

***Resolution of 13 October 2014, issued by the Directorate General for the Regulation of Gambling, approving the provision implementing Chapter III, Title II of Royal Decree 1614/2011, of 14 November, and determining the operator guarantee amounts associated with the different types of specific gambling licences.***

The Gambling Act 13/2011, of 27 May, establishes the national legislative framework for gambling activities in their different forms for the purpose of ensuring the protection of public order, combating fraud, preventing addictive behaviour, protecting the rights of minors and safeguarding the rights of gambling participants.

The carrying on of gambling activities regulated by the above-mentioned act is subject to prior obtainment of the relevant licence and, in particular, general and specific licences. With the main aim of protecting gambling participants, the act establishes a series of measures which the operators that obtain licences must adopt, notable among which is the provision of guarantees that are subject to compliance with the obligations thereof.

Article 14 of the Gambling Act 13/2011, of 27 May, implemented by Chapter III, Title II of Royal Decree 1614/2011, of 14 November, which elaborates on the licensing, authorisation and registration of gambling activities under the aforementioned Act 13/2011, provides for the basic legal regime relating to the guarantees that gambling operators must provide. Furthermore, the Second Final Provision of the above-mentioned Royal Decree 1614/2011 authorises the Directorate General for the Regulation of Gambling to, pursuant to Article 23 of Act 13/2011, lay down such provisions as may be necessary to implement and enforce them.

In particular, Article 14.3 of the Gambling Act 13/2011, of 27 May, and the various Ministerial Orders establishing the basic regulations for gambling activities confer on the Directorate General for the Regulation of Gambling the task of determining the operator guarantee amounts associated with the different types of specific gambling licences.

In accordance with the aforementioned authorisation, the Directorate General for the Regulation of Gambling issued the Resolution of 16 November 2011, approving the provision implementing Chapter III, Title II of Royal Decree 1614/2011, of 14 November, and determining the operator guarantee amounts associated with the different types of specific gambling licences.

In addition, the enactment of Order HAP/1369/2014 of 25 July, approving the basic regulations for betting-exchange, and which amended various ministerial orders that approved the basic regulations for particular games, and of Order HAP/1370/2014 of 25 July, approving the basic regulations for slot-machine gambling, requires the Directorate General for the Regulation of Gambling to determine the amount of the guarantee associated with each specific licence for engagement in and operation of the various types of gambling regulated by such orders.

It must also be taken into account that, following the adoption of the Ministerial Orders referred to in the above paragraph, the Directorate General for the Regulation of Gambling, through the Resolution of 31 July 2014, and pursuant to Article 10.1 of Act 13/2011 and Article 15 of Royal Decree 1614/2011, called a procedure for the issuing of general licences for engagement in and operation of gambling activities regulated by law. Such procedure is open not only to new operators interested in offering gambling activities but also operators that already hold at least one general licence for the purpose of applying for and, where appropriate, obtaining new general licences other than those granted following the aforementioned opening up of the nationwide gambling market adopted by means of Order EHA 3124/2011, of 16 November, approving the terms of reference that shall govern the invitation to apply for general

licences for engagement in and operation of gambling activities under the Gambling Act 13/2011, of 27 May.

Although the guarantee that all nationwide gambling operators must provide to the Directorate General for the Regulation of Gambling in order to meet their obligations is a single payment, the amount thereof is determined according to the general and specific licences actually obtained by the operators and is variable during the term of validity of such guarantee. In this regard, in accordance with Appendix I of Royal Decree 1614/2011, such amount shall be fixed throughout its initial term and proportional to annual revenue, either gross or net according to the type of gambling activity, earned from the carrying on of gambling activities enabled by the specific operating licences once the aforementioned period has ended, the minimum amount established by law always being considered.

Taking into account the particular nature of the initial period indicated, it is necessary to specify the procedure used for updating the guarantee amount in such a way that, on one hand, between the end of that initial period and the effective updating of the corresponding amount on a yearly basis, the guarantee maintains its full validity and coverage and, on the other hand, it adequately provides for the reality arising from possible successive applications for general licences from operators in licence granting procedures which, under Act 13/2011, may occur punctually.

In addition, advantage was taken of the need to carry out the current amendment in accordance with the foregoing to incorporate system changes into the content and review the standard guarantee forms approved in the appendices thereof. With regard to the latter, as per the provisions laid down in Act 13/2011 and its implementing regulations, the singular and indefinite nature of the guarantees is established so that they meet such obligations as may arise from operator activity throughout the period of validity of their licences, thereby ensuring the adequate scope of the coverage thereof to the benefit of gambling participants' rights.

