

Case name: *Iceland Foods Ltd v Berry (VO)* [2018] UKSC 15 (7 March 2018)

Topic: Plant and Machinery Regulations

Full case: [click here](#)

Summary: The specialised air handling system used in Iceland's stores falls within the description of "manufacturing operations or trade processes" referred to in the relevant Regulations and, therefore, must be ignored in calculating the rateable value of the premises in question.

Commentary: This Supreme Court decision relates to the application of the Plant and Machinery Regulations to the valuation for rating purposes of a specialised air handling system used in connection with Iceland's refrigerated merchandise. If the system falls within the description of "manufacturing operations or trade processes" referred to in the Regulations then the air handling system would fall to be ignored in calculating the rateable value of the premises in question. The premises are in Speke, Liverpool but similar air handling systems are installed in all Iceland's store (around 800 in the UK and Ireland).

The VTE had decided the issue in favour of Iceland, which was reversed by the Upper Tribunal and this ruling was confirmed by the Court of Appeal.

The Supreme Court decided in favour of Iceland, on the basis that the relevant "process" in this context is "the continuous freezing or refrigeration of goods to preserve them in an artificial condition."

The air handling system is essential to the proper operation of the refrigeration units in the premises, which are "integral" units meaning that the warm air generated by the units (as part of the heat exchange process) vents into the surrounding air and not externally. The units operate at an ambient temperature of not more than 25 degrees Celsius and the confined space within the store necessitates efficient extraction of warm air to avoid malfunction of the units. The value of the refrigeration units themselves is to be left out of account in determining the RV of the premises.

The air handling unit is of considerable size, with a cooling capacity of approximately 85 kW.

The relevant Plant and Machinery Regulations (2000) provide that unless listed in the schedule to the regulations an item of plant or machinery is ignored when calculating the hypothetical rent of a hereditament. Class 2 covers plant and machinery used in connection with heating, cooling and the provision of other services to the hereditament (which would bring into account the value of the air handling system in this case), but excludes "plant or machinery which is in or on the hereditament and is used or intended to be used in connection with services mainly or exclusively as part of manufacturing operations or trade processes" (emphasis added).

The Court examined the history of the treatment of plant and machinery for rating purposes and applied this to the facts.

The Upper Tribunal had concluded that the display/storage of goods (as here, albeit in a frozen state) did not amount to a trade process and, therefore, the air handling system was rateable. The Court of Appeal stated that the display of goods was the antithesis of a trade process and upheld the UT's decision.

The Supreme Court accepted the appellant's argument that the "trade process" for Iceland was the continuous freezing or refrigeration of goods to preserve them in an artificial condition, as referred to above. There is nothing in the word "process" which implies a transition or change, despite the respondent's argument to that effect. The Court stated that a "trade process" is simply a process (in a wide sense) carried on for the purposes of a trade.

The Supreme Court allowed the appeal and restored the decision of the VTE.