

## **ORDER EHA 3083/2011, OF 8 NOVEMBER WHICH APPROVES THE BASIC REGULATIONS FOR PARIMUTUEL BETS ON HORSE RACING.**

The development, evolution and diversity of leisure activities is something that can be seen in all modern societies today, and is an area of growing economic importance. For this reason, the administration needs to pay specific attention to these activities and ensure they are regulated in accordance with their scale and social and economic impact.

Furthermore, the progressive spread of new communication technologies to all social areas is having an unquestionable impact on the leisure industry, where a sizeable group of users demonstrate a preference for practising leisure activities via remote connections.

This combination of economic, technological and social circumstances means that traditional gaming methods have been joined by others and that certain traditional games, such as pari-mutuel bets on horse racing, need to be adapted to the new circumstances.

The approval of Law 13/2011, of 27 May on the regulation of gaming, has established a regulatory framework for access to the operation and development of gaming activities at a national level and has enabled the market to be opened up to multiple operators.

This opening of the market results in permits that authorise gaming operators to operate the modes of gaming covered by the Law through general licences, on the one hand, and, on the other, to operate each individual type of game regulated by the Law through specific licences.

This Order ensures compliance with the requirement for prior regulation which, in relation to the awarding of specific licences, is established in article 11 of Law 13/2011, of 27 May on the regulation of gaming, approving the basic regulations for pari-mutuel bets on horse racing which, following the awarding of the first specific licences, may be offered through a competitive bidding process.

This new regulation establishes a series of basic regulations that can be implemented by the National Gaming Commission and which will be complemented by the specific private rules that the different operators will have to draw up and propose together with their application for a specific licence and which will govern the gaming operations and the operator's relations with participants.

In short, they form the basis of a regulatory framework aimed principally at protecting participants and public interests affected by gaming activities,

particularly the protection of minors and dependent people, the prevention of gambling addiction and compliance with the provisions of Law 10/2010, of 28 April on the prevention of money laundering and terrorist financing.

Article 5 of Law 13/2011, of 27 May on the regulation of gaming, grants the Ministry of Economy and Finance the power to establish, by means of a Ministerial Order, the basic regulations governing each game.

By virtue of which, I hereby decree:

**Article 1. Approval of the Basic Regulations for pari-mutuel bets on horse racing.**

Approval is given to the Basic Regulations for pari-mutuel bets on horse racing, which are national in scope, and which are included as Appendix I of this Order. The terms established in this Order shall be understood without prejudice to the powers of the Autonomous Regions in relation to the planning and regulation of games and bets wagered in person in public establishments dedicated to recreational activities.

**Article 2. Limits on the guarantees associated with the specific licence for operating pari-mutuel bets on horse racing.**

Approval is given to the limits corresponding to the guarantees associated with the specific licence for operating pari-mutuel bets on horse racing which are included as Appendix II in this Order.

**Article 3. Financial limits on participation in pari-mutuel bets on horse racing.**

Approval is given to the financial limits on participation in pari-mutuel bets on horse racing, included in this Order as Appendix III.

**Single additional provision. Specific rules of pari-mutuel bets on horse racing managed by the publicly owned National Lottery and Betting Organisation.**

Within the framework of the procedure to transform the licences held by the publicly owned National Lottery and Betting Organisation, notwithstanding the terms of temporary provision two of Law 13/2011, of 27 May on the regulation of gaming, and in accordance with these Basic Regulations, the National Gaming Commission will require said organisation to provide specific rules which, from the time the specific licence for operating pari-mutuel bets on horse racing is

awarded, will govern the operating of these types of bets by the State-owned Company.

**Final provision one. Authorisation of the National Gaming Commission.**

1. The National Gaming Commission is authorised to establish any provisions deemed necessary to implement and apply this Order and, in particular, to modify the sums established in Appendix III accompanying the Order.
2. The National Gaming Commission is authorised to adopt as many provisions as are necessary to implement and execute the terms established in the basic regulations governing pari-mutuel bets on horse racing.
3. The National Gaming Commission is authorised to establish the procedure that regulates the awarding of specific licences and permits for occasional gaming activities, as provided for in this Ministerial Order and in the implementing regulations of Law 13/2011, of 27 May on the regulation of gaming. This procedure will establish the requirements that must be met by operators and the documentation proving they meet these requirements which will have to be presented.

