

These notes refer to the Product Liability (Amendment) Act (Northern Ireland) 2001 (c.13) which received Royal Assent on 20 July 2001

Product Liability (Amendment) Act (Northern Ireland) 2001

EXPLANATORY NOTES

ANNEX B: COUNCIL DIRECTIVE 85/374/EEC OF 25 JULY 1985 ON LIABILITY FOR DEFECTIVE PRODUCTS

The following is a summary of the 1985 Directive as implemented in Part I of the Consumer Protection Act 1987 and replicated in the corresponding provisions of the Consumer Protection (Northern Ireland) Order 1987. It is simplified in places and is not comprehensive and should not therefore be taken as a complete summary of the legislation.

SCOPE

Applies to consumer goods and goods used at a place of work. All products (except unprocessed agricultural products and game, which are the subject of the present proposal) are covered. For example, the 1985 Directive currently applies to a producer of canned peas, but not to the grower of the peas.

WHO IS LIABLE?

An injured person can take action, by way of a civil law case, against:

Producers - the manufacturer, or in the case of raw materials the person who mined or otherwise obtained them.

Importers - meaning importers into the Community, not just into the UK. Where goods are imported into the Community from another EC country and subsequently sold in the United Kingdom, liability rests with the first importer, not the UK importer.

Own-branders - suppliers who put their name on the product and give the impression that they are the producer.

Other suppliers, such as wholesalers and retailers, are not liable unless they fail to identify the producer, importer or “own-brander”, if asked to do so by a person suffering damage.

Liability is joint and several, so where more than one person is liable for the same damage the plaintiff may sue any or all. It is not possible to exclude liability by means of any contract term or provision.

A defective product is defined as one where the safety of the product is not such as people generally are entitled to expect.

DAMAGE COVERED

A person can sue under the Act for compensation for

- **Death**
- **Personal injury**
- **Private property (provided the amount of loss or damage is £275 or more)**

There is no financial limit to a producer’s total liability.

The plaintiff must be able to show that, on the balance of probabilities, the defect in the product caused the damage.

DEFENCES

A producer or importer can avoid liability if he can prove any of 6 defences:

- he did not supply the product;
- the state of scientific and technical knowledge at the time he supplied the product was not such that a producer of products of the same description as the product in question might be expected to have discovered the defect if it had existed in his products while they were under his control;
- the defect was the inevitable consequence of complying with the law;
- the defect was not in the product at the time it was supplied;
- the product was not manufactured by him or supplied by him in the course of a business;
- (in the case of a producer of a component used in another product) the defect was due either to the design of the finished product, or to defective specifications given to the component manufacturer by the producer of the finished product.

TIME LIMIT FOR BRINGING A CLAIM

A plaintiff must begin his court action within three years of the date he was injured by the product or, if later, the date when he knew he had a claim against the defendant. However, he cannot sue under this legislation for injury when ten years have elapsed since the defective product was supplied by the producer.