

# I. GENERAL PROVISIONS

## MINISTRY OF FINANCE AND PUBLIC ADMINISTRATIONS

**9658** *Resolution of 12 July 2012, of the Directorate General for the Regulation of Gambling, approving the provision implementing Articles 26 and 27 of Royal Decree 1613/2011, dated 14 November, in relation to the identification of the participants in games and control of gaming bans.*

Law 13/2011 of 27 May on the regulation of gaming, establishes the regulatory framework for the different forms of gaming activity and is implemented at state level in order to guarantee the protection of the public order, combat fraud, prevent addictive behaviour, protect the rights of minors and safeguard the rights of those participating in gaming activities.

With the specific purpose of protecting the rights of minors and participants in gaming activities, the aforementioned Law 13/2011 of 27 of May on the regulation of gaming, establishes gaming bans in the games addressed by the Law in point two of Article 6.

Article 26 of Royal Decree 1613/2011, of 14 November, implementing Law 13/2011 on the regulation of gaming, of 27 May, with regards to the technical requirements for gaming activities, under the section "identification of participants", establishes the operators' obligations in relation to the verification of information and mandates the National Gaming Commission to decide on the terms of the process of verifying the information provided by the participants in their user registration requests.

Article 27 of the aforementioned Royal Decree 1613/2011 establishes that the National Gaming Commission shall make available the means and establish the procedures that allow the information of the user registrations to be compared to that appearing in the General Register of Gaming Access Bans, as well as the means to allow operators to verify the legal age of the participants with their national identity document number or foreign national identity number.

Final provision one of Royal Decree 1613/2011 empowers the National Gaming Commission, in accordance with the provisions of Article 23 of Law 13/2011 on the regulation of gaming, of 27 May, to dictate any provisions necessary for its implementation and enforcement, therefore, based on the power conferred, and taking into account the need to specify the terms of the data verification process, approval is given for the provision implementing Articles 26 and 27 of Royal Decree 1613/2011, of 14 November, with regards to the technical requirements of gaming activities in relation to the identification of participants in gaming activities and control over gaming access bans.

Under temporary provision one of Law 13/2011 on the regulation of gaming, of 27 May, it is the responsibility of this Directorate General for the Regulation of Gambling of the Ministry of Finance and Public Administration to approve the aforementioned provision.

This provision underwent the hearing process on 22 May 2012, having received within the established period allegations made by the entities Codere Online, S.A.U., and Electraworks España PLC. Likewise, on 29 May 2012 the report of the State Attorney's Office of the Secretary of State for Finance was requested, and a favourable report was obtained on 4 July 2012.

Having seen both, the Directorate General for the Regulation of Gambling of the Ministry of Finance and Public Administration resolves:

One.

To approve the provision, included as Appendix I to this Resolution, implementing Articles 26 and 27 of Royal Decree 1613/2011 of 14 November, which in turn implements Law 13/2011 on the regulation of gaming, of 27 May, with regards to the technical requirements for gaming activities, in relation to the identification of participants in gaming activities and control over gaming access bans.

Two.

References made in the provision by which this Resolution is approved to the National Gaming Commission will be understood as referring to the Directorate General for the Regulation of Gambling of the Ministry of Finance and Public Administration. Any references to the Chairman of the National Gaming Commission will be understood to have been made to the Director General for the Regulation of Gambling.

Three.

This Resolution will take effect the day after its publication in the Official State Gazette.

The interested party may present an appeal for review against this resolution before the Secretary of State for Finance, in accordance with Articles 114 and 115 of Law 30/1992 of 26 November on the Legal System for Public Administrations and Common Administrative Procedure, within one month from the day after its publication.

Madrid, 12 July 2012. The Director General for the Regulation of Gambling, Enrique Alejo González.

## APPENDIX I

### **Provision implementing Articles 26 and 27 of Royal Decree 1613/2011, of 14 November, regarding the identification of participants in gaming activities and control over gaming access bans.**

#### *Section one. General issues*

One. *Object.*

The object of this provision is to implement Articles 26 and 27 of Royal Decree 1613/2011, of 14 November, which in turn implements Law 13/2011 on the regulation of gaming, of 27 May, with regards to the technical requirements for gaming activities, in relation to the identification of participants in gaming activities and control over gaming access bans.

