

Merchants and Trade - Act No 25/1991 on Product Liability-

ICELANDIC LAW on Product Liability No. 25 of 20 March 1991

Scope of the Act Article 1

This Act applies to producers' and distributors' liability for damage caused by a defect in a finished product which they have produced or distributed.

Damage covered by the act Article 2

This Act prescribes compensation for personal injury and for loss of a provider. It also prescribes compensation for damage to an item of property, provided it is of a type ordinarily intended for private use or consumption, and was used by the injured person mainly for his private use or consumption. The act does not cover damage to the defective product itself.

Definition of product Article 3

For the purpose of this Act "product" means all movables, including primary agricultural products and game, even though incorporated into another movable or into an immovable. "Product" also includes electricity.

Producer and supplier Article 4

"Producer" means the manufacturer of a finished product, the manufacturer of a component part, the producer of any raw material or primary agricultural products, and any person who, by putting his name, trade mark or other distinguishing feature on the product, presents himself as its producer.

Any person who imports a product for sale, hire, leasing or any form of distribution in the course of his business shall also be deemed to be a producer.

"Supplier" means any person who in the course of his business supplies a product without

being identified as its producer.

Where the injured person cannot identify the producer of a product manufactured in this country or the importer of a product, each supplier shall be treated as its producer.

This does not, however, apply if the supplier informs the injured person, within a reasonable time, of the identity of the producer, importer or of the person who supplied him with the product, provided he is liable as a result of this Act and has his venue in this country.

Definition of defectiveness

Article 5

A product is considered "defective" when it does not provide the safety which a person is entitled to, taking all circumstances into account, particularly:

1. the presentation of the product;
2. the use to which it could reasonably be expected that the product would be put;
3. the time when the product was put into circulation.

A product shall not be considered defective although a better product is subsequently put into circulation.

Grounds for liability by producer

Article 6

A producer shall be liable for damage caused by a defect in a product manufactured or put into circulation by him.

The injured person is required to prove the damage, the defect and causal relationship between defect and damage.

Circumstances exonerating the producer from liability

Article 7

The producer shall not be liable, as a result of this Act, if he proves:

1. that he did not put the product, which caused the damage, into circulation;
2. that the product had not been manufactured or distributed for economic purpose;
3. that the defect of the product is due to compliance of the product with mandatory regulations issued by the public authorities; or
4. that the state of scientific and technical knowledge at the time when the product was put into circulation was not such as to enable the existence of the defect to be discovered.

Furthermore, the producer shall not be liable if it is probable that the defect which caused the damage did not exist at the time when he put the product into circulation.

The manufacturer of a component fitted in another product shall not be liable if he shows that the defect is attributable to the design of the finished product or instructions given by the manufacturer.

Limited liability

Article 8

A producer's total liability for damage resulting from an injury, including death, and caused by identical items with the same defect, shall be limited to an amount equivalent to 70 million ECU.

Fault of the injured person

Article 9

The liability of a producer may be reduced or disallowed if the injured person has contributed to causing the damage on purpose or by negligence.

Liability of supplier

Article 10

A supplier shall be directly liable for damage caused by a defect in his product in relation to the injured party and subsequent suppliers.

More than one person liable, recourse

Article 11

Where, as a result of the provisions of this Act, two or more persons are liable for the same damage, they shall be liable jointly.

Where, as a result of the provisions of paragraph 1 of Article 4, two or more persons are jointly liable as producers, the apportionment of liability between the producers shall be determined by the cause of the defect, the possibility of each of the producers to keep the product under surveillance, liability insurance of the parties, as well as other circumstances, unless otherwise determined on grounds of a contract.

Where a supplier or producer has paid compensation to an injured person or to a subsequent supplier according to paragraph 2 or 4 of Article 4, he acquires a right of recourse to previous producers and suppliers. The recourse may be disallowed or reduced if the plaintiff contributed to cause the damage by acts or omissions.

Prohibition against contractual derogation

Article 12

The provisions of this Act may not, by way of contractual derogation, be limited in relation to the injured person or a party who subsequently acquires a right of recourse.

General liability

Article 13

This Act shall not affect any rights which an injured person may have according to the general rules of the law of contractual or non-contractual liability or pursuant to provisions of other laws. However, the provisions of Article 14 shall apply to claims for

damages even though a claim is based on grounds of general rules of laws of contractual or non-contractual liability.

Limitation period

Article 14

Claims for damages according to this Act or to general rules of law of contractual or non-contractual liability, cf. Article 13, shall be extinguished upon the expiry of a period of three years from the date on which the injured person became aware, or should reasonably have become aware, of his damage, the defect of the product and the identity of the producer.

Should a claim not be extinguished as provided for in paragraph 1, it shall have a limitation period of ten years. The limitation period shall begin to run from the day the producer put the product into circulation.

Suspension or interruption of the limitation period according to this Article shall be regulated by general rules of law of limitation period.

Entry into effect

Article 15

This Act will enter into force on 1 January 1992.

The Act shall not apply to damage attributable to products put into circulation by a producer prior to the date of entering into force of the Act.

Passed at Althing, 20 March 1991.