

## **KartSport New Zealand Appeal – 22<sup>nd</sup> July 2011**

**A KartSport New Zealand Appeal was received from Chris Manson (on behalf of his son Scott Manson) against the outcome of a Protest Hearing at the 2011 Rotax Max Challenge first round at Manawatu. The Protest hearing issued a Disqualification from the event for failing to meet the requirement of rule L8.3 in so much as the Carburettor was found to be unmarked at technical inspection.**

The decision of the Appeal Board appointed by KartSport New Zealand under article C6 of the KartSport New Zealand Judicial Code is provided below

### **Appeal Board Membership**

Alan Sherris (Chair)  
Colin Richardson  
Andrew Donohue

### **In the Matter of**

An Appeal by Chris Manson as guardian on behalf of his son who was disqualified from the event being the first round of the 2011 Rotax Max Challenge run at Manawatu on the 19<sup>th</sup> February for failing to meet the requirements of rule L8.3 in that the Carburettor was found to be unmarked at Technical Inspection.

### **Hearing Details**

The Appeal Hearing took place on Friday the 22<sup>nd</sup> July 2011 at the Hamilton Airport Hotel, Hamilton commencing at 7pm.

### **Background**

The following is a precise of events that occurred on the day of competition and beyond that lead to the filing of an intention to Appeal

At the first round of the 2011 Rotax Max Challenge in Manawatu on the 19<sup>th</sup> February 2011, Scott Manson won the Final race in Rotax Junior and had his kart impounded for technical inspection. When inspection started it was highlighted by the Senior Technical Officer that the Carburettor was not marked with paint that had been applied after the first qualifying session of the day. A Form of Complaint was raised and issued. A Hearing was scheduled and parties advised when to turn up for the hearing. After some 15 minutes had passed beyond the scheduled time for the hearing, and the Appellant had not presented himself, the Chief Steward conducted the hearing and recorded the outcome of the hearing as being a Disqualification from the Event.

A series of discussions occurred beyond this point involving the Appellant, the Chief Steward, the Clerk of the Course, and the National Steward. The end result was a

cancellation or withdrawal of the form of complaint. The results for the day were posted and prize giving was done.

Subsequently, KartSport New Zealand conducted an internal Inquiry into why the Form of Complaint had been cancelled. The report from the KartSport New Zealand Inquiry is a matter of record to this appeal but in essence, the Inquiry found that there were no provisions within the rules of KartSport New Zealand for such a cancellation to have been actioned. Therefore the original Form of Complaint was reinstated and the penalty from the Stewards Hearing re applied. The Competitor who was the subject of the Form of Complaint was advised of the outcome and their right to Appeal the decision of the Stewards Hearing established.

The right of Appeal was exercised so this Appeal now looks to the original decision which was the outcome of the Stewards Hearing on the day of Competition.

**The Appeal Hearing:**

Following an application from the Appellant approval was given by the Appeal Chairperson for John Hamilton to present the Appellant's case.

The Appellant submitted that there were a number of fundamental errors in the manner in which this whole incident was handled. In the main these are:

Firstly if an Official believes that a competitor has infringed a rule then that rule must be notified and the competitor given the right to defend that charge in front of an unbiased panel. Rule L8.3 does not in itself constitute a breach by the competitor.

Secondly the competitor was denied a fundamental right to give evidence at the Stewards Hearing as the Hearing went ahead without the Competitor present. This is even though the Appellant claimed they were waiting outside the hearing room.

Thirdly the KartSport New Zealand Inquiry introduced a further rule which was claimed to be breached but which did appear on the original Form of Complaint.

Witness statements were tabled to the Hearing from Mathew Hamilton and Hamish Cross both of whom supported evidence given by the Appellant in regards to the attendance at the Stewards Hearing

John Lennox (representing KartSport New Zealand) gave evidence relating to what engine marking was carried out on the day and what checking was carried out to ensure all competitors equipment was marked correctly. Jamie Aislabie gave evidence to this affect in his roll as Senior Technical Officer for the meeting. A statement from Warren Riddick was also tabled supporting the process on the day.

Jamie Aislabie also gave evidence related to his request for a Form of Complaint to be raised and also over his attendance at the Stewards Hearing where the hearing proceeded with out the Competitor being present

Mr Lennox produced evidence from the TO handbook which explained how carburettors could be marked, the official entry form for the 2011 NZRM Challenge, KartSport New Zealand Manual and associated rules.

Peter Cartwright (Chief Steward of the event) gave evidence relating to the issue of the Form of Complaint and the sequence of events that lead to the conduct of the Steward Hearing without the Competitor present. He claimed that considerable time was allowed beyond the time the hearing was scheduled before the decision was reached to hold the hearing.

#### **Observation**

The Appeal board notes that there are a number of different aspects to this Appeal which have collectively made for a very unfortunate situation. The first round of the 2011 Rotax Max Challenge held in Manawatu was run on the 19<sup>th</sup> February and this Appeal is being conducted on the 22<sup>nd</sup> July (a week out from the 4<sup>th</sup> Round at Auckland)

It needs to be stressed that none of the parties to this Appeal dispute that the carburettor was not marked at the time of technical inspection.

#### **Finding**

The Appeal Board finds.

1. the carburettor was not marked when viewed at Technical Inspection following the Final race.
2. that evidence was presented to satisfy the Appeal Board that the Carburettor should have been marked at Technical Inspection.
3. that the Form of Complaint was filled out sufficiently not to invalidate its effect.
4. that the Form of Complaint was served correctly.
5. that the Stewards Hearing that went ahead with out the competitor was lawful under the rules of KartSport New Zealand.
6. that the penalty of disqualification was appropriate under the rule cited on the Form of Complaint.

#### **Decision**

1. The Appeal was unsuccessful.
2. If the Appeal had been lodged against the decision of the KartSport New Zealand Inquiry, this Appeal Board would have nevertheless found that the original penalty of disqualification was appropriate and the appeal unsuccessful

The Parties are reminded of the right to appeal to the Sports Dispute Tribunal of New Zealand in accordance with article C7 of the KartSport New Zealand Judicial Code.

Verbal notification of this decision was given to Chris Manson at 7.54am on Saturday 23 July 2011.

An email confirmation of the decision was sent to Chris Manson on Monday 25<sup>th</sup> July at 9.53am.

For and on behalf of the Appeal Board

**Alan Sherris**  
**Chairman**  
**28<sup>th</sup> July 2011**

A handwritten signature in black ink, appearing to read "Alan Sherris", written over a circular stamp or mark.