The second final provision of Royal Decree 1614/2011 authorises the National Gambling Commission to, pursuant to Article 23 of Act 13/2011, lay down such provisions as may be necessary to implement and enforce them. Therefore, based on the power conferred on it, the provision implementing the aforementioned Royal Decree 1614/2011 and standard forms for providing the guarantees furnished by means of a security or surety bond was adopted through Resolution of 16 November 2011. Since, pursuant to the tenth additional provision of the National Markets and Competition Commission Act 3/2013, of 4 June, the Directorate General for the Regulation of Gambling, under the aegis of the Ministry of Finance and Public Administrations, assumes the purpose, functions and powers conferred by the Gambling Act 13/2011, of 27 May, on the now defunct National Gambling Commission, it is the responsibility of this Directorate General for the Regulation of Gambling to approve the aforementioned provisions, among them that which implements the basic legal regime relating to guarantees, and to amend them.

By virtue thereof, and following the favourable report from the Office for Legal Counsel to the State Secretariat for Finance under the aegis of the Ministry of Finance and Public Administrations, the Directorate General for the Regulation of Gambling hereby decides to:

One.

Approve the provision implementing Chapter III, Title II of Royal Decree 1614/2011, of 14 November, elaborating on the licensing, authorisation and registration of gambling activities under the Gambling Act 13/2011 of 27 May, which is contained in Appendix I of this Resolution.

Two.

Approve the operator guarantee amounts associated with the different types of specific gambling licences, which are contained in Appendix II of this Resolution.

Three.

Approve the standard forms for providing guarantees, which are contained in Appendix III and IV of this Resolution.

Four.

Gambling operators licensed before entry into force of this Resolution have until 1 March 2015 to, where applicable, adapt already provided guarantees to the provisions contained therein and provide documentary proof of such adaptation to the Directorate General for the Regulation of Gambling, without prejudice to the maintenance or extension of its period of validity until the date of the above-mentioned adaptation.

Five.

This Resolution shall enter into force on the day of its publication in the Official State Gazette of Spain.

Six.

Resolution of 16 November 2011, issued by the Directorate General for the Regulation of Gambling, approving the provision implementing Chapter III, Title II of Royal Decree 1614/2011, of 14 November, and determining the operator guarantee amounts linked to the different types of special gambling licences is repealed.

Madrid, 13 October 2014.- Director Genral for the Regulation of Gambling, Carlos Hernández Rivera.

## **APPENDIX I.**

### **Provision implementing Chapter III, Title II of Royal Decree 1614/2011, of 14 November.**

*One. Purpose.*

The aim of this provision is to implement Chapter III, Title II of Royal Decree 1614/2011, of 14 November, in relation to the requirements and conditions that shall regulate the provision of guarantees associated with general and specific licences for engagement in and operation of gambling activities referred to in the Gambling Act 13/2011, of 27 May.

*Two. Legal regime relating to guarantees.*

The legal regime relating to guarantees associated with general and specific licences for engagement in and operation of gambling activities shall be that established by Article 14 and related articles of the Gambling Act 13/2011, of 27 May, in Chapter III, Title II of the aforementioned Royal Decree 1614/2011, the various Ministerial Orders, which enact the basic regulation for gambling activities, this provision and the additional implementing regulations issued by the Directorate General for the Regulation of Gambling.

*Three. Guarantee scope.*

1. The gambling operator guarantee, without prejudice to its association for calculation purposes with any general or specific licences applied for or already held, shall be singular and the amount thereof shall be determined in each case pursuant to Royal Decree 1614/2011, of 14 November, which elaborates on the licensing, authorisation and registration of gambling activities under the Gambling Act 13/2011, of 27 May, and in this provision.

2. The guarantee is subject to compliance with the responsibilities and obligations of the gambling operator in relation to engagement in, operation and management of slot-machine gambling, pursuant to Articles 40.2 and 41.2 of Royal Decree 1614/2011, of 14 November, from commencement of the activity until expiry of all licences.

3. The guarantee must at all times be maintained valid by the operator and the amount thereof duly updated. Failure to provide such guarantee, furnish the full amount thereof, provide it within the established time frame or its loss constitute grounds for refusal to grant the licence for which it has been requested or with which it is associated, or for such licence to be rendered invalid.