**Final provision two. Entry into force.**

This Order will enter into force within one month from the day it is published in the Official State Gazette.

Madrid, 8 November 2011.

THE VICE PRESIDENT OF THE GOVERNMENT FOR ECONOMIC AFFAIRS  
AND MINISTER OF ECONOMY AND FINANCE

Elena Salgado Méndez

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### **Basic regulations for pari-mutuel bets on horse racing.**

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## **Chapter I.**

### **General provisions**

#### **Article 1. Aim and scope of application.**

The aim of this Regulation is to establish the basic rules that operators have to comply with in order to develop and operate - at a national level - pari-mutuel bets on horse racing, and in drafting and producing their own specific rules, notwithstanding the powers corresponding to the Autonomous Regions regarding planning and regulating games and bets wagered in person in public establishments dedicated to recreational activities.

#### **Article 2. Definitions.**

For the purposes of these basic regulations, the terms used herein will have the meaning established in this article.

*1. Horse racing bet.* A horse racing bet is understood to be a bet placed on the predicted result of one or several horse racing events included in the programmes previously established by the gaming operator, or on features or circumstances related to such races, which the gaming operator has previously established in the corresponding programme. Under no circumstances can these kinds of bets be placed on events in which animals other than horses are participating.

*2. Pari-mutuel bets on horse racing.* A pari-mutuel bet on horse racing is one in which a percentage of the sum of the funds wagered (a sum which is established in advance in the basic rules of the game), is distributed among the participants who, in accordance with the programme of prizes, have correctly predicted the result of the race or races or the feature or circumstance of the event on which the bets were wagered.

*3. Minimum betting unit.* The minimum betting unit is understood to be the minimum amount which can be played in each bet.

*4. Horse racing event.* A horse racing event is understood to be a race or series of races previously determined by the operator in their corresponding programme, which is carried out as part of a competition or alongside this, and which is organised by people, associations or entities that are not associated with the operator, and where there is an uncertain outcome which is out of the control of the gaming operator and the participants.

*5. Suspended horse racing event.* A suspended event is understood to be an event which, having started, has been interrupted before reaching its scheduled conclusion. Suspended events may offer valid results if the specific rules of the

bets allow for this.

6. *Cancelled horse racing event.* A cancelled event is understood to be an event which, for reasons not attributable to the gaming operator or participants, does not take place or which is held and its results are not considered in the game.

7. *Postponed horse racing event.* A postponed event is understood to be an event which, for reasons not attributable to the gaming operator or the participants, does not take place at the time it is scheduled to do so. A postponed event, unless the specific rules of the game state otherwise and provide for an event to replace it, means postponing the results of the game.

8. *Single pari-mutuel bet on horse racing.* A single pari-mutuel bet on horse racing is one in which a prediction is made on a single result in a single horse racing event.

9. *Multiple pari-mutuel bet on horse racing.* A multiple pari-mutuel bet on horse racing is understood to be a prediction made simultaneously on two or more results of a horse racing event.

10. *Combined pari-mutuel bet on horse racing.* A combined pari-mutuel bet on horse racing is understood to be a prediction made simultaneously on the results of two or more horse racing events.

## **Chapter II.**

### **Authorising permits**

#### **Article 3. Authorisations required.**

Operators interested in developing and operating pari-mutuel bets on horse racing must have a general betting licence, as defined in article 3, letter c), of Law 13/2011, of 27 May on the regulation of gaming, awarded by the National Gaming Commission, and must apply for and obtain the corresponding specific licence for marketing pari-mutuel bets on horse racing in accordance with the procedure established for this purpose in the implementing regulations of Law 13/2011 on the regulation of gaming.

#### **Article 4. Validity and extending specific licenses.**

1. The specific licence for developing and operating pari-mutuel bets on horse racing will be valid for five years and the interested party may apply to extend the licence for successive periods of the same duration until the general licence

by which it is covered expires.

2. The holder of the specific licence should send their application to extend their licence to the National Gaming Commission in the year before its expiration date and at least four months before it expires. Said application must show evidence of:

a) Compliance with the requirements and conditions for obtaining said specific license.

b) The uninterrupted use of the license for at least three fifths of the validity period of the specific license.

c) Payment of the tax on gaming activities and the fees for the administrative management of the game.

