit, defined as the total amount paid to participate in the game, as well as any other income that may be obtained and that is directly derived from the organisation or holding of such games.

b) Net profit, defined as the total amount paid to participate in the game, as well as any other income that may be obtained and that is directly derived from the organisation or holding of such games, less the prizes paid out to participants by the operator. When dealing with crossed bets or bets in games where the taxpayers do not obtain the amounts gambled as revenue, but rather merely transfer such amounts to the winning players, the commissions and any other amount charged for services related to the gaming activity paid by the players to the taxpayer, irrespective of the currency, shall be the taxable base.

In random combinations for advertising or promotional purposes, the total market value of the prizes offered or benefits granted to the participants shall form the taxable base.

In the case where the amount is paid through premium rate instruments, the amount paid to participate in the game shall be considered the premium rate amount, excluding the corresponding indirect tax. The amount paid to participate in the game shall be considered the premium rate amount, excluding the cost of the call defined in line with market value, when the provisions of article 16 of the Consolidated Text of the Corporate Tax Act are applicable, as approved by Royal Legislative Decree 4/2004, of 5 March, without the indirect taxes that may be charged on the transactions being considered for these purposes.

7. Tax rates.

The following rates shall apply:

1. Parimutuel sports bets: 22 percent on the taxable base of letter a), section 6 of this article.
2. Fixed odds bets: 25 percent on the taxable base of letter b), section 6 of this article.
3. Crossed sports bets: 25 percent on the taxable base of letter b), section 6 of this article.
4. Parimutuel horseracing bets: 15 percent on the taxable base of letter a), section 6 of this article.
5. Fixed odds horseracing bets: 25 percent on the taxable base of letter b), section 6 of this article.
6. Other parimutuel bets: 15 percent on the taxable base of letter a), section 6 of this article.
7. Other fixed odds bets: 25 percent on the taxable base of letter b), section 6 of this article.
8. Other crossed bets: 25 percent on the taxable base of letter b), section 6 of this article.
9. Raffles: 20 percent on the taxable base of letter a), section 6 of this article. Those raffles declared to be in the public interest or for charity shall be taxed at 7 percent of the same taxable base.
10. Contests: 20 percent on the taxable base of letter a), section 6 of this article.

11. Other Games: 25 percent on the taxable base of letter b), section 6 of this article.

12. Random combinations for advertising or promotional purposes: 10 percent on the taxable base defined for same in section 6 of this article.

With regard to the activities carried out by operators, organisers or by those who undertake the activity to whom this tax applies with their tax residence in their territory, the Autonomous Regions may raise the tax rates to a maximum of 20 percent of the rates set herein, an increase that shall be applied exclusively to the proportional part of the taxable base that corresponds to participation in the game by those with tax residence in the Autonomous Region which raises the rates.

8. Tax payment.

In the cases of authorisation, holding or organisation of gaming activities for temporary periods, the persons liable for tax must file and pay the tax. In particular, when these are annual or multi-year activities, the tax must be filed and paid quarterly within one month from the end of every quarter.

Otherwise, the tax shall be subject to administrative settlement. However, in the case of accrual upon the holding or organisation of the activity in question, the taxpayer must notify the Administration of their intention to undertake it in order for a provisional payment to be made based on the estimated revenue that may be obtained and which shall be considered a payment on account of the final payment, once the definite amount of the revenue obtained has been certified within twenty days from the date the activity comes to an end. This obligation shall also be required in those cases where final payment is not possible in cases of authorisation.

The Minister of Economy and Finance shall define in regulations the location, form, deadlines and forms for self-settlement and payment of the tax owed, as well as those cases in which this should be carried out by electronic means.

9. Management.

The State Tax Administration Agency shall be responsible for the management, collection, settlement and inspection of the tax, without prejudice to the provisions of the Autonomous Regions' Statutes of Autonomy and any laws concerning the transfer of taxes that may be approved.

10. Amendments in the Budget Act.

The Budget Act may amend the taxable base and the tax rates.

