

## Definition of Waste Case

July 2008



The recent English case of Environment Agency v Thorn International UK Ltd [2008] All ER (D) 28 (Jul) decided on 2 July 2008 before Moses LJ and Blake J, dealt with the issue of whether the defendant, who bought used electrical goods from a third party who had obtained them from consumers after they had purchased new items from retailers and stored them after refurbishment for resale, was storing waste. The defendant refurbished and repaired the items before selling them on.

The claimant agency took the view that the items stored in the defendant's yard were waste and that the defendant was required to obtain a waste disposal licence. The issue came before justices who found that, adopting a purposive approach, the stored items did not constitute a hazard to health or the environment and were not a waste within the meaning of the Environmental Protection Act 1990, Council Directive (EEC) 75/442 (on waste) and the Waste Management Licensing Regulations 1994, SI 1994/1056. The claimant appealed by way of case stated.

The issue for determination was, inter alia, whether the justices were bound to find that the electrical items were waste.

The appeal was dismissed. In the instant case, there had been no change of form of the goods and they had been retained for their original purpose. The justices had applied the Directive to the facts in a purposive manner and were entitled to reach the conclusion that, even if the items had been waste at an earlier stage, they were not waste by the time they had been selected by the defendant and stored in its yard.

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