For the purpose of paying and settling the rate for the administrative management of the game, established in article 49.5.d) of Law 13/2011, of 27 May on the regulation of gaming, the extension of a specific licence shall be equivalent to awarding a new licence.

3. In compliance with the conditions referred to above, the National Gaming Commission will award the requested extension and will agree to its entry in the General Register of Gaming Licenses unless it believes there are reasons relating to safeguarding public interests, protecting minors or preventing cases of gaming addiction that justify its refusal to award the requested extension.

#### **Article 5. Guarantees associated with the specific license.**

1. The National Gaming Commission may establish the general obligation to produce an additional guarantee associated with the specific licence for developing and operating pari-mutuel bets on horse racing.

The National Gaming Commission may, where applicable, pass a resolution to set the sum of the guarantee associated with the specific licence for developing and operating pari-mutuel bets on horse racing, which all operators will have to provide, in accordance with the terms set out in Appendix II of Order EHA XXX/2011, of xxxx of xxxxxxxx, which approves the basic regulations for parimutuel bets on horse racing.

2. The guarantee associated with the specific licence for developing and operating pari-mutuel bets on horse racing is subject to compliance with the general obligations of the operator and, in particular, the specific obligations relating to the payment of gaming prizes for pari-mutuel bets on horse racing, provided by the operator, and is likewise subject to compliance with any other obligation that, in relation to the specific licence in question, has been imposed

by the National Gaming Commission, respecting the terms set forth in article 77 of Law 58/2003, of 17 December, the General Law on Taxation, within the framework of article 14 of Law 13/2011, of 27 May on the regulation of gaming, and its implementing regulations.

3. The additional guarantees referred to in this article will be constituted in the form and under the conditions established in the implementing regulations of Law 13/2011, of 27 May on the regulation of gaming.

### **Chapter III.**

#### **Relations between the operator and the participants.**

##### **Article 6. Specific rules of pari-mutuel bets on horse racing.**

1. The development and operation of pari-mutuel bets on horse racing is governed by these Basic Regulations, the terms of the specific licences awarded and by the specific rules of each game, which are produced and published by the operator.

2. In order to develop and operate pari-mutuel bets on horse racing, the specific rules must be drawn up and published. These are private in nature and should be produced by the gaming operator, notwithstanding the supervisory powers of the National Gaming Commission.

The specific rules must establish the rules of pari-mutuel bets on horse racing provided by the operator, the prize programme and prize categories and the principles governing the relationship between the operator and the participants.

3. The specific rules of pari-mutuel bets on horse racing must be published by the operator on their website and, using the techniques required by the medium used, they must be easily accessible to participants on a permanent basis and free of charge.

4. The operator should notify the National Gaming Commission of the date the specific rules are published and of any changes made to these rules.

##### **Article 7. Participant claims.**

1. The operator must offer a customer service and must have a system for dealing with and resolving any possible complaints or claims made by participants or any other person who may be affected by the actions of the operator, and within the specific rules of the game, should establish the procedures and means to enable participants to present claims and, in particular, the address or addresses to which said claims should be sent, the



time period for presenting claims and the time period in which the operator must respond.

The customer service and complaints and claim system should be easily accessible to anyone who may need to use it and should, at least, offer electronic access via the operator's website, which will record the date and time of receipt of any claims filed via this channel.

The customer service must be offered at least in Spanish.

2. The deadline for presenting claims to the operator should be no less than three months from the date on which the event on which the bet was wagered was held.

The operator should issue a communication to the claimant in which they must acknowledge receipt of the claim, and which should feature the identity of the operator and the time period in which the claimant will be informed of the decision reached regarding their claim.

The operator will reach a decision on the participant's claim within a period of one month from the date the claim is received at the address or addresses established for this purpose, and this will be communicated to the claimant.

3. If the claim has been resolved by the operator and the claimant has not been informed of the decision within the one-month period since the claim was received, the participant can send a claim to the National Gaming Commission, which will resolve the situation within two months from the date the claim is entered in their register, notwithstanding the opening of the corresponding sanction procedure if the operator has committed any of the infractions listed in Chapter VI of Law 13/2011, of 27 May on the regulation of gaming.