#### *Section two. Identification of participants*

Two. *Participant identification obligations.*

1. Participation in the games included in Law 13/2011 on the regulation of gaming, of 27 May, hereinafter LRJ, requires the prior identification of the participants in those games, except in circumstances in which, in accordance with the provisions of point one of Article 26 of Royal Decree 1613/2011, of 14 November, the National Gaming Commission authorises the participation of participants without prior identification.

2. It is the responsibility of the gaming operators to establish the systems and mechanisms that facilitate and allow the identification of the participants in the games they organise, without prejudice to the systems made available to operators by the National Gaming Commission for this purpose.

3. The identification of the participant and confirmation that they are not affected by any of the gaming bans referred to in letters a), b) and c) of the point two of Article 6 of the LRJ will be a mandatory condition for collecting the prizes won, whatever their amount or nature.

Three. *User registration.*

1. The participant shall be identified by operator and by means of a unique and active user registration that will state, at least, the identification information necessary for confirming that they are not affected by any of the gaming access bans referred to in letters a), b) and c) of the point two of Article 6 of the LRJ.

More specifically, the user registration must contain, at least, the contents established in Section 2.1.1 of the provision which sets forth the technical specifications to be met by the technical gaming systems licensed under Law 13/2011 on the regulation of gaming, of 27 May, approved by the Resolution of the Directorate General for the Regulation of Gambling of 16 November 2011.

2. The operator shall establish the procedures and mechanisms necessary for ensuring that a player

does not have various active user registrations.

#### Four. *User registration request.*

1. A user registration is opened by means of the corresponding registration request, using the method and the system determined by the gaming operator. The registration request must be recorded in the operator's records.

2. In the user registration request, the applicant must provide the information referred to in section three of this provision, as well as any required by the operator necessary to verify their identity.

3. In the registration request, the applicant must be informed of the gaming access bans referred to in Article 6 of the LRJ, and a statement or acceptance of these must be received from the applicant declaring that they are not affected by any of these gaming access bans. This fact will be recorded along with the rest of the user's registration information.

#### Five. *Verification of the information in the user's registration.*

1. The operator is responsible for the accuracy of the information in its user records and for the correct identification of the participants in the game it organises or runs.

2. In cases in which the applicant can provide the national identity document (ID) number or the foreign national identity number (NIE), the gaming operator may verify the name, surnames and date of birth of the applicant by means of the Player Identity Verification System of the National Gaming Commission referred to in the following section.

3. In situations in which the applicant identifies themselves as a non-resident of Spain and does not provide the national identity document (ID) number or foreign national identity number (NIE), the information shall be verified by the operator within the period of one month from when the registration is activated.

#### Six. *Player Identity Verification System.*

1. The National Gaming Commission, for the purposes of providing operators with a way to verify the identity of participants, shall make an Identity Verification System available to them, which shall allow them to verify in real time the information they use to identify applicants — national identity document (ID) or the foreign national identity number (NIE) — by means of electronic access by the operators.

In cases in which the Identity Verification System malfunctions, the National Gaming Commission shall guarantee the verification of the information within three days of when the query is submitted by the operator.

2. The Identity Verification System of the National Gaming Commission does not preclude the use of alternative verification systems or methods by the operator. However, for the purposes of verifying identities, it is the only system whose results are assumed to be accurate and that, in case of error, exempts the operator from all liability.

#### Seven. *Verification using the Identity Verification System.*

1. Identities may only be verified using the Identity Verification System of the National Gaming Commission when the applicant is a resident of Spain and has provided a national identity document (ID) number or the foreign national identity number (NIE).

2. Information shall be verified by means of online access to the Identity Verification System. To that effect, the National Gaming Commission shall provide the operators with the security elements necessary for accessing the System.

Identities shall be verified by querying the name, surnames, date of birth and identity document number used by the participant in their registration request.

The Identity Verification System requires that the information to be verified be entered exactly as it appears on the documents used to identify the applicant. To that effect, the operator must adopt the measures necessary to ensure that the applicant is aware of this requirement and correctly enters the information to be verified.

3. Once the query has been made, if the information matches that of the Identity Verification System, the operator shall be given a positive response and the information will be considered verified.

If the information queried does not match, the system shall give a negative response, and, for the operator's purposes, the information shall be considered unverified. In this case, the operator may require the applicant to re-enter the queried information and send a new query. If a positive response

is still not received, the operator may proceed in the same manner a second time. If once again a positive response is not received from the System, the operator shall resort to the process of documentary verification of the identity of the applicant under the terms referred to in the following Section 8, without prejudice to the alternative verification systems the operator may use. For the foregoing purposes, a query reattempt shall be understood to have occurred when an attempt to validate the same information or new information without changing the national identity document (ID) number or foreign national identity number (NIE) is made.