4. The Directorate General for the Regulation of Gambling may at any time request the operator to provide documentary proof as to the validity of the guarantee or its payment in full. If within a month from the date of notification of the aforementioned request such circumstances are not duly substantiated, the operator may incur grounds for revocation of their licence pursuant to Articles 9 and 14 of the Gambling Act 13/2011, of 27 May.

#### *Four. Provision of guarantee.*

1. The guarantee associated with the general licence, in accordance with Article 42 of Royal Decree 1614/2011, of 14 November, elaborating on the licensing, authorisation and registration of gambling activities under the Gambling Act 13/2011, of 27 May, must be submitted together with the general licence application.

Once the initial period has elapsed, operators that hold at least one general licence applying for general licences under Article 10 of the Gambling Act 13/2011, of 27 May, shall not be obliged to provide, along with their application, any additional guarantee or difference between the guarantee amount already paid and that payable at the time of submitting the new application. Without prejudice to the foregoing, in the event that the pre-existent general licence is only that referred to in Article 3-e) of the Gambling Act 13/2011, of 27 May, gambling operators applying for at least one new general licence must pay any difference between the guarantee amount already paid and that payable at the time of submitting the new application up to one million euros and submit documentary proof of such payment, together with the application for the new general licence, to the Directorate General for the Regulation of Gambling.

2. In cases of transfer of the licence referred to in Article 9.3 of the Gambling Act 13/2011, of 27 May, and Article 6 of Royal Decree 1614/2011, the new licence holder must provide a new guarantee within three days of notification of the resolution authorising transfer of such licence.

#### *Five. Method used to provide guarantee.*

1. In accordance with the provisions laid down in Article 43 of Royal Decree 1614/2011, of 14 November, elaborating on the licensing, authorisation and registration of gambling activities under the Gambling Act 13/2011, of 27 May, the operator guarantee may consist of the following:

- a) Cash, deposited into the bank account provided for such effects by the Directorate General for the Regulation of Gambling.
- b) Mortgage furnished on property located in Spain.
- c) Securities submitted by credit institutions or reciprocal guarantee companies duly authorised to carry on their activities in Spain.
- d) Sureties granted by insurance companies duly authorised to carry on their activities in Spain.

2. The guarantees deposited in cash referred to in 1 a) above shall be furnished in euros and shall not bear any interest.

The Directorate General for the Regulation of Gambling, at the request of the party interested in providing a guarantee in cash, shall specify the relevant deposit account.

3. Irrespective of the method used to furnish it, the guarantee shall be provided with an express waiver of the rights of property, discussion and division, at first call and to the

Directorate General for the Regulation of Gambling, and it shall be enforceable and irrevocable in Spain. The securities and sureties shall be deposited into the account provided by the Directorate General for the Regulation of Gambling itself.

4. The guarantees shall not be considered to be validly provided until such times as they are expressly deemed adequate on account of them meeting the requirements of the applicable legislation of the Directorate General for the Regulation of Gambling.

*Six. Amount and calculation of guarantee.*

1. In accordance with Appendix I of Royal Decree 1614/2011, of 14 November, which elaborates on the licensing, authorisation and registration of gambling activities under the Gambling Act 13/2011, of 27 May, the guarantee associated with the general licence within the initial period shall be EUR two million per general licence granted, except for the form of gambling referred to in Article 3-e) of the Gambling Act 13/2011, of 27 May, which shall be EUR five-hundred thousand.

In the years subsequent to the initial period, the amount associated with all of the general licences held by the operator, irrespective of their form and the date furnished thereof, shall be EUR one million, unless the operator only holds one general licence for the form of gambling referred to in Article 3-e) of the Gambling Act 13/2011, of 27 May, in which case the amount shall be EUR two-hundred and fifty thousand.

2. The amounts referred to in the above paragraph, without prejudice to the content of paragraph three, shall be considered as the minimum operator guarantee amount.

3. The guarantee amount associated with the various specific licences held by the operator shall be calculated by adding together the amounts obtained from the application of the provisions laid down in Appendix II of the Resolution approving this provision.

The guarantee amount associated with the specific licences shall not be taken into consideration for the purpose of calculating the guarantee amount during the initial period.

4. If the amount referred to in the above paragraph is higher than the minimum operator guarantee amount, that shall be the total guarantee amount, the amount corresponding to the minimum amount being allocated to the general licences and the remainder to the specific licences.

