

# 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.



## I S McGeoch Pty Ltd v Sporting Shooters Association of Australia New South Wales Albury Branch Inc [2023] NSWSC 369

Supreme Court of New South Wales, Basten AJ, 18 April 2023

A sporting club that became a branch of another organisation breached its lease, which was terminated.

**Key words:** Sporting Club, New South Wales, Shooting, Lease, Affiliation, Termination

1. The Albury Wodonga Clay Target Club Inc (the Club) was an incorporated association established in 1988 that leased land for the purpose of conducting clay target shooting.
2. The Club changed its name in 2019 to Sporting Shooters Association of Australia New South Wales Albury Branch Inc., reflecting a change in the Club's affiliation.
3. The Club is required to hold an approval pursuant to cl 97 of the [Firearms Regulation 2017](#) (NSW) (Regulation). To hold such an approval, the Club must be affiliated with one of the associations listed in cl 97(3)(d) of the Regulation.
4. At the time it entered into the lease, the Club was affiliated with the Australian Clay Target Association Inc (ACTA), which was listed in the Regulation.
5. Its continued affiliation with ACTA was a condition of the lease.
6. The Sporting Shooters Association of Australia (New South Wales) Inc is also an association listed in the Regulation.
7. The owner of the land took the view that the change in affiliation constituted a breach of a term of the lease, which required that the Club remain affiliated with ACTA. It sought to terminate the lease on the basis of non-compliance, with a notice to rectify the breach provided as the ground for termination.
8. The Club claimed that the lease clause was not triggered by a mere change in affiliation as the new affiliation was still approved under the Regulation. However, the Court decided that the ordinary meaning of the lease clause required affiliation with ACTA or its successors, not another approved organisation under the Regulation.
9. The Club claimed that the owner of the land had, in fact, by its conduct, affirmed the continued operation of the lease.

10. The Court found that the owner was at all stages satisfied that the change in affiliation would be a breach of the lease. Its communications with the Club consistently asserted that position.
11. The owner was willing to consider whether the Club (or its registered organisation) purchased the land, or the Club entered into a new lease. The owner engaged in lengthy negotiations with the Club and Sporting Shooters Association of Australia (New South Wales) Inc, but this did not amount to affirming the continued operation of the lease.
12. The Court found that the owner was entitled to possession of the land as the lease had been validly terminated.

## COMMENT



In this case, it was critical that the Club considered the terms of its lease before altering its affiliation to another body. The matter would not have arisen if the clause in the lease had permitted affiliation with other bodies that were included in the Regulation.

## VIEW THE CASE



This case may be viewed at: <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/2023/369.html>

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**Date of creation:** May 2023

**Number of case:** 2023-54

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*ACPNS acknowledges the funding assistance of Our Community to produce the ACPNS Legal Case Notes Series.*