The operator may not reattempt the validation of a national identity document (ID) number or foreign national identity number (NIE) for which the queries of the Identity Verification System were negative until 24 hours have passed since the last attempt with a negative response.

4. When due to technical reasons or a service availability failure the Identity Verification System gives no response to the operator's query, the operator, without prejudice to the possibility of reattempting the query every thirty minutes until a response is obtained, shall resort to the process of documentary verification of the applicant's identity under the terms referred to in the following Section Eight, without prejudice to any alternative verification systems the operator may use.

5. The operator shall record and save any queries made to the Identity Verification System it runs, recording the date, hour and minute of the query. The information must be stored, along with that corresponding to the user registration, for the entire period of validity of the user registration and for the next six years following its cancellation or annulment.

6. Every month, in order to evaluate and improve the system's efficiency, the operator will send a report to the National Gaming Commission stating the total number of queries run and the total number of queries that received no response from the Identity Verification System.

#### *Eight. Documentary verification.*

1. Gaming operators may use documentary verification systems. In situations in which verification by means of the Identity Verification System of the National Gaming Commission is not possible, and in those in which the registration request is made by a non-resident of Spain who does not use a national identity document number or foreign national identity number in their request, the operator shall undertake the documentary verification of the information appearing the user's registration.

2. When the applicant is a non-resident of Spain who does not use a national identity number or foreign national identity number in their request, the operator shall begin the documentary verification procedure upon receiving the request, without prejudice to the activation of the registration.

3. To receive the documentation required in order to verify the information, the operator shall establish the means it deems necessary, ensuring the security and speed of the verification process. Notwithstanding the means it uses and the documents it requests for this purpose, the operator is responsible for the documentary verification of the information submitted to it by participants.

4. Operators must record and save all procedures, requirements, and queries it carried out in order to verify the information provided by applicants, as well as any documents it received or used to do so. The information must be stored, along with that corresponding to the user registration, for the entire period of validity of the user registration and for the next six years following its cancellation or annulment.

#### *Section three. Control of bans*

#### *Nine. Control of gaming access bans.*

1. It is the gaming operators' responsibility to control the gaming access bans referred to in letters a), b) and c) of point two of Article 6 of the LRJ.

2. The National Gaming Commission shall establish the means and procedures necessary for helping gaming operators fulfil their control obligations in relation to the gaming access bans established in letters a) and b) of point two of Article 6 of the LRJ.

3. The gaming operator must establish measures to ensure control over compliance with the bans referred to in letter c) of point two of Article 6 of the LRJ.

#### *Ten. Control of gaming access bans for minors.*

1. Without prejudice to any procedures established by the operators to control the gaming access bans affecting minors, the National Gaming Commission, by means of the Identity Verification System,

shall provide confirmation that the date of birth on the participants' national identity document or foreign national identity document matches the one in the system.

2. In cases in which participants do not have a national identity document or foreign national identity document, the legal age of the participant shall be confirmed during the process of opening the registration as part of the documentary verification procedure established by the gaming operator.

For gaming modes for which participation without the prior identification of the participants is authorised by the National Gaming Commission, the legal age of the participant must be confirmed when prizes are awarded and after verifying the identity of the participant.

3. Operators are responsible for verifying that the participants in the games they organise or run are of legal age, and they could be considered, in cases in which minors are allowed to participate, to be committing a serious infraction under Article 40.b) of the LRJ, all without prejudice to the provisions of point three of Section 13 of this provision.

The gaming operator shall be exempt from all liability in cases in which a minor participates in the gaming modes for which participation without prior identification of participants has been authorised by the National Gaming Commission, and provided they were effectively informed of the prohibition.

#### *Eleven. Control of gaming access bans for individuals registered in the General Register of Gaming Access Bans.*

1. The National Gaming Commission shall make a system available to gaming operators that allows telematic access to the General Register of Gaming Access Bans, with the goal of helping confirm whether the participants are registered in it.

2. The General Register of Gaming Access Bans shall be accessed during the process of activating the corresponding user registration using the national identity document number or foreign national identity number that appears in it.

Once the General Register of Gaming Access Bans has been consulted in the process of activating the user registration, and on the condition that the participant does not appear in it, the operator may then activate the user registration and allow them to participate in the games it offers, without prejudice to the obligation to consult again in the process of awarding any prizes the participant might win.