4. The expiration date of the prizes will be put on hold from the date the claim is received by the operator until the date on which the operator communicates their decision to the claimant or, where applicable, until notification is given of the decision reached by the National Gaming Commission.

## **Article 8. Obligations with regard to sharing information with participants**

Gaming operators must provide participants with complete and updated information, at least in relation to the following issues:

a) Information on the gaming operator and, in particular, the licences awarded by the National Gaming Commission and the validity of these, the trade name, business name, registered address and, where applicable, address of the Spanish representative.

b) Information on the claims assistance system implemented by the operator referred to in the above article. The information must contain at least: postal and email address to which the claims can be sent, deadlines for presenting claims and, where applicable, standard forms and time period for communicating the decision. They must also provide information on the operator's duty to issue a reply for each claim received. The operator is obliged to inform claimants of the identity of the staff they will communicate with.

c) Information on the specific rules of the games offered and on the means of participating in said games, which the operator makes available to the participants. This information must be truthful and easily available before participation begins and at any time during participation.

d) Detailed information, where applicable, on all the circumstances that, in the opinion of the operator, may affect the outcome of the event or the features or circumstances on which the predictions are based.

e) Information on the total funds collected through bets and the percentage of this which will be given out as prize funds and, as soon as it is known, the amount allocated to prizes for each bet and event and, where applicable, prize category.

f) Information on the prizes that the participants can win, on the amount they have played or bet, and on the balance of their gaming account, if they are participating through a registered user account.

g) Information for participants on the Responsible Gaming policies implemented by the operator.

Information on the bets, their name and the way they are presented should be offered in such a way so as to prevent them from resembling or being confused with any other bets or games, and to ensure the participant is not confused about the nature of the bets. The information provided to participants by the operator should be made available at least in Spanish and the amounts to which it refers should be expressed in euros.

## **Article 9. Promoting games**

1. Under the terms established in article 7 of Law 13/2011 on the regulation of gaming, a gaming operator may advertise, sponsor or promote gaming activities and advertise or promote himself, in accordance with the following criteria:

a) The advertising should be easily identifiable by the target audience.

b) The advertising should be socially responsible, paying due attention to the protection of minors and other particularly vulnerable groups. Also, in the case

of minors, they must avoid directing advertising at them or creating advertising which is particularly appealing to children and young people under the age of 18 and must ensure said people do not play a significant role in the promotional activity itself.

c) If the advertising is broadcast via audio-visual means, they must also respect the provisions that apply to commercial and self-promotional communications contained in Law 7/2010, of 31 March, the General Law on Audio-visual Communication, and in particular the provisions of article 7 on the rights of minors. Equally, they must pay special attention to the times that the gaming advertising is broadcast and must take into account the age ratings of the programmes the adverts are broadcast alongside or are inserted into.

2. Furthermore, the operator may undertake promotional activities to promote the range of games they market and to offer bonuses for players to sign up or participate, provided said practices:

a) Are not contrary to the provisions of these basic regulations or the regulations governing the game.

b) Do not contravene the terms established in Law 34/2002, of 11 July, on Information Society Services and E-commerce and Law 7/2010, of 31 March, the General Law on Audio-visual Communication.

c) Do not alter the dynamics of the game.

d) Do not lead to confusion among participants regarding the nature of the game.

3. The operator is responsible for publishing on their platform the conditions of application and validity periods of all promotional initiatives they offer and the terms and conditions of said initiatives.

4. The National Gaming Commission can set a maximum limit on the amount an operator may spend on promotional initiatives and bonuses for participants under the terms established in article 7 of Law 13/2011, of 27 May on the regulation of gaming, and in the regulations that govern the implementation of said article.

5 Gaming operators may offer free gaming applications on their platforms, under the terms provided for in the regulations governing the implementation of Law 13/2011, of 27 May on the regulation of gaming.

## **Article 10. Participation channels and methods.**

1. Participation in pari-mutuel bets on horse racing, as provided for in article 1 of

Law 13/2011, of 27 May on the regulation of gaming, may be carried out via electronic, online and interactive channels, wherein any potential in-person methods are incidental in nature.

Individuals may also participate via physical terminals which the operator may install once authorised to do so by the Autonomous Region responsible for the geographical location in which they intend to install said terminals, in accordance with the corresponding national and regional legislation on gaming and betting. These physical terminals must first be approved by the National Gambling Commission.