11. Distribution of the taxes collected.

The amounts collected through this tax, corresponding to the revenue from gambling by the residents of each Region from the activities carried out by electronic, computer or telematic means, regulated in article 3.h) herein, shall be distributed to the Autonomous Regions in proportion to the amounts gambled by the residents of each Autonomous Region.

The State shall be solely responsible for the amounts collected through the tax on state-wide parimutuel sports-charity bets and parimutuel horseracing bets, even where these are carried out through electronic, computer or telematic means.

The amounts collected through parimutuel sports-charity bets in the circumstances mentioned in section 7.1 of this article shall be allocated to the obligations established in sections b), c) and d), article 1 of Royal Decree 419/1991, of 27 March, which governs the distribution of the amounts collected and prizes of state-wide sports bets, being applied to the State revenue budget. Those parimutuel sports bets sold by the publicly owned National Lottery and Betting Organisation up until the State Company of the same name was incorporated shall be considered parimutuel sports-charity bets for these purposes.

The relevant credits to meet the payment obligations mentioned in the previous paragraph and the obligations mentioned in additional provision six herein shall be allocated to the expenses budget of the State and of the Spanish Sports Council.

The allocation of revenue to each Autonomous Region shall be determined based on players having their residence in their territory and the Autonomous Regions shall be solely responsible for the increase of amounts collected arising from the application of the provisions set forth in the final paragraph of section 7 of this article to such residents.

The amount collected shall be made available to the Autonomous Regions on a quarterly basis by means of cash operations, the procedure for which shall be defined in regulations.

Article 49. Fee for the administrative gaming management.

1. Regulatory sources.

The fee for administrative gaming management shall be governed by this Law and by the other regulatory sources established by Law 8/1989 of 13 April, on Public Fees and Prices.

2. Taxable event.

The taxable event to which the fee applies is formed by:

- a) The issuing of registry certificates.
- b) The issuing of technical opinions assessing the compliance of systems of gaming.
- c) Registrations in the General Register of Gaming Licences as established herein.
- d) Applications for licences and authorisations.
- e) The inspection or technical confirmation actions that may be set, as mandatory actions, in this Law or in other legal provisions.
- f) Regulatory actions performed by the National Gaming Commission on the gaming activities carried out by authorised operators and subject to supervision from this body, intended to defray the expenses incurred by the abovementioned Commission.

3. Persons to whom the fee applies.

The fee shall apply to the following:

In the circumstances set forth in letter f) of the previous section, the operators, organisers and anyone who holds gaming activities, under the terms established herein.

In the remaining circumstances set forth in the previous section, the person who requests the relevant registry certificate, technical assessment opinion, registration in the Register and processing of licences or authorisations, as well as anyone subject to inspection or technical confirmation actions.

4. Accrual.

The fee shall accrue:

In the circumstances set forth in letter f), section 2 of this article, on 31 December of each year. However, if due to causes attributable to the taxpayer, the latter should lose authorisation to act as an operator before this date, the fee shall accrue on the day when such circumstances arise.

In the remaining circumstances set forth in section 2 of this article, with the application for the relevant services or activities and, in the case of letter e), with the notification of the related inspection or confirmation actions.

5. Amounts.

For each circumstance set forth in the various letters of section 2 of this article, the following fee amounts shall apply:

- a) 20 euros.

- b) 38,000 euros.
- c) 2,500 euros.
- d) 10,000 for each licence and 100 euros for each authorisation.
- e) 5,000 euros.
- f) 0.75 per thousand of gross operating revenue.

The amounts set in the cases of letters b) and e) shall be considered the minimum amount.

Regulatory rules may specify the amounts payable based on the number of hours and personnel required to provide the service or activity.

In relation to letter f) above, an operator's gross operating revenue is understood to be the total of the amounts paid to participate in the game; in the case of crossed bets it is the amount won by the players participating.

The General State Budget Act may, on an annual basis, establish the percentage to apply to the gross operating revenue earned by the operator, taking into consideration the relationship between the revenue from collecting the fee and the expenses incurred in running the National Gaming Commission.

