

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



DECISION ON ANIMAL CONCERN (SCOTLAND) LTD

Company Names Tribunal, Christopher Bowen, Company Names Adjudicator, 18 September 2020

A company ordered to change its name because of its similarity to that of another company

Key words: Company Law, United Kingdom, Company Names, *Companies Act 2006*

1. The applicant, Animal Concern Ltd, applied under section 69(1) of the *Companies Act 2006* that another company, Animal Concern (Scotland) Ltd, registered on 10 June 2019, be ordered to change its name.
2. Animal Concern Ltd had originally been established as Animal Concern (Scotland) Ltd in 1986, but had changed its name in 1992 as its activities widened beyond Scotland. Although Animal Concern Ltd had operated under its revised name since 1992, it still was often referred to in the media as Animal Concern (Scotland), sometimes received donations in that name, which its bank accepted, and still received bequests in that name. Animal Concern Ltd was particularly worried about the last of these issues because if there were to be another Animal Concern (Scotland), bequests could be misdirected.
3. The adjudication was affected by Covid 19. The Tribunal is located in Wales and the primary respondent, the respondent company's sole director, was in apparent isolation at an unknown location in Scotland. The respondent's registered company office was on the island of Islay in Scotland, but was apparently either unoccupied or intermittently occupied. Ultimately, the adjudication was held by telephone, with a representative of the applicant present. The respondent was not represented because there had been multiple problems in communicating with its representative in Scotland. Mailed documents proved to be at first undeliverable due to access problems, and had then been returned as 'refused'. Email correspondence with the respondent's representative was difficult, and the telephone number she supplied for the adjudication was incorrect.
4. After consideration of precedent, the adjudicator decided to proceed without the respondent company represented. The issues were clear. The respondent company, Animal Concern (Scotland) Ltd was ordered to change its name within one month of the date of the order, and to pay costs of £800.

IMPLICATIONS



Names of charities are important to protect particularly where future bequests maybe involved. In some instances, charities may wish to protect their intellectual property in trademarks or designs that involve their names or identity.

VIEW THE CASE



This case may be viewed at <https://www.gov.uk/government/publications/company-names-tribunal-decision-animal-concern-scotland-ltd/decision-on-animal-concern-scotland-ltd>

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