2. Pari-mutuel bets on horse racing can be placed using any mechanism, installation, equipment or system that is able to produce, store or transmit documents, data and information, including any open or restricted communication networks such as television, internet, landlines and mobile telephony or any others, or interactive communication, either in real time or with time delay.

## **Chapter IV.**

### **Development of pari-mutuel bets on horse racing.**

#### **Article 11. Aim of pari-mutuel bets on horse racing.**

1. The aim of pari-mutuel bets on horse racing is to choose the correct prediction made in relation to the result of one or several horse racing events included in the programmes previously established by the gaming operator, or on features or circumstances related to such events or sports competitions, which the gaming operator will have previously established in the corresponding programme.

2. In application of the specific rules of the game and of the programme established by the operator, the pari-mutuel bets on horse racing may be single, multiple or combined.

#### **Article 12. Cost of pari-mutuel bets on horse racing.**

1. The minimum betting unit is understood to be the minimum amount which can be played in each bet and should be expressed in euros.

The minimum amount which can be played in pari-mutuel bets on horse racing is the amount stated in point two of Appendix III of Order EHA XXX/2011, of xxxx of xxxxxxxx, which approves the Basic Regulations for pari-mutuel bets on

horse racing.

2. The bets must be formalised in exact multiples of the minimum betting unit and will be considered to be made up of as many bets as the number of times the minimum bet has been placed.

The operators should organise bets in which participants can take part by placing only the minimum bets, notwithstanding the availability of bets for which, in order to participate, participants are required to pay a sum higher than the minimum.

### **Article 13. Formalising bets and cancelling events.**

1. Pari-mutuel bets on horse racing may be formalised and validated via the means established by the operator in their specific rules for the game, from among those listed in point no. 2 of article 10 of these Basic Regulations.

2. Pari-mutuel bets on horse racing must be formalised and validated before the deadline set by the operator in the specific rules of the game and in all cases before the start of the horse racing event included in the betting programme.

In the case of multiple or combined bets, bets must be formalised before the start of the first event, based on the chronological order of the content of the bet.

3. Using the same means used to place the bet, the operator should issue and provide each participant with a deposit slip or receipt for every bet made. The deposit slip or receipt should feature at least the identification of the bet placed, the amount bet, the event in which the participant is taking part, the type of bet, where applicable, the prediction made and the exclusive and unique security number or alphanumerical code that enables its identification.

4. Within the specific rules of the game, the operators will make provisions for occasions on which the horse racing events that form part of the betting programme are suspended, cancelled or postponed and for the replacement of those included in the programme, where applicable. They will also list the occasions on which bets may be upheld or cancelled as a result of suspensions, postponements or replacements.

5. The full sum corresponding to participation in bets which, once formalised, are cancelled by the operator in application of their specific rules should be refunded or made available to participants in the form established in said specific rules, always at no additional cost to the participants and with no additional obligations.

#### **Article 14. Gameplay, determining and awarding prizes.**

1. Pari-mutuel bets on horse racing will be carried out in accordance with the terms of the provisions established by the National Gaming Commission, the specific rules of the game and the corresponding betting programme set by the operator.

The National Gaming Commission will approve and publish the catalogue of horse racing competitions and events that may be included in the operators betting programmes.

Likewise, the National Gaming Commission will approve and publish the list of features or events pertaining to the horse racing activity which can be the object of a bet.

Both the catalogue of competitions and events and the list of betting objects may be modified by the National Gaming Commission at its own initiative or at the request of the operators.

2. The operator of pari-mutuel bets on horse racing is responsible for establishing a programme of races on which bets can be wagered and for informing participants of the period during which bets can be wagered.

3. The prizes for pari-mutuel bets on horse racing shall be determined by the results of the horse racing events listed in the betting programme.

A horse racing bet will be understood to have won a prize when the predictions made in the bet are the same as the valid result, in accordance with the specific rules of the game and the catalogue of prizes contained therein.

4. Once the race or the series of races established in the programme are completed, the operator will inform participants of the valid results using the means established in the specific rules of the game. Wherever possible, and where the channel enables suitable communication with the participant, the operator will communicate the results using the same means used by the participant to place their bet.

