

## **ORDER EHA/3088/2011, OF 8 NOVEMBER WHICH APPROVES THE BASIC REGULATIONS FOR THE GAME OF BLACKJACK.**

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.

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 requirements for prior regulation, which, for 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 governing the game of Blackjack.

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.

Therefore, 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 the game of Blackjack.**

Approval is given for the Basic Regulations for the game of Blackjack, 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 carried out in person in public establishments dedicated to recreational activities.

**Article 2. Limits on the guarantees associated with the specific licence for operating games of Blackjack.**

Approval is given to the limits corresponding to the guarantees associated with the specific licence for operating games of Blackjack which are included in the Order as Appendix II.

**Article 3. Financial limits on participating in a game of Blackjack.**

Approval is given to the financial limits on participation in a game of Blackjack, included in this Order as Appendix III.

**Article 4. Types of Blackjack.**

Approval is given to the list of the types of Blackjack which may be marketed by the gaming operators and which are included as Appendix IV of this Order.

**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, add new types of games and modify Appendix IV.
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 for the game of Blackjack.
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 Resolution will enter into force the day after its publication 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

## **APPENDIX I**

### **Basic regulations for the game of Blackjack.**

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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 the game of Blackjack - at a national level - 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. **Blackjack.** Blackjack is a card game in which participants play against the dealer. The object of the game is to reach a final score of 21 points or as high as possible without exceeding 21.
2. **Game session.** The event of playing the game which starts with randomly shuffling the cards, placing them in the card distributor and beginning to play hands.
3. **Hand or round:** This is the set of cards that make up the participant's and/or the dealer's hand.
4. **Dealer:** This is the name given to the operator in the gaming session.
5. **Minimum betting unit.** This is the minimum amount that can be wagered in each bet.
6. **Suspended gaming session.** A gaming session is understood to be suspended when the game, once started, is interrupted before reaching its scheduled conclusion. Suspended games may offer valid results if the specific rules of the game allow for this.
7. **Cancelled gaming session.** A gaming session is understood to be cancelled when, for reasons not attributable to the gaming operator or participants, the match does not take place or is held and its results are not considered in the game.
8. **Postponed gaming session.** A gaming session is understood to be postponed when, for reasons not attributable to the gaming operator or the participants, the game does not take place at the time it is scheduled to do so. Unless the

specific rules of the game state otherwise, a postponed game means postponing the results of the game.

9. *English deck.* An English deck is one in which the cards are divided evenly into four groups or suits of thirteen cards which are identified by distinctive icons. The groups or suits of an English deck are hearts and diamonds, which are both red, and clubs and spades, both of which are black.

## **Chapter II.**

### **Authorising permits**

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

Operators interested in developing and operating games of Blackjack must have a general licence for other games, as defined in article 3, letter f), 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 the types of Blackjack they intend to offer 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 games of Blackjack will be valid for three 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 application to extend the specific license should be sent to the National Gambling 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 the game of Blackjack.

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 the game of Blackjack, 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 the game of Blackjack.

2. The guarantee associated with the specific licence for developing and operating the game of Blackjack is subject to compliance with the general obligations of the operator and, in particular, the specific obligations relating to the payment of prizes for games of Blackjack, 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 the game of Blackjack.**

1. The development and operation of the game of Blackjack will be governed by these basic regulations, by the provisions that, in the implementation of said regulations, are passed by the National Gaming Commission, by the terms of the specific licence awarded and by the specific rules of each game, produced and published by the operator.

2. In order to develop and operate the game of Blackjack, 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 the game of Blackjack, developed and provided by the operator, the coefficient which applies for calculating participant winnings and the principles governing the relationship between the operator and the participants.

3. The specific rules of the game of Blackjack 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 will be set in the specific rules of the game and will be no less than three months from the date the session or game of Blackjack in which the claimant took part, or which resulted in the reason for the claim, 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) Information on the prizes that the participants can win, on the amount they have played and on the balance of their gaming account, if they are participating through a registered user account.

