



From the National Court

**MOTOR SPORTS COUNCIL NATIONAL COURT
SITTING TUESDAY, 2ND AUGUST 2016**

**Tony Scott-Andrews
Mike Garton
Bob Kettleboro**

Case No 2016-13

Jim Deans

Appeal

This is an Appeal against a decision made by the Championship Stewards of the Scottish Fiesta Championship which imposed a penalty upon the Appellant, Mr Jim Deans, whereby ten championship points would be removed from his points score.

During a race at Knockhill on 1st May, Mr. Deans overtook another competitor whilst yellow flags were displayed. Mr Deans was called before the Clerk and explained that he had not seen the yellow flags when he overtook and accepted that he had made a mistake. He was, rather surprisingly perhaps, given a penalty which left the results of the race in which the infringement had occurred intact but imposed a grid place penalty for Mr Deans' next championship race which penalty Mr Deans accepted.

It is understood that the competitor whom Mr Deans had overtaken on the penultimate lap of the race had queried why the results had not been altered but seemingly elected not to lodge a Protest or to seek to appeal the Clerk's decision.

What did happen, however, is that the Championship Co-ordinator brought the matter to the attention of the Championship Stewards who, from evidence heard today, discussed the matter in the course of a post-race de-brief when numerous other people were present and subsequently decided to impose the penalty referred to above. On 29th May the Co-ordinator sent an e-mail to Mr Deans advising that "In accordance with Sporting Regulation 4.3 of the Scottish Fiesta Championship it has been decided to add a further penalty of the removal of 10 championship points from your award on the results of the 1st May Race Meeting."

Reference to Art. 4.3 of the said regulations (headed "Additional specific championship penalties") does indeed permit the co-ordinator to "pass information over to the Championship Stewards for the consideration of the imposition of further penalties" but this applies "If competitors are found to be deliberately breaking regulations."

Mr Deans took exception to the apparent finding that, for a penalty to have been applied under this provision, he must have deliberately overtaken under yellow flags. He maintains that it had never previously been even suggested whether by the Clerk or any other person that he had deliberately ignored the yellow flags. He had explained that he had simply not seen them and, as far as he was aware, this explanation had been accepted.

The Co-ordinator whilst giving evidence to this Court today has confirmed that she did not in fact consider the overtaking under yellow flags to have been a deliberate breach of the

Regulations but was, reasonably enough, concerned that the Clerk's decision adversely affected the competitor who had been overtaken and considered the Stewards' decision to have remedied this.

It is the view of this Court that as (albeit for another purpose) Art. 4.3 actually refers to "current MSA Judicial Procedure Regulations" it was wholly inappropriate for the Championship Stewards to have determined that Mr Deans had acted deliberately without even giving him an opportunity to be heard. Indeed, one wonders upon what evidence their decision was based. Mr Deans had no notice of any hearing and was quite unaware of what was happening until he received the co-ordinator's e-mail of 29th May.

The decision of this Court is that the Appeal succeeds and the decision of the Championship Stewards is revoked.

It is within the power of this Court to impose a penalty other than those already imposed upon Mr Deans but the Court has heard that he has already served his five place grid drop (from pole position it is asserted) which clearly affected his ability to score championship points in that race and, again it is asserted in the race which immediately followed. In view of this the Court will not impose any further penalty or vary the existing Penalty made by the Clerk.

The Appeal fee paid by Mr Deans is to be refunded.

Tony Scott-Andrews
Chairman
2nd August