The aim will be to achieve a balance between revenue from the fees and the expenses arising from the abovementioned activity undertaken by the regulator.

However, should the percentage in the General State Budget Act be reduced to the limit of 0.75 per thousand of gross revenue, the surplus between the revenue obtained and expenses, where applicable, shall be deposited in the Public Treasury by the National Gaming Commission within the deadlines and under the conditions that may be established in regulations, taking its financing needs into account.

6. Amendments in the Budget Act.

The amounts set in section 5 can be amended in the General State Budgets Act for each year.

7. Settlement and payment.

The fee shall be settled by the procedure approved in the regulatory standard issued by the Ministry of Economy and Finance.

8. Allocation.

The fee shall be deposited in the bank accounts opened for this purpose by the National Gaming Commission or, where applicable, with the Public Treasury, in the form defined in regulations.

Additional provision one. *Reservation of Lottery activities.*

One. The publicly owned National Lottery and Betting Organisation and the National Organisation for Blind People in Spain (ONCE) are the operators appointed to market the lottery games regulated herein.

Two. The authorisations by virtue of which ONCE and the publicly owned National Lottery and Betting Organisation carry out the gaming activities under the lottery category shall be registered in a special section of the General Register of Gaming Licences for advertising purposes only.

Three. Under exceptional circumstances, the Minister of Economy and Finance may authorise the management and marketing of lottery games, provided that they are carried out by non-profit entities for charitable purposes, are one-off and, with a view to guaranteeing the security of the processes and cooperation with the State, they provide proof that they meet any requirements that may be set forth in regulations.

Four. The games managed by the publicly owned National Lottery and Betting Organisation and ONCE shall be sold as tickets or any other form of participation in a physical, computer, electronic, telephone or interactive format, either directly or through any establishment in their external commercial network.

The lottery games managed by the entities mentioned in the previous paragraph shall not be subject to complying with the obligations set forth in Title III herein.

Five. The opening of public establishments by the publicly owned National Lottery and Betting Organisation and by ONCE designed to sell the games managed by these entities until such time as this Law enters into force and of the games subject to reservation shall not require authorisation from the Autonomous Regions.

Additional provision two. *Specific legal system applicable to ONCE in relation to gaming.*

One. The legal system of ONCE in relation to gaming is defined by the provisions of this Law that are specifically applicable to it as an operator designated to carry out reserved lottery activities, with the specific rules contained in this provision.

Two. ONCE, given its special nature as a corporation governed by public law and a social organisation, and a gaming operator of recognised standing subject to strict public control, shall, with regard to the games and gaming methods authorised at any time and framed within the reserved lottery gambling activity, continue to be governed by additional provision twelve of Law 46/1985, of 27 December, on the General State Budget for 1986, implemented by the General Agreement between the National Government and ONCE, as well as by Royal Decree 358/1991, of 15 March, on the restructuring of ONCE; by its current Articles of Association; by this Provision, by Royal Decree 1336/2005 of 11 November and other specific regulations applicable to said Organisation or that may be approved in this regard.

The permits that authorise ONCE to carry out gaming activities cannot be assigned to third parties.

Three. With a view to maintaining strict public control over the gaming activity of ONCE, the powers that this Law grants to the National Gaming Commission and to the Minister of Economy and Finance in relation to reserved activities shall be exercised in relation to ONCE by the Council of the Protectorate, with the exception of those powers that lie with the Council of Ministers.

Additional provision three. *State Sports Bets.*

One. The Ministry of Education, Culture and Sports shall, through the Senior Sports Council, assume the obligations arising from Royal Decree 419/1991, of 27 March, which governs the distribution of the amounts, collected and prizes of State sports bets. The beneficiaries of such allocations, the financial allocation percentage and the destination shall be determined by resolution of the Chairperson of the Senior Sports Council, under the terms set in regulations.