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

Information on the game, its name and the way it is presented should be offered in such a way so as to prevent any resemblance or confusion with any other games, and to ensure the participant is not confused about the nature of the game.

The information given to participants by the operator must at least be provided in Spanish.

## **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 Gambling 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 a game of Blackjack, 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 additional physical terminals must previously be approved by the National Gaming Commission and they may only be installed in the physical locations that have been authorised for the game of Blackjack by the corresponding body from each Autonomous Region.

2. Individuals may participate in a game of Blackjack 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.**

### **Playing the game of Blackjack.**

#### **Article 11. Aim of the game of Blackjack.**

The object of Blackjack is to reach a hand of cards with a score of twenty-one points or a sum of less than twenty-one and higher than the hand played by the dealer.

Blackjack is played with six English decks of cards, each containing fifty-two cards, excluding the jokers, although in some versions of the game which are described in Appendix IV of this Order the game is played with a different number of decks. The playing cards have the following values:

- a) Picture cards are worth ten points.
- b) The ace is worth either one point or eleven points, whichever suits the player.
- c) The rest of the cards are worth their nominal value.

The cards are taken from a holder or distributor, shuffled into a random order. They are shuffled at the start of the game session and this should feature in the specific rules of the game. The cards are taken from the distributor one by one.

The hand played by the dealer should always follow the rules established for each type of game in these Basic Regulations and in the specific rules of the operator.

#### **Article 12. Limits on participating in a game of Blackjack.**

- 1. The minimum unit amount for participating in a game of Blackjack will be set by the operator in the specific rules of the game, and should be expressed in euros.
- 2. The National Gaming Commission may set obligations requiring operators to establish mechanisms to ensure time limits on participation in the game.

### **Article 13. Participating in the game.**

1. Participants may take part in a game of Blackjack 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. The operators should issue a communication at the end of each game session, which should be made available to each of the participants via the same means used to participate in the session, giving a summary of the amounts bet, and the prizes obtained.
3. Within the specific rules of the game, the operators should establish the terms that apply in the event that the sessions or games are suspended, cancelled or postponed. They should also establish the occasions on which the amounts played may be maintained or cancelled as a result of suspensions or postponements. In any case they should guarantee the right to any prizes that may have been won by the participants in a game or round prior to its suspension or cancellation. Likewise, in the event that a participant is disconnected while a hand is being played, the operator must ensure that, if the participant has already played their part of the hand, the dealer's hand will automatically be played, in accordance with the rules established in article 11 of these Basic Regulations and that, if the participant's hand is the winning hand, they will be paid the sum of their prize.
4. The full sum corresponding to participation in a session of the game which, once formalised, is cancelled by the operator in application of the 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. The game of Blackjack should be played in accordance with the terms established in these Basic Regulations, any provisions established by the National Gaming Commission in the implementation of said regulations and the specific rules of the game published by the operator.
2. The session or game begins with the random shuffling of the playing cards, which are then placed in the distributor. Each round of the card game will begin with the period that participants have to place their bets. Once the bets have been placed, the cards can be dealt to the participants.

3. Within their specific rules, the game operators may include Blackjack tables in which the various participants may place bets simultaneously, all based on their chance with the hand they are each playing and that of the dealer, or even, a single participant who takes the position of various participants and behaves, for the purposes of the game, like various individual participants. In these cases, all the bets made by participants should be individual fixed odds bets against the banker and joint or group bets made by participants against the operator are not allowed, nor are cross bets between some or all of the participants.

On tables with various simultaneous participants, a period of time should be established before the cards are dealt in which participants can place their bets. In any case, that period of time should be equal and simultaneous for all participants.

4. Participants will play their hand based on their own initiative. The hand of the dealer should be played, in all cases, following the rules established for this purpose in these basic regulations and in the operator's specific rules.

5. If the participant's hand can be played in any of the special rounds offered by the game, the operator must provide them with access to the rules that govern that round.