When due to technical reasons or service availability failures the General Register of Gaming Access Bans provides no response to the operator's query, the operator may not activate the user registration, nor shall it allow participation in the games it offers. In these cases, the National Gaming Commission shall establish any contingency measures necessary in order to support operators in their queries of the General Register of Gaming Access Bans.

For gaming modes for which participation without prior identification of participants has been authorised by the National Gaming Commission, the General Register of Gaming Access Bans must in all cases be consulted during the process of awarding prizes and after verifying the identity of the participant.

3. Notwithstanding the confirmation obligations referred to above, gaming operators must verify hourly that participants with active user registrations have not been registered in the General Register of Gaming Access Bans. For this purpose, and as frequently as indicated, the National Gaming Commission shall generate and provide the operators with a computerised update file showing the changes, as a result of entries or deletions, to the General Register of Gaming Access Bans and which affect the participants registered with each operator. When due to technical reasons or service availability failures the National Gaming Commission can not provide operators with updated information, verifications shall be made using the information contained in the latest update provided.

In cases in which the changes reveal that a player with an active user registration has been registered in the General Register of Gaming Access Bans, the operation shall suspend the user and ban them from participating in the games from that moment forward. In these cases the suspension shall not preclude payment of the gaming account and of the amounts to which, as a deposit or for prizes awarded beforehand, the participant has a right. Once the account is suspended, the provisions of Section 13 of this provision shall apply.

In cases in which changes reveal that any participant with a suspended registration has been remove the General Register of Gaming Access Bans, the operator may lift the account suspension and, upon the express request of the participant, allow them to participate in the games.

4. Operators are responsible for ensuring that the participants in the games they organise or run are not registered in the General Register of Gaming Access Bans, and they could be considered, in cases in which registered individuals are allowed to play, to be committing a serious infraction under

Article 40.b) of Law 13/2011, of 27 May, on the regulation of gaming.

Gaming operator shall be exempt from all liability in cases in which individuals registered in the General Register of Gaming Access Bans participate in the gaming modes for which participation without prior identification of the participants has been authorised by the National Gaming Commission.

5. Every month, in order to evaluate and improve the efficiency of the system for accessing the General Register of Gaming Access Bans, the operator will send a report to the National Gaming Commission stating the total number of queries made and the total number of queries that received no response.

#### *Section four. User registration procedure*

##### *Twelve. Activation of user registration.*

1. To activate user registrations in which the applicant is a resident of Spain or has provided a national identity document number (DNI) or foreign national identity number (NIE), the user's information must first be verified, and it must be confirmed that the individual is not registered in the General Register of Gaming Access Bans.

2. User registrations requested by a non-resident of Spain that does not provide the national identity document (DNI) number or the foreign national identity number (NIE) may be activated by the operator without previously verifying the information provided. In this case, the information must be verified by the operator within one month of activating the user registration.

Notwithstanding the time at which the registration is activated, once the request is received the operator shall begin the documentary process of verifying the identity of any applicant who is a non-resident of Spain and who does not provide a national identity document number or foreign national identity number.

##### *Thirteen. Suspension, cancelation and annulment of user registrations.*

1. The operator may suspend user registrations that remain inactive for an uninterrupted period of more than two years. Suspended user registrations may be activated at the request of the participant.

2. The operator shall cancel inactive user registrations after four years have passed since their suspension.

3. In the cases referred to in point two of Section 12 of this provision, the operator shall annul any registrations whose information has not been verified within the one month period referred to in paragraph 5.3 of Article 26 of Royal Decree 1613/2011, of 14 November.

##### *Additional provision. Special scheme for contests.*

For the purposes of meeting the requirements of additional provision four of Royal Decree 1614/2011 of 14 November, implementing Law 13/2011 of 27 May on the regulation of gaming, in relation to licences, authorisations and gaming registers, gaming operators authorised to run and operate under the contest mode of gaming must, in the process of paying the prizes awarded under this mode, open a user registration under the terms and conditions set forth in this provision for the winners of these prizes.

##### *Temporary provision. Verification of information obtained before the authorisation is granted.*

Any user information held by gaming operators as a result of activities undertaken before the corresponding authorisation is granted may not be verified without the prior consent of the owner of that information.

Once the consent of the owner of the information has been received, the operator shall then verify it in accordance with the procedures established in this provision, without prejudice to its compliance with the provisions of Organic Law 15/1999, of 13 December on Personal Data Protection and in its implementing regulations.