Two. On a temporary basis and until such time as the entities that will benefit from the allocation and the financial allocation percentage for each one are defined in regulations, the amount that shall be assigned for each one of the different beneficiaries in the General State Budget for 2012, and that may be intended to fund both ongoing operations or investments, shall be the result of applying the following percentages to the forecast amount collected by the Tax on Gambling Activities in relation to parimutuel football bets:

- 49.95% for Provincial Councils, through their respective Autonomous Regions.
- 45.50% for the National Professional Football League.
- 4.55% for the Spanish Football Federation, intended for amateur football.

Three. The amounts released to the various beneficiaries shall be considered payment on account of the final amounts collected through the Tax on Gambling Activities in each budgetary year.

Once the relevant budgetary year has come to an end, the final settlement of the payments on account shall be made, as follows:

If the amount of the payments on account is less than the actual amount collected in the budgetary year by the Tax on Gambling Activities, then the corresponding credit shall be processed to make up the difference.

In the event that the amount of the payments on account is less than the actual amount collected in the budgetary year by the Tax on Gambling Activities, then the difference shall be deducted from the payments on account to be made in the year.

Four. The amount of the advance payments on account made to beneficiaries by means of discounts in the payments that the publicly owned National Lottery and Betting Organisation makes to same, shall be paid to the latter organisation and charged against the allowances made in the Senior Sports Council budget for 2012 in application of Final Provision Ten of Royal Decree-Law 20/2011 of 30 December, on urgent budgetary, tax and financial matters to correct the public deficit.

Additional provision four. *Participation of the Autonomous Regions in the approval of new gaming methods.*

The approval of the Ministerial Orders that establish new gaming methods, or amend existing ones, requires the advance deliberation and ruling of bilateral regional-state bodies in cases where so required by the respective Statutes of Autonomy.

Additional provision five. *Autonomous Cities of Ceuta and Melilla.*

The references made herein to the Autonomous Regions shall include, where applicable, the Autonomous Cities of Ceuta and Melilla in relation to the power assigned to same on the issue of gaming.

Additional provision six. *System of participation in the amounts collected through Sports and Horseracing Bets.*

Regulations shall set the percentage or equivalent applicable to the amounts collected through bets in order to calculate the amount that shall be returned to Sport and to the sporting competitions organised in Spain in the case of Sports Bets, and returned to the organisations that organise horse races in Spain in the case of Horseracing Bets, all of the foregoing without prejudice to Additional Provision three. The Royal Decree that implements this Law shall also establish the appropriate system of participation and distribution for the obligations to provide the details and official results of sporting competitions and guarantee the integrity of the same, as well as, in the case of horse races, for the organisation of such races and its contribution to maintaining the productive industry.

Additional Provision Seven. *Authorisation for horseracing betting operators to participate in the common funds of horseracing organising associations in Spain.*

Regulations shall govern the conditions under which specific horseracing betting licence holders may enter into agreements with horseracing organising associations in Spain, duly authorised by the relevant Autonomous Region, in order to allow participants common pool gambling, corresponding to each betting method and totalled in the respective racecourses.

Temporary provision one. *Exercise of administrative powers prior to the commencement of activities by the National Gaming Commission.*

The powers granted to the National Gaming Commission shall be exercised by the Directorate General for the Regulation of Gambling of the Ministry of Finance and Public Administrations, including the powers relating to the management and collection of the fees mentioned in article 49 herein.

The returns on the fees mentioned in the previous paragraph shall be deposited in the Public Treasury and applied to the State Revenue Budget.

The Register of Bans, heretofore under the responsibility of the Home Office in accordance with the Ministerial Order of 9 January 1979, shall be managed by the Directorate General for the Regulation of Gambling until such time as it is integrated in the General Register of Gaming Access Bans and the Register of People Linked to Gaming Operators .

Temporary provision two . *Authorising permits of the publicly owned National Lottery and Betting Organisation.*

The publicly owned National Lottery and Betting Organisation may continue to market the methods and games as it has done prior and up to the entry into force of this Law, in accordance with the regulations, the authorisation and the system for operating in-person points of sale applied to same up to the entry into force of this Law.