In official horse races, the valid result will be the result determined by the judge at the end of the event.

5. Once the result of the race or series of horse races established in the programme is known, the operator will proceed to assign the prizes, in the different categories defined in the specific rules of the game, to the participants who, based on the results of the races, made winning predictions in each of the prize winning categories.

6. The results of the programmed events and, where applicable, the allocation of prizes by category will be published in lists by the operator on their website within 24 hours following the completion of the corresponding betting programme. The published results should be accessible at least from the date of their publication until the last calendar day which, in accordance with the specific rules of the game, has been set for filing claims, by virtue of point 2 of article 7 of these Basic Regulations.

7. The National Gaming Commission will establish the procedures and obligations for communicating the valid results of horse racing events and allocating prizes and, where applicable, any additional publication obligations required to better protect participants and public interests.

#### **Article 15. Distribution of funds for prizes.**

1. The terms governing the distribution of prize funds in pari-mutuel bets on horse racing will be established in the specific rules of the game which, in compliance with the conditions, requirements and limits established in these Basic Regulations, are approved by the authorised operators.

2. Funds will be distributed in accordance with the amount collected in each betting programme and will consist of a percentage that may be no less than 50% and no higher than 84% of the funds collected in the corresponding programme.

Information on the amount of the takings which, in accordance with the specific rules of the game, is allocated to prize funds should be accessible at all times to potential participants.

3. The specific rules drawn up by the operator will establish the different prize categories and the percentage of the corresponding takings assigned to each category. The different categories should be determined to ensure that the most accurate predictions receive the biggest prizes.

Within the specific rules of the game, operators can set the condition that, in the event that no-one makes a correct prediction in a given betting category, the funds generated are added to the funds for the category either immediately below or the funds corresponding to the subsequent betting programme.

#### **Article 16. Paying prizes.**

1. Prize winners are any participants who have placed a bet which, in accordance with the valid result of the race or series of horse races established

in the programme on which the bet was wagered and with the specific rules of the game, has won a prize.

2. The operator must pay the prizes won in pari-mutuel bets on horse racing from the moment the result of the event or events established in the corresponding betting programme are known, and they must pay the prizes to the winning participants in accordance with the terms and conditions of the specific rules of each game.

The payment of prizes should begin following the creation and publication of the lists of prizes referred to in point 6 of article 14 of these Basic Regulations.

3. The authorised operator will pay the prizes as provided for in the specific rules of the game and, in their absence, by the same payment means used by the participant to participate. Under no circumstances should payment of the prize entail any costs or additional obligations for the prize winning participant.

The right to receive payment of the prize will expire on the date set in the specific rules of the game and should not be less than three months from the day after the conclusion of the final event in the prize programme.

4. The National Gaming Commission will establish any additional procedures and obligations deemed necessary in relation to the payment of prizes in order to better protect participants' and public interests.



## **APPENDIX II**

### **Limits on the guarantees associated with the specific licence for operating pari-mutuel bets on horse racing.**

#### **One.**

By means of a resolution, the National Gaming Commission will establish the sum of the guarantee associated with the specific licences for developing and operating pari-mutuel bets on horse racing and which will be set at between one and eight percent of the gross taxable income of the operators for the activity subject to the specific licence in the year immediately preceding the current one. For this purpose, the gross income of the operator will be understood in accordance with the terms set out in article 48.6 of Law 13/2011, of 27 May on the regulation of gaming. During the initial period of specific licences, payment of a guarantee is not required. The initial period of the specific licences is calculated in accordance with the applicable terms of the implementing regulations governing Law 13/2011, of 27 May on the regulation of gaming.

## **APPENDIX III**

### **Financial limits on participation in pari-mutuel bets on horse racing.**

#### **One. Deposit limits.**

The amount deposited in the gaming account should be in accordance with the limits set by the National Gaming Commission, under the terms provided for in Law 13/2011, of 27 May on the regulation of gaming, and its implementing regulations.

#### **Two. Minimum cost of pari-mutuel bets on horse racing.**

The minimum sum which can be wagered in pari-mutuel bets on horse racing, which corresponds to the minimum betting unit, is:

- a) Fifty euro cents for single bets.
- b) Twenty euro cents for combined or multiple bets.