



Racing Industry (Negotiations for Transfer of Surplus Venue) Regulations 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 26th day of June 2023

Present:

The Hon Carmel Sepuloni presiding in Council

These regulations are made under section 128(1)(a) of the Racing Industry Act 2020—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Racing.

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Regulations

1 Title

These regulations are the Racing Industry (Negotiations for Transfer of Surplus Venue) Regulations 2023.

2 Commencement

These regulations come into force on 1 August 2023.

Preliminary provisions

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Racing Industry Act 2020

non-ownership racing club, in relation to a surplus venue, means a racing club that does not own but uses the surplus venue for conducting racing or tri-alling

other disagreement, in relation to the transfer of a surplus venue, means a disagreement between a racing code and racing club relating to the transfer of a venue that is not a specified disagreement

prescribed action, in relation to a specified disagreement, means the action (or actions) set out in the third column of the table in Schedule 2 relating to the disagreement

specified disagreement means a disagreement relating to a matter described in the second column of the table in Schedule 2.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

Negotiations relating to transfer of surplus venue

5 Process for conducting negotiations for transfer of surplus venue

- (1) This regulation applies when a racing code and a racing club (the **parties**) are conducting negotiations for the transfer of a surplus venue of the club to the code by agreement under section 26(1) of the Act.

Initial meeting

- (2) Before starting the negotiations, the parties must hold an initial meeting to discuss—
 - (a) the process for the negotiations; and
 - (b) as applicable,—
 - (i) the identification of any special characteristics relating to the surplus venue and any specific actions to be taken as a result of those characteristics:
 - (ii) the degree of community engagement to be carried out relating to the transfer of the surplus venue:
 - (iii) the process for managing and dealing with any other parties that have been identified as having an interest in the surplus venue.

Specified disagreements

- (3) If, during the course of negotiations, a specified disagreement arises between the parties relating to the transfer of the surplus venue, the parties must undertake the prescribed action to attempt to resolve the disagreement.
- (4) If more than 1 specified disagreement arises during the course of the negotiations, the parties must undertake the relevant prescribed action for each specified disagreement.
- (5) The parties may, by agreement, choose to resolve a specified disagreement by another process, but, if the specified disagreement is not resolved through that process, the parties must undertake the prescribed action relating to the specified disagreement.

Other disagreements relating to transfer of surplus venue

- (6) The parties must undertake mediation to attempt to resolve any other disagreement relating to the transfer of a surplus venue.

6 Mediation

- (1) This regulation applies if the parties to a specified disagreement or other disagreement are required to undertake mediation to resolve the disagreement.
- (2) If the parties cannot agree on a mediator, the mediation must be carried out by a mediator appointed by—
 - (a) the Arbitrators and Mediators Institute of New Zealand Incorporated; or
 - (b) the Resolution Institute.
- (3) Unless otherwise agreed, the racing code must pay the costs of the mediation relating to the disagreement.

7 Costs relating to valuation of surplus venue

- (1) This regulation applies if the New Zealand Institute of Valuers appoints a valuer to resolve a specified disagreement relating to the valuation of a surplus venue or to carry out the valuation of the venue.
- (2) Unless otherwise agreed, the racing code must pay the costs incurred in resolving the specified disagreement or carrying out the valuation.

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.

Schedule 2

Specified disagreements and prescribed actions

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Item	Specified disagreement	Prescribed action
1	Disagreement about the use of a surplus venue after its transfer to a racing code	<p>Consultation with the community, including (without limitation) the relevant local authority, residents, non-ownership racing clubs, and local industry groups</p> <p>If agreement cannot be reached following consultation, then the disagreement must be dealt with by mediation</p>
2	Disagreement about the payment to a racing club to continue racing	Mediation
3	Refusal by a racing club to enter into negotiations relating to the transfer of a surplus venue	Proof of 3 attempts by the racing code to initiate negotiations, including offering mediation
4	Disagreement about the use of proceeds following the sale of a surplus venue	Mediation
5	<p>Disagreement relating to the valuation of the surplus venue, including (without limitation)—</p> <ul style="list-style-type: none"> • whether the valuation should be a joint or separate valuation process: • the appointment of a valuer: • the final transfer value, regardless of whether a joint or separate valuation has been carried out 	Appointment of a valuer by the New Zealand Institute of Valuers to resolve the disagreement or to carry out the valuation
6	Disagreement about the extent of involvement, if any, of a non-ownership racing club in the negotiations relating to the transfer of the surplus venue	Mediation
7	Disagreement over the proportion of industry contribution and community contribution to the surplus venue	<p>Consultation with the community, including (without limitation) the relevant local authority, residents, non-ownership racing clubs, and local industry groups</p> <p>If agreement cannot be reached following consultation, then evidence must be provided by each party in relation to its contribution to the surplus venue and a further round of negotiations must be commenced</p> <p>If agreement cannot be reached after further negotiations, the disagreement must be dealt with by mediation</p>
8	Disagreement about the ownership of any individual parcel of land relating to a surplus venue	<p>Parties must ascertain the ownership of every parcel of land constituting the surplus venue (as applicable).</p> <p>If a further disagreement arises, the disagreement must be dealt with by mediation</p>
9	Disagreement about the process for including other parties (for example, leaseholders) who	Mediation

Item	Specified disagreement	Prescribed action
	may have a legal interest in a surplus venue in negotiations relating to the transfer of the surplus venue	
10	Disagreement about the responsibility for the management of a surplus venue during its transition from being a racing venue to being sold	Mediation
11	Disagreement about the extent to which a racing code is required to cover the costs of negotiations relating to the transfer of the surplus venue to ensure there is adequate participation by a racing club (or clubs) in the negotiations	Mediation

Diana Hawker,
Acting Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 2023, prescribe the processes to be followed when conducting negotiations under section 26(3) of the Racing Industry Act 2020 for the transfer of a surplus venue of a racing club to a racing code, including the process for dealing with specified disagreements that may arise during the negotiations.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 29 June 2023.

These regulations are administered by the Department of Internal Affairs.