Also, at all times the participants should be made aware of the rules by which the dealer is governed.

6. At the end of each hand, the results obtained in the game by each participant, including the dealer, will be shown, indicating the total points for each game. If the dealer wins the hand, the amount of the participants' loss will be shown. If, on the other hand, the winner is the participant, they will be shown the cash value of the prize won. If there is a tie between the hand of the participant and the hand of the dealer, this will be shown along with the sum of the bets to be returned.

7. The prizes are determined by basic regulations and by the particular operator's rules.

### **Article 15. Paying prizes.**

1. Prize winners are any participants who have formalised their participation in Blackjack games or sessions and who, in accordance with the result of said games and the specific rules of the game, are deemed the winners.

2. The operator is obliged to pay out any prizes obtained in the game from the moment each round of Blackjack in which the prize was won is completed and should pay the prizes to the winning participants in accordance with the terms

and conditions set in the specific rules of the game.

3. The 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 game that gave rise to the prizes.

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 Blackjack games.**

#### **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 games of Blackjack and which will be set at between seven and twelve percent of the net 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 net 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 participating in a game of Blackjack.**

##### **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.

## APPENDIX IV

### Types of Blackjack games.

**One.** Operators may request a specific licence for marketing the following types of Blackjack:

- a) Classic Blackjack.
- b) American Blackjack.
- c) Blackjack Surrender.
- d) Pontoon.
- e) Blackjack Super 21.

**Two.** Classic Blackjack and American Blackjack have the following differences:

- a) In American Blackjack, at the start of the game, the dealer deals himself a second playing card that remains face down.
- b) In American Blackjack, in a double bet, the participant can double their bet regardless of the number of points that have obtained with the first two playing cards they were dealt.
- c) American Blackjack establishes a new type of bet which is called "even money". In this bet, if the participant has Blackjack and the dealer has an ace as his face-down (hole) card, the participant can choose the option "even money", in which the dealer pays the same amount as any bet rather than the amount set for Blackjack, without checking to see if they themselves also have a Blackjack and, consequently, if they have drawn.

**Three.** Blackjack Surrender is either the Classic or American Blackjack in which the participants can surrender the hand they are playing, getting back half the amount they bet, with the other half going to the dealer. Participants can choose to surrender their hand with any amount of points or with the number of points established by the operator in their specific rules.

**Four.** Pontoon is played with eight decks of 52 cards. The main differences between Pontoon and Classic Blackjack are:

- There are two hands that beat 21 or Blackjack: Pontoon (an Ace and a ten or a J, Q or K) and the Five Card Trick (when the participant

manages to hold five cards without going over 21, regardless of the total value of their hand). Both hands are paid 2 to 1.

- The croupier's two cards remain face down until the participant sticks or goes over 21.
- There is no safe option.
- When there is a draw, the croupier wins.
- At the start of the hand, the croupier checks their cards. If the croupier has Pontoon, they immediately place their cards face up and the participant loses their bet.
- The participant can not stick until the value of their hand is at least 15.
- The participant can ask for as many cards as they wish after they double.
- The participant can only split cards that are the same. For example, they can split two eights or two queens, but not a queen and a king, even though they have the same value in points.

**Five.** Blackjack Super 21 is played with the number of decks of cards established by the operator in their specific rules of the game. The differences between Blackjack Super 21 and Classic Blackjack are as follows:

- The player receives the amount they bet for their Blackjack, unless the Blackjack played is composed of two spades or a series of diamonds, in which case they will be paid 2 to 1.
- The participant's Blackjack wins over the dealer's Blackjack.
- When a participant has a hand of 6 cards that total 20 or less, they automatically win.
- When a participant has a hand of 6 cards that total 21, they automatically win and the dealer pays 2 to 1.
- In a double bet, the participant can double their bet regardless of the number of points that have got with the first two playing cards they were dealt.
- The participant can surrender the hand they are playing, getting back half the amount they bet and losing the other half to the dealer, regardless of the points they have scored with their cards and even after doubling their bet.