

JUDICIAL APPENDIX

AUSTRALIAN MOTOR SPORT APPEAL COURT

Modified Article	Date of Application	Date of Publication

A capitalised and italicised word in this document is defined in the National Competition Rules (NCR)

Any HEADING is for reference only and has no regulatory effect.

1. ESTABLISHMENT

In accordance with the NCR, the final motorsport court of appeal established by the Board of *Motorsport Australia* (Board) is the Australian Motor Sport Appeal Court (AMSAC).

2. COMPOSITION

- 2.1 AMSAC will consist of not more than 7 members including a Chair and a Deputy Chair.
- 2.2 In the absence of the Chair, the Deputy Chair will exercise the powers of the Chair.
- 2.3 In the absence of the Chair and Deputy Chair, the President of *Motorsport Australia* may appoint an Acting Chair who will exercise the powers of the Chair.

3. APPOINTMENT

- 3.1 Appointment of the Chair will be made by the *Board*.
- 3.2 The Chair will nominate the Deputy Chair and each member.
- 3.3 A vacancy occurring in the list of members of the Court will be filled by a person nominated by the Chair.
- 3.4 The appointment of each member of the Court will be confirmed by the *Board*.
- 3.5 A Secretary, who will have no judicial powers, will be appointed by AMSAC.

4. TENURE OF OFFICE

Unless a member resigns or the *Board* terminates the appointment, each member will hold office for life.

5. EXPENSES

Any expense incurred by AMSAC in respect of a hearing and its administration will be the responsibility of *Motorsport Australia*.

6. FUNCTIONS

- 6.1 AMSAC will be the final court of appeal in respect to the following:
 - 6.1.1 an appeal against a disciplinary action taken by the *Board*; and
 - 6.1.2 any claim that a ruling, direction or decision of *Motorsport Australia* is ultra vires or unconstitutional
 and in each such case appeal will be as of right and leave to appeal is not required.
- 6.2 AMSAC will be the final court of appeal subject to leave to appeal being granted by the Chair:
 - 6.2.1 after a decision of a *Court of the First Instance* and after any subsequent appeal to an Appeal Tribunal;

- 6.2.2 after a decision of a Disciplinary Tribunal and after any subsequent appeal to an Appeal Tribunal; and
- 6.2.3 where the *Board* has exercised its right of appeal.
- 6.3 Where leave to appeal is required, any decision by the Chair to grant or not grant leave to appeal is final and not subject to appeal.
- 6.4 AMSAC is the penultimate court of appeal for a licence-holder who has exhausted the right of appeal to a national Appeal Tribunal and to whom there may remain a right of appeal to the *FIA* International Court of Appeal in accordance with the *Code*.
- 6.5 AMSAC, or the Chair, may at any time determine whether a hearing by a *Court of the First Instance* or by an Appeal Tribunal has been held in accordance with the *Rules* and if considered appropriate, refer the matter back to the relevant body for re-hearing.
- 6.6 AMSAC may act as a court of arbitration between any dissident parties in respect of an issue related to motorsport. The hearing will be dependent on agreement between the parties to be bound by the decision of AMSAC, and the consent of the Chair and *Motorsport Australia* that such matter may be submitted to AMSAC, whether or not *Motorsport Australia* is involved.

7. SUBMISSION OF AN APPEAL

- 7.1 Any appeal must be lodged within seven days of the day on which the decision appealed against was given, on the Notice of Appeal form available at www.motorsport.org.au, accompanied by the appeal fee, and addressed to the Secretary of AMSAC at 275 Canterbury Road, Canterbury, Victoria, 3126 or amsac@motorsport.org.au.
- 7.2 The Secretary of AMSAC will send a copy of the Notice of Appeal form to the Chief Executive Officer of *Motorsport Australia* and to any other party involved, within seven days of its receipt.
- 7.3 If leave to appeal is required and granted, the Secretary of AMSAC will provide all documentation which constitutes the appeal to each party.
- 7.4 The Chair may accept an appeal lodged out of time if it considers that the appellant has proper reason for the delay in lodgement.
- 7.5 The appeal fee will not be refunded if the appeal does not proceed by default of the appellant.

8. NOTIFICATION OF LEAVE TO APPEAL

- 8.1 If leave to appeal is sought, the Secretary of AMSAC will forward notification of the Chair's decision to accept or reject the appeal, to the appellant, each other party to the appeal and *Motorsport Australia* within 21 days of the receipt of the request for leave to appeal, unless time is extended by the Chair.
- 8.2 Where leave to appeal is not granted, the Chair may approve the refund of up to 50% of the appeal fee.

9. TIME LIMIT FOR A HEARING

Unless the Chair determines otherwise, an appeal will be heard within 60 days of the notification by the Secretary of AMSAC of the appeal being accepted as of right or where leave has been granted by the Chair.

10. PROCEDURE AT A HEARING

The order of business and conduct of any hearing will be determined by AMSAC.

11. QUORUM

A quorum for a hearing will comprise the Chair and two other members. In the case of an absentee/s, the Chair may appoint a substitute member/s for that case only.

12. REPRESENTATION

- 12.1 *Motorsport Australia* has the right to be represented at a hearing either as advocate for *Motorsport Australia*, or if requested, to assist AMSAC in any matter in which *Motorsport Australia* is not a party.
- 12.2 Any party to an appeal has the right to present their case in person or to be represented by an advocate.

13. TIME LIMIT FOR A DECISION

Unless the Chair determines otherwise, AMSAC will give its decision within 30 days of the completion of the hearing.

14. POWERS

AMSAC may:

- 14.1 Hold any hearing or part of a hearing in camera;
- 14.2 Admit representatives of the media;
- 14.3 Clear the court room;
- 14.4 Remove from the hearing any person it considers to be misbehaving or contemptuous of any person, or prejudicial to the hearing;
- 14.5 Make such order as to the return of part or all of the appeal fee;
- 14.6 Summon before the hearing any person, a representative of any party, and any evidence it may require;
- 14.7 Award costs against an unsuccessful appellant at its discretion or upon application by *Motorsport Australia*, provided always no costs shall be awarded against *Motorsport Australia* unless *Motorsport Australia* itself is an unsuccessful appellant;
- 14.8 Direct that evidence taken before it be given upon oath or affirmation; and
- 14.9 Amend the decision being appealed and apply any penalty under the *NCR* including amending the results of a *Competition*. However, AMSAC is not empowered to order any *Competition* to be re-run.

15. RATIFICATION

Except in the case of an appeal to the *FIA* International Court of Appeal in accordance with the *Code*, or the exercise of clemency by the *Board*, any decision of AMSAC is final.