

CYA Appeal 2010-7  
J24 CAN 2246 Request for Redress

**Introduction, Appendices**

**Rule 63.7, Conflict between the Notice of Race and the Sailing Instructions**

**Rule 90.3(a), Scoring**

**Rule A2, Series Scores**

**Rule A8, Series Ties**

**Rule J1.2(13), Notice of Race Contents**

*When the scoring provisions of Rule A2 are changed then the NOR and SIs should both specify that change to avoid a conflict between the documents. The Organizing Authority and the Race Committee must make every effort to avoid such conflict. Should such a conflict occur, the OA or the RC must address it by means of a timely amendment.*

**Summary of the Facts**

At the 2010 Canadian J24 National Championships, J24 CAN 2246 requested redress, alleging a scoring error by the Race Committee. The Notice of Race (NOR) for the event specified that there would be 1 discard after 5 races were completed and 2 discards after 10 races were completed. The Sailing Instructions (SIs) only specified that there would be no discards when fewer than five races were completed. Ten races were sailed and the Race Committee scored the event with two discards. In her request for redress, J24 CAN 2246 argued that there should only be one discard and that the event should be scored on that basis.

**Decision of the Protest Committee and Basis for Appeal**

The Protest Committee denied the request for redress on the basis that the specification for scoring after 10 races in the NOR was complementary rather than being in conflict with the SIs. CAN 2246 filed an appeal of the decision with the CYA.

CAN 2246 provided a number of bases for her appeal. First, the appellant noted Rules 90.3 and A2 required that the Sailing Instructions specify any variation from the default scoring system of RRS A2. The appellant found that there was no mention of the Notice of Race in the RRS with respect to scoring a series. Second, the appellant noted that the NOR specified the application of the International J24 Class Association (IJCA) Regatta Regulations, which required use of model NOR and SIs employing a single discard. Third, the appellant noted that the difference between scoring provisions in the NOR and the SIs implied that the Race Committee (RC) *intended* to change the scoring provisions for the event. Finally, the appellant noted that a radio broadcast of the RC's intent to score with 2 discards after 10 races were completed constituted an amendment of the SIs in contravention of RRS 90.2(c).

In its comments on the appeal the Protest Committee (PC) noted the difference between the scoring provisions of the NOR and SIs, but argued that there was no conflict between the two with respect to drops, so that Rule 63.7 did not come into effect. The PC added that conflict alleged by the appellant was apparent from the time the SIs were available, and the appellant had taken no effort to address a question to the RC before racing started. The PC noted that the appellant's was the only request for redress and that other competitors had elected not to sail the final race due to the availability of a second discarded score. It was the PC's belief that rescoring the series would have adversely affected several boats. Finally, the PC noted Appendix J1.2(13) which called for publication of the scoring system in the NOR, where it differed from the provisions of Appendix A.

The RC commented that they had consulted the PC Chair prior to the final day of racing to obtain the PC's interpretation of the scoring provisions. The PC Chair had felt that two drops were appropriate and the subsequent radio transmission by the RC to competitors was simply a confirmation for the competitors' information.

The appellant provided further comments following those of the Protest Committee and Race Committee, but did not introduce any new basis for appeal.

### **Decision of the Appeals Committee**

The appeal was timely and met all other conditions for validity.

The Regatta Regulations of the IJCA set the requirements for World and Continental championship series. Paragraph 1.1 of the Regatta Regulations indicates that, "the same regulations may serve as guidelines for National Championships ..." Thus, although the NOR indicated that the "Regatta Regulations of the IJCA would apply," the Organizing Authority would not be in contravention of those regulations if they did not follow them, since they are only guidelines for a National Championship.

The Protest Committee found that the NOR and SIs were complementary. The CYA Appeals Committee finds that the PC erred in this conclusion. The scoring provisions of each of the NOR and SIs must be read in their entirety. The NOR provides for two discards after ten races, and since the SIs are silent on the number of discards when there are more than five races, RRS A2 "the total of her race scores excluding her worst score" applies; therefore, the NOR and the SIs are in conflict. Racing Rule 63.7 makes provisions for resolution of such conflicts.

The appellant argues that any conflict between the NOR and SIs on scoring is moot since Rules 90.3(a) and A2 make provision only for the SIs to change the default scoring provisions, and make no reference to the NOR. On the other hand, the CYA Appeals Committee notes that Appendix J sets requirements for both the NOR and SIs, including an obligatory requirement for the definition of scoring systems for both the NOR (RRS

J1.2(13)) and the SIs (RRS J2.1(9)). The Introduction to the RRS notes that, “When the rules in the Appendix apply, they take precedence over any conflicting rules in Parts 1-7 and the Definitions.” The Introduction is a *rule* according to the definitions; therefore, the requirements of Appendix J may over-ride RRS 90.3, making the NOR applicable to scoring. Thus, conflict between the NOR and the SIs is possible with respect to scoring.

The CYA Appeals Committee also notes that whether the conflict between the scoring provisions of the NOR and SIs was intentional or inadvertent is irrelevant to the Racing Rules of Sailing.

It would have been better had the Race Committee resolved the conflict between the scoring provisions of the NOR and SIs by means of an official notice during the course of the regatta; however, the Race Committee scored the ten-race regatta with two discards, and responded to questions from competitors on the topic informally, by radio. Failure to resolve the conflict between the NOR and SIs was an error of the Race Committee, although their action was guided by advice from the PC.

The appeal is upheld, but only in respect to the error made by both the RC and PC.

Rule 63.7 requires a protest committee to resolve conflict between the NOR and SIs in a manner “it believes will provide the fairest result for all boats affected.” In that the PC concluded there was no conflict between the NOR and SI, it is clear they did not apply the principles of RRS 63.7.

The CYA Appeals Committee has examined the results of the regatta to determine the effects of the conflicting scoring provisions of the NOR and SIs. It finds that changing from a two discard to a one discard scoring system would affect the results for positions 1, 2, 3, 4, 6, and 7 in the regatta, with all other positions remaining unchanged.

Given the circumstances for this event and the effects on the results, the CYA Appeals Committee considers that it would be fairest for all concerned if boats were awarded results based on the scoring system most favourable to them. Thus, the first seven positions in the regatta are to be scored as follows:

| Sail No. | Position  |
|----------|-----------|
| 2246     | RDG (1st) |
| 3849     | RDG (1st) |
| 4260     | RDG (2nd) |
| 3599     | RDG (2nd) |
| 4331     | 5th       |
| 543      | RDG (6th) |
| 3424     | RDG (6th) |

Other scores are to remain unchanged.

In the event that any ties need to be broken, the Organizing Authority may apply RRS A8 to the above list.

**CYA Appeals Committee**

Andrew Alberti

Rick Hatch

Graeme Hayward

Don Martin

Warren Nethercote (Chair)

Leo Reise

October 10, 2010