5. Appropriate documentary proof must be provided before 1 March every year to the Directorate General for the Regulation of Gambling of the updating of the guarantee amount associated with the general or specific licences once the initial period has ended or, where appropriate, the lack of need to effect such update on account of the amendment of the joint guarantee amount not being necessary. The guarantee amount shall remain the same until it is duly updated.

6. Amendment of the operator guarantee amount shall be made, when appropriate, through inclusion of a supplement regulating the pre-existing guarantee amount, the validity thereof at all times being maintained.

*Seven. Cancellation of guarantee.*

1. In cases where the licence application is refused, or revocation or expiry of the licences with which the guarantee is associated, provided that there is documentary proof that there do not exist any outstanding obligations or responsibilities affecting the guarantee, the Directorate General for the Regulation of Gambling shall return it, at the request of the interested party and subject to appropriate settlement thereof, when appropriate.

2. In cases of expiry of specific licences with which part of the guarantee amount is associated, provided that there is documentary proof that there do not exist any outstanding obligations or responsibilities affecting the guarantee, the Directorate General for the Regulation of Gambling shall reduce the guarantee amount, at the request of the interested party and subject to appropriate settlement thereof, when appropriate.

Under no circumstances will the result of the reduction of the operator guarantee amount be lower than the minimum guarantee amount referred to in clause 6.1 of this provision.

Eight. *Substitution of guarantee.*

At the request of the operator, the Directorate General for the Regulation of Gambling may authorise the substitution of the guarantee furnished, with the guarantee not being returned until the new guarantee is expressly considered adequate by the Directorate General for the Regulation of Gambling on account of it meeting the requirements of the applicable legislation and provided that there is documentary proof that there do not exist any outstanding obligations or responsibilities affecting the guarantee which is intended to be substituted.

Nine. *Execution.*

Execution of guarantees shall require prior institution of proceedings by the Directorate General for the Regulation of Gambling whereby the interested party is granted a hearing. As part of the aforementioned proceedings, proof of the following must be provided:

- a) That there has been no stay of execution regarding the statement of the failure to comply by the obligated party if the latter has appealed through the administrative channel, or that the statement is firm in the case that the guaranteed obligation consists of the payment of an administrative penalty pursuant to Articles 111 and 138.3, respectively, of the Act on the Legal System of Public Administrations and the Common Administrative Procedure.
- b) The guarantee amount impounded and
- c) Prior notification issued to the interested party of the intention to submit an impounding request for the purposes of the hearing. For these purposes the operator and, where appropriate, the person or entity that provided the guarantee shall be considered as an interested party, and a period of ten days shall be granted for them to submit pleadings, along with such supporting documents and other means of defence as they deem relevant pursuant to Article 84 of the Act on the Legal System of Public Administrations and the Common Administrative Procedure.

## **APPENDIX II.**

### **Determining the operator guarantee amounts associated with the different types of specific gambling licences**

The guarantee amount associated with specific licences for engagement in and operation of the different gambling activities, once the initial guarantee period has ended, for each type of gambling shall be the percentage appearing below of gross or net revenue, as the case may be, of the operator, attributable to the activity enabled by specific licences in the financial year immediately preceding the effective date of the guarantee:

- a) Sports pool betting: 1.5% of gross revenue.
- b) Horse pool betting: 1.5% of gross revenue.
- c) Sport fixed-odds betting: 6.5% of gross revenue.
- d) Horse fixed-odds betting: 7.5% of gross revenue.
- e) Other fixed-odds betting: 6.5% of gross revenue.
- f) Betting-exchange: 7.5% of gross revenue.
- g) Bingo: 6.5% of gross revenue.
- h) Contests: 2% of gross revenue.
- i) Roulette: 8% of gross revenue.
- j) Poker: 8% of gross revenue.
- k) Blackjack: 8% of gross revenue.

- l) Baccarat: 8% of gross revenue.
- m) Slot-machines: 8% of gross revenue.
- n) Additional Games: 6.5% of gross revenue.

Translated

**APPENDIX III**

**Standard model form for provision of surety bond**

The insurance company .....  
domiciled at ..... and with  
Taxpayer Identification Number ..... (hereinafter, the insurer), for and on  
behalf of ....., holding sufficient legal  
capacity to be bound by this agreement pursuant to power of attorney granted by  
..... on .....and who participates in this agreement,

**INSURES**

The entity ..... with Taxpayer Identification Number  
....., in the capacity of policy-holder, vis-à-vis the Directorate General for the  
Regulation of Gambling, up to the amount of EUR .....  
(€.....), by way of Surety Bond, in order to meet such obligations of the gambling operator  
identified as the policy-holder as may arise vis-à-vis the Directorate General for the Regulation  
of Gambling pursuant to Article 14 of the Gambling Act 13/2011, of 27 May, and its  
implementing regulations.