Within one year, the National Gaming Commission shall transform the permits held by the publicly owned National Lottery and Betting Organisation in relation to sports and horseracing bets into a general betting licence, as well as into the specific licences needed to operate the same, under the same terms and with exactly the same scope as the permits that were valid up until the date this Law enters into force.

The National Lottery and Betting Organisation cannot obtain specific licences other than those mentioned in the previous paragraph until such time as other operators are granted general licences for the gaming method in question.

Temporary provision three. *Gaming regulation.*

The regulation applicable to the various games shall remain in force until it is amended by the competent bodies.

Temporary provision four. *Temporary system for the points of sale and commercial offices of the publicly owned National Lottery and Betting Organisation.*

Those points of sale in the commercial network of the publicly owned National Lottery and Betting Organisation and its commercial offices that, by virtue of additional provision thirty-four of Law 26/2009 of 26 December, on the General State Budget for 2010, are not included in the Private Law system within the deadline set in section two of the abovementioned provision, shall be subject to the corresponding administrative regulation until they no longer exist due to meeting the circumstances set forth in the abovementioned provision.

Please note: the reference made to additional provision thirty-three of the General State Budget Act for 2010 should be understood to refer to additional provision seventy-seven of the General State Budget Act for 2012.

Temporary provision five. *First term in office of the National Gaming Commission members.*

(Abrogated)

Temporary provision six. *Temporary tax assignment system.*

1. The provisions of this rule that entail the territorialisation of returns and regulatory or management powers of the Autonomous Regions in this state tax shall only be applicable when the agreements are made in the institutional frameworks of cooperation on regional financing as per our legislation and the regulatory amendments required to configure and apply it fully as an assigned tax.

2. Until such time as the amendments to the financing system mentioned in the previous section are made, the State shall send the amount agreed with the Autonomous Regions to them, subject to agreements in the competent institutional frameworks

as established in section 11, article 48 herein, without the provisions of article 21 of Law 22/2009, of 18 December, on the revision of the overall adequacy fund being applicable.

Fulfilment of the provisions set forth in the previous paragraph shall be implemented through the same procedure as stated in section 11, article 48 herein.

Temporary provision seven. *Validations and approvals of the Autonomous Regions.*

The approvals and certificates validated by the competent bodies of the Autonomous Regions for granting regional authorising permits prior to this law entering into force shall take effect in the procedures for the granting of authorising permits regulated herein under the terms of the tender procedures for the granting of licences or where the National Gaming Commission so establishes.

Temporary provision eight. *Temporary sanctioning system.*

Title VI of this Law on the sanctioning system shall enter into force on the publication date of the resolution of the first procedure for the granting of licences mentioned in article 10 herein, or on 30 June 2012, if the abovementioned resolution has not been published prior to this date.

Temporary provision nine. *Temporary system of sports gaming sponsorship.*

Any gaming operators' sports sponsorship and advertising contracts and gambling promotion that were made binding prior to 1 January 2011 may continue to exert their effect under the agreed contractual terms, until the publication of the resolution of the first procedure for the granting of licences mentioned in article 10 herein, or until 30 June 2012, if the abovementioned resolution has not been published prior to this date.

Repealing provision.

1. All those rules that go against the stipulations of this Law and any provisions of equal or lower rank that contradict the provisions set forth herein are repealed.

2. The following are expressly repealed:

1. Royal Decree of 28 February 1924 (Presidency of the Military Council, Journal of 29 February).

2. Law of 16 July 1949 which establishes the rules for holding raffles.

3. Decree of 23 March 1956, approving the General Lottery Instruction.

4. Order of 22 March 1960 provisionally governing the procedure to be followed by applications for authorisation to hold raffles and tombolas.

5. Decree 54/1964 of 16 January, organising the National Lottery Service.

6. Order of 4 November 1965. New rules for paying out National Lottery prizes.

7. Point 5.3, article 3 of Royal Decree-Law 16/1977 of 25 February, which regulates the Penal, Administrative and Fiscal Aspects of Games of Chance, Betting and Gambling.

