

**IN THE NATIONAL COURT OF APPEAL  
OF MOTORSPORT NEW ZEALAND INC.**

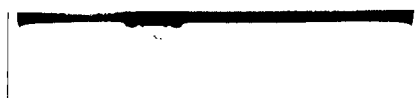
**IN THE MATTER OF**

An appeal from a decision of the Stewards  
of the Wigram Revival Meeting on 10  
January 2010

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**DECISION OF MOTORSPORT NEW ZALAND INC.  
NATIONAL COURT OF APPEAL**

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**DECISION OF MOTORSPORT ZEALAND INC.  
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**1. BACKGROUND**

- 1.1 The matter arises from Race 23 at the Wigram Revival Meeting at Powerbuilt Tools Raceway at Ruapuna Park on 10<sup>th</sup> January 2010 (the "Meeting"). The Appellant, Mr Shane Williams, appeals the Stewards' decision not to amend the results of Race 23 of the Meeting which classified Mr Williams in second place. Mr Williams was represented at the hearing of his Appeal by Mr Paul Williams. Mr Budd of MotorSport New Zealand Inc. presented the counter submissions.
- 1.2 Mr Williams says that he crossed the finishing line first in Race 23 but that he was incorrectly classified second because the timing transponder on his car was sufficiently rearward of the transponder on the car of Mr Andy Greenslade, which crossed the finish line alongside Mr Williams, for the electronic timing of the Race to record a lesser total race time for Mr Greenslade than for Mr Williams.
- 1.3 The Stewards rejected Williams' protest against the decision of the Clerk of the Course not to award him first place on the grounds that:
- 1.3.1 The Supplementary Regulations of the Meeting required electronic timing transponders to be fitted to all competing vehicles for the Meeting; and
- 1.3.2 The National Sporting Code ("NSC") App. 4, Sch. Z, art. 10.14, requires all transponders to be no more than 200 millimetres behind the centre line of the vehicle's front wheel.
- 1.4 The relevant provisions of the NSC to this appeal are set out below:

***App. 4, Sch. Z, art. 10.14, Electronic timing:***

- (1) *Organisers may require competitors to mount transponders to their vehicles for the purpose of providing lap times during all practice, qualifying and race sessions. Unless otherwise stated in Championship Articles or Schedules the following shall apply.*
- (a) *These shall be leased to competitors for the duration of the Meeting or Event and it will be the competitor's responsibility to mount the transponder and its associated bracket(s) using sound engineering practices.*
- (b) *Unless otherwise stated the transponder shall be mounted securely on:*
- (i) *For single seaters, shall be fitted to the bodywork rearward of the front axle centre line by up to a maximum of 100mm and within 200mm off the ground*
- (ii) *For saloon cars, shall be fitted to the inner guard rearward of the front axle centre line by up to a maximum of 200mm and within 500mm off the ground*

- (iii) *The transponder shall have a clear view to the track with no metal or carbon fibre beneath it.*
- (iv) *Ensure that these cannot make contact with either the wheel assembly or the ground.*
- (2) *Competitors will be charged for the repair or replacement of the transponder(s) due to accident damage, misuse or loss at any time during the lease period.*
- (3) *Competitors using their own electronic on board timing systems shall not:*
  - (a) *Place electronic timing system receivers within 10 metres of the official Start, Finish or any other official timing lines at any Meeting or Event, or*
  - (b) *Place them in front of or immediately on top of the pit wall or first line of a protection wall, but are strongly advised to consult with the organisers as to the place deemed suitable.*

**App. 4, Sch. Z, art. 15, Determination of the Finish:**

15.1 *The finish signal will determine the conclusion of a competition.*

- (1) *In the case of a race over a set distance, the winner shall be the competitor who covers the distance in the least time and the end of race signal will be displayed when the first competitor completes the set distance.*
- (2) *In the case of a race for a set time, the winner will be the competitor who covers the greatest distance in that time, and the end of race signal will be displayed to the leading vehicle.*

1.5 It was acknowledged by Mr Williams at the hearing that:

1.5.1 The transponder on Mr Williams' car was mounted on the inner rear wheel guard which was significantly more than 200 millimetres behind the centre line of the vehicle's front wheel;

1.5.2 The carrying of transponders was compulsory for the Meeting and therefore, Race 23; and

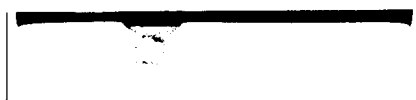
1.5.3 The race was not a round of any series or championship;

1.6 Mr Williams submitted:

1.6.1 That witnesses (some independent and some not) testified at the Clerk of the Course's hearing that his vehicle crossed the finish line first;

1.6.2 That the words in App. 4, Sch. Z, art. 10.14(1)(b) "...unless otherwise stated..." allowed him flexibility on where to mount his transponder;

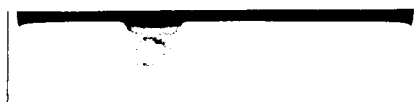
1.6.3 That if App. 4, Sch. Z, art. 10.14 were intended to govern the determination of who the finishing order, the rule was deficient in that it failed to address:



- 1.6.3.1 The consequences of a failure of the electronic timing system during a race which could be through no fault of the competitor; or
- 1.6.3.2 The dimensions of competing vehicles in races for different makes and models, where the distance between the line 200 millimetres behind the centre line of the vehicle's front wheel and the front of the car can vary considerably;
- 1.6.4 That there have been other race meetings that were electronically timed but, in which, the race results recorded finishing positions for competitors without transponders;
- 1.6.5 That a decision of a Sub-Committee appointed by the Executive Committee under Art. 118 of the NSC made on 4<sup>th</sup> March 2009 concerning a competitor, Mr Simon Grace, was instructive. Mr Budd kindly supplied us with a copy of that decision (attached).
- 1.7 For MotorSport NZ, Mr Budd submitted:
  - 1.7.1 That the Stewards' decision was correct and based on the correct provisions of the Supplementary Regulations of the Meeting and provisions of the NSC;
  - 1.7.2 That App. 4, Sch. Z, art. 10.15 applied and that the winner shall be the competitor who covers the distance in the least time;
  - 1.7.3 That "...even though [Mr Williams] may (or may not) have been slightly ahead of Andy Greenslade on the physical line, his transponder recorded a time which was 0.039 seconds slower than that recorded by [Mr Greenslade's] car...".

## 2. OUR FINDINGS

- 2.1 The dispute before us is confined to the interpretation of App. 4, Sch. Z, art. 10.14.
- 2.2 It is appropriate in any such a matter, to refer to the principles applicable to statutory interpretation, including private legislation such as the NSC:
  - 2.2.1 Interpretation should give effect to the statute's purpose;
  - 2.2.2 This "*purposive*" approach may have the following manifestations:
    - 2.2.2.1 In the case of ambiguity, taking the meaning which best achieves the purpose of the legislation;
    - 2.2.2.2 One can give words secondary meanings, if to do so would give effect to purpose;
    - 2.2.2.3 Allowance can be made for imperfect drafting;
    - 2.2.2.4 The separation of powers should be kept in mind. The statements of a member of legislation-making entity's executive should not be determinative as to what the legislation means;



2.2.2.5 An enactment applies to circumstances as they arise. An “ambulatory” or “updating” approach is appropriate.

2.3 We do not accept that the words in App. 4, Sch. Z, art. 10.14(1)(b) “...unless otherwise stated...” allowed Mr Williams flexibility in respect of compliance with the rule on where to mount his transponder. Those words are merely a re-statement of the proviso appearing in the opening paragraph of art.10.14 “...unless otherwise stated in Championship Articles or Schedules, the following shall apply...”. Race 23 of the Meeting was not a round of a Championship (as defined in the NSC) and we therefore find that no contrary location was permitted in respect of that Race.

2.4 The purpose of App. 4, Sch. Z, art. 10.14(1) (emphasis added):

(1) *Organisers may require competitors to mount transponders to their vehicles for the purpose of providing lap times during all practice, qualifying and race sessions...*

is unambiguous and clear. The purpose of mounting transponders is to provide lap times and not to determine the finishing order. We can find no support for an argument that this purpose requires secondary wording, such as appears in another rule (such as NSC, App. 4, Sch. Z, art. 15 or the Supplementary Regulations), to ascertain the purpose or that the purpose requires adaptation to circumstances that may have arisen.

2.5 Even if art. 10.14(1) required allowance to be made for imperfect drafting to ascertain its purpose (which it does not), art. 15’s purpose is to determine a different matter than art. 10.14(1) viz. the competitor “...who covers the distance...” in the “...least time...” from the starting signal to the finish signal (not the time from when a competitor crosses the timing line after the starting signal is given until the competitor passes the timing line on the last lap, which would be the sum of all the competitor’s lap times during the race, or, in other words, a different matter).

2.6 It is further noted that:

2.6.1 The two articles (10.14 and 15) govern different topics – art. 10.14 deals with “Electronic timing” and art. 15 deals with “Determination of the finish”;

2.6.2 Even if the Supplementary Regulations of the Meeting purported to amend the NSC (which, clearly, they may not), they stated (emphasis added):

*Transponder Timing*  
*Electronic timing is compulsory for all classes participating in this event...*

and they therefore, reflected and reinforced art. 10.14;

2.6.3 NSC Article 86 provides for Finishing Judges:

*...for any Event where the order in which Competitors pass the finishing line must be determined, [to be] appointed to make such a decision who may refer to the chief timekeeper prior to giving their decision...*

The purpose of the appointment of such a Judge is to avoid protests and appeals from the Judge’s decision on the finishing order of races and, it is noted that, had such a Judge been appointed in respect of the Meeting and he or she had made a decision on Race 23, this current appeal would not have arisen.



2.6.4 Whilst only concerning a related issue and not directly on the point, the decision of the Sub-Committee concerning Mr Grace, which is referred in para, 1.6.5 above, was indeed instructive and tended to favour Mr Williams' appeal.

2.7 We find that, on the submissions and the evidence made available to us, on the balance of probabilities, Mr Williams crossed the finish line first and that Mr Greenslade was second.

**3. RESULT**

3.1 The appeal is allowed and Mr Williams is classified as the winner of Race 23 with Mr Greenslade re-classified in second place. All other results stand.

3.2 We order that Mr Williams' protest fee of \$400.00 and appeal fee of \$5,000.00 be refunded.

3.3 We suggest that meeting organisers generally give consideration to the appointment of a Finishing Judge for all events so that appeals such as Mr Williams' can be avoided in the future.

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J Langford (Chairman)


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J Black

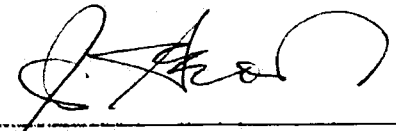
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C Abbott



  
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J Langford (Chairman)

  
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