Non-payment of the premium, whether it be a single premium, first or subsequent, does  
not entitle the insurer to terminate the agreement, nor will the agreement be cancelled, or the  
coverage provided by the insurer suspended, or the latter discharged from its obligation, in  
which case the insured party must enforce the guarantee.

The insurer signs this Surety Bond unconditionally and irrevocably and may not raise to  
the insured party such exceptions as may be applicable against the policy-holder.

The insurer undertakes to compensate the Directorate General for the Regulation of  
Gambling at the latter's request once the execution procedure established in the applicable  
legislation has been completed.

This Surety Bond shall enter into effect on the date on which it is signed and shall remain  
valid until the Directorate General for the Regulation of Gambling authorises the cancellation or  
return thereof.

This coverage may be extended by means of the corresponding extension supplement.  
The amount of this guarantee shall be updated pursuant to Act 13/2011, Royal Decree  
1614/2011 and other applicable regulations.

The notices that must be served by the parties under the terms of this Surety Bond shall  
be issued to the respective addresses indicated below:

- On the part of the insurer:

.....  
.....

For the attention of .....

- On the part of the Directorate General for the Regulation of Gambling:

Directorate General for the Regulation of Gambling.  
Calle Atocha, 3.  
28012 Madrid.

The insurance company, waiving any other jurisdiction that may correspond to it,  
expressly submits itself to the Courts and Tribunals of the city of Madrid for the resolution of any  
disputes that may arise from this guarantee.

Madrid, on ..... 20.....

[Signature and stamp of the insurance company appear]



**APPENDIX IV.**

**Standard model form for provision of first call guarantees**

.....<sup>2</sup>,  
domiciled at ..... and with  
Taxpayer Identification Number ..... (hereinafter, the guarantor), for and on behalf  
of ....., holding sufficient legal capacity to  
be bound by this agreement pursuant to power of attorney granted by  
..... on .....and who participates in this agreement,

**PROVIDES A GUARANTEE**

FOR, ..... domiciled ..... at  
.....<sup>3</sup> and with Taxpayer  
Identification Number ....., and commits itself unconditionally and irrevocably vis-  
à-vis the Directorate General for the Regulation of Gambling to pay, at the first call made by the  
latter, the amount of EUR.....<sup>4</sup> (..... euros<sup>5</sup>), by way of  
guarantee pursuant to Article 14 of the Gambling Act 13/2011, of 27 May, and its implementing  
regulations.

Payment of the aforementioned amount shall be made within the two (2) business days  
following that on which the call is made, into the current account specified in the request made  
by the Directorate General for the Regulation of Gambling. The obligation assumed by the  
guarantor by virtue of this Guarantee is irrevocable, unconditional and payable at first call. The  
guarantor expressly waives the rights of property, discussion and division, and may not raise to  
the Directorate General for the Regulation of Gambling such exceptions as may be applicable  
against the guaranteed party.

This Guarantee shall enter into effect on the date on which it is signed and shall remain  
valid until the Directorate General for the Regulation of Gambling authorises the cancellation or  
repayment thereof. This coverage may be extended by means of the corresponding extension  
supplement. The amount of this guarantee shall be updated pursuant to Act 13/2011, Royal  
Decree 1614/2011 and other applicable regulations.

The notices that must be served by the parties under the terms of this first call Guarantee  
shall be issued to the respective addresses indicated below:

- On the part of the guarantor:

.....  
.....  
.....

For the attention of .....

- On the part of the Directorate General for the Regulation of Gambling.

Directorate General for the Regulation of Gambling.  
Calle Atocha, 3.  
28012 Madrid.

2 Identification of the guarantor.  
3 Identification of the guaranteed party.  
4 Amount in words.  
5 Amount in figures.

The guarantor, waiving any other jurisdiction that may correspond to it, expressly submits itself to the Courts and Tribunals of the city of Madrid for the resolution of any disputes that may arise from this guarantee. This Guarantee has been registered on this very date in the Special Guarantee Register of the guarantor, under number .....

Madrid, on ..... 20.....

[Signature and stamp of the guarantor]

Translated