8. Additional provisions eighteen and nineteen of Law 46/1985 of 27 December, on the General State Budget for 1986, with effect from the date Title VI of this Law enters into force.

9. Royal Decree 1082/1985 of 11 June, which establishes the classification, provision, operation, transfer and removal of Lottery Administrations.

10. Royal Decree 2695/1986 of 19 December, which establishes the composition of the Sports Betting Governing Council of the National Lottery and Betting Organisation.

11. Law 34/1987, Sanctioning Power of the Public Administration in relation to games of luck or chance. However, the Autonomous Cities of Ceuta and Melilla shall apply this Law until the approval of the relevant regulation in this regard, within their area of responsibility.

12. Royal Decree 1511/1992 of 11 December, which governs certain administrative and financial aspects of the National Lottery and Betting Organisation.

13. Royal Decree 2069/1999 of 30 December, which approves the Articles of Association of the National Lottery and Betting Organisation.

14. Additional provision twenty of Law 24/2001 of 27 December on Tax, Administrative and Social Order measures.

15. Article 88 of Law 53/2002 of 30 December, on Tax, Administrative and Social Order measures, which establishes the sanctioning system of the holders of the points of sale of the National Lottery and Betting Organisation commercial network.

16. Order HAC/430/2004 of 9 February, on the creation on branches of the National Lottery and Betting Organisation Basic Network.

17. Royal Decree 176/2005 of 18 February, which governs the Board for the provision of National Lottery administrations.

Final provision one. *Powers.*

This Law is issued in exercising the exclusive powers of the State set forth in rules 6, 11, 13, 14 and 21 of section 1, article 149 of the Spanish Constitution.

Final provision two. *Implementing power.*

The Government of the Nation is authorised to adopt, at the proposal of the Minister of Economy and Finance, as many provisions as are required for the development and implementation of the stipulations of this law within one year from the date it enters into force.

Final provision three. *Winding up of certain Public Bodies.*

The following bodies are wound up: the Board for the provision of National Lottery Administrations, the Sports Betting Governing Council, both affiliated to the Ministry of Economy and Finance, and the National Gaming Commission, currently affiliated to the Home Office.

Final provision four. *Updating of sanction amounts.*

The amounts relating to the fines set forth in article 42 herein may be updated by means of Royal Decree, at the proposal of the Ministry of Economy and Finance.

Final provision five. *Amendment of the fees on gaming.*

1. Section 1, article 3 of Royal Decree-Law 16/1977, of 25 February, which regulates the penal, administrative and fiscal aspects of games of chance, betting and gaming, shall read as follows:

"1. The taxable event is constituted by the authorisation, holding or organisation of games of luck or chance, unless these are subject to the tax on gaming activities, as per Law 11/2011 on the regulation of gaming."

2. Article 36 of Royal Decree 3059/1966 of 1 December, which approves the Consolidated Tax Rates Text, shall read as follows:

"Article 36. Taxable event.

These fees shall be required for the authorisation, holding or organisation of raffles, tombolas, bets and random combinations, unless these are subject to the

tax on gaming activities, as per Law 11/2011 on the regulation of gaming.

The charging of such fees falls within the State's remit where the territorial scope of participation is state-wide."

Final provision six. *Amendment of additional provision ten of Law 6/1997, of 14 April, on the Organisation and Operation of the General State Administration.*

Section 1 of additional provision ten of Law 6/1997, of 14 April, on the Organisation and Operation of the General State Administration is amended and shall read as follows:

"1. The Spanish Securities Market Commission, the Nuclear Safety Council, the Public Entity RTVE, public Universities, the Data Protection Agency, the Spanish Foreign Trade Institute (ICEX), the Special Canaries Zone Consortium, the National Energy Commission, the Telecommunications Market Commission, the National Competition Commission, the National Postal Sector Commission, the State Audiovisual Media Board, and the National Gaming Commission shall be governed by their own specific legislation and subsidiarily by this Law.

With regard to such bodies, the Government and the General State Administration shall exercise the powers that the regulations of each one assigns to them, where applicable, in strict compliance with their corresponding areas of independence."

Final provision seven. *Exemptions to the Value Added Tax and General Indirect Tax of the Canary Islands.*

1. Article 20. One.19 of Law 37/1992 of 28 December on Value Added Tax is amended and shall read as follows:

"19. The lotteries, bets and games organised by the National Lottery and Betting Organisation and the National Organisation for Blind People in Spain (ONCE) and by the corresponding bodies in the Autonomous Regions, as well as the activities that constitute the taxable events of taxes on gaming and random combinations.

The exemption does not extend to the management services and other operations of an ancillary or supplementary nature to those included in the previous paragraph that do not constitute the taxable event of the taxes on gaming, with the exception of bingo management services."

2. Article 10.1.19) of Law 20/1991, of 7 June, on changes to the tax aspects of the Financial and Tax System of the Canaries is amended and shall read as follows:

"19) The lotteries, bets and games organised by the publicly owned National Lottery and Betting Organisation and the National Organisation for Blind People in Spain (ONCE) and, where applicable, by the corresponding bodies in the Autonomous Region of the Canaries, as well as the activities that constitute the taxable events of the taxes on gaming and random combinations.

The exemption does not extend to the management services and other operations of an ancillary or supplementary nature to those included in the previous paragraph that do not constitute the taxable event of the taxes on gaming, with the exception of bingo management services."

Final provision eight. *Amendment of Law 2/2011, of 4 March, on the Sustainable Economy.*

One. Section 1, article 8 of Law 2/2011, of 4 March, on the Sustainable Economy is amended, and shall read as follows:

"1. For the purposes of the provisions set forth in this Chapter, the current National Energy Commission, the Telecommunications Market Commission, the National Postal Sector Commission, and the National Gaming Commission shall be considered Regulatory Bodies."

Two. Section 3, article 9 of Law 2/2011 of 4 March, on Sustainable Economy is amended, and shall read as follows:

"3. For the purposes of the provisions set forth in this Law, the National Energy Commission and the Telecommunications Market Commission shall report to the Minister of Industry, Tourism and Trade; the National Postal Sector Commission shall report to the Minister of Development; and the National Gaming Commission shall report to the Minister of Economy and Finance."

Final provision nine. *Maintenance of the applicable tax system in the Personal Income Tax on prizes already exempt from said tax when this Law enters into force.*

An additional provision thirty-three is added to Law 35/2006 of 28 November on Personal Income Tax and partial amendment of the laws on Corporation Tax, Non-residents Tax and Wealth Tax, which reads as follows:

"Additional provision thirty-three. *Maintenance of the applicable tax system in place prior to the approval of the Law on the regulation of gaming.*

In relation to the prizes obtained in games other than lotteries, the exemption set forth in article 7 ñ) herein shall only be applicable with regard to the games that were already being marketed by the entities mentioned in said article and in final provision three of Royal Decree-Law 1/2011 of 11 February, when Law 11/2011 on the regulation of gaming enters into force, and which were exempt as per the regulation of this tax in force at the time."

Final provision ten. *System applicable to the Agreement or Convention systems.*

1. By virtue of its regional system, the application of the provisions of this Law to the Autonomous Region of the Basque Country shall be understood to be without prejudice to the provisions of the Economic Agreement Act.

2. By virtue of its regional system, the application of the provisions of this Law to the Region of Navarre shall be carried out in accordance with article 64 of the Organic Law on Reintegration and Improvement of the Regional System of Navarre, in line with the provisions of the Economic Convention between the State and the Region of Navarre.

Final provision eleven. *Entry into force.*

This Law shall enter into force on the day following its publication in the "Official State Gazette".

Therefore,

I instruct all Spanish people, both individuals and authorities, to observe and ensure this Law is observed.

Madrid, 27 May 2011.

KING JUAN CARLOS

The President of the
Government,
JOSÉ LUIS RODRÍGUEZ ZAPATERO

This consolidated text does not have legal status. Further information at info@boe.es

Translated