

Product Liability Act

(694/1990; amendments up to 880/1998 included)

Scope of application

Section 1

- (1) This Act applies to the compensation for injury or damage caused by a product to a person or property meant for private use or consumption and primarily used for such purposes by the injured party. (99/1993)
- (2) A product means all movables with the exception of buildings on land owned by others. The Act applies to injuries or damages caused by a product even if the product has been incorporated into another movable or real property.
- (3) The provisions regarding products also apply to electricity. (99/1993)
- (4) A component means raw materials and parts of a product as well as materials used in the manufacture or production of a product. (99/1993)

Section 2 (99/1993)

The Act does not apply to:

- (1) damages caused by the product to the product itself;
- (2) damages caused to a product by a component if the component had been incorporated into the product before the product was put in circulation; nor
- (3) damages referred to in the Nuclear Liability Act (484/1972).

Conditions for liability

Section 3 (99/1993)

Compensation shall be paid for an injury or damage sustained or incurred because the product has not been as safe as could have been expected. In assessing the safety of the product, the time when the product was put in circulation, its foreseeable use, the marketing of the product and instructions for use as well as other circumstances shall be taken into consideration.

Section 4

If an injury or damage is attributable to a defect in a component, the injury or damage shall be considered to have been caused by both the component and the product.

Section 4a (99/1993)

The injured party shall prove the injury or damage, the defect in the product as well as the causal relationship between the defect and the injury or damage.

Liabile parties

Section 5 (99/1993)

- (1) For the purposes of this Act, the liable parties shall include:
 - (1) the party which has manufactured or produced the product which has caused the injury or damage;
 - (2) the party which has imported the product into the European Economic Area with the intention of putting it into circulation there;
 - (3) the party which has imported the product from a Member State of the European Free Trade Association (EFTA country) into the European Community, from the European Community into an EFTA country or from an EFTA country into another EFTA country with the intention of putting it in circulation; as well as
 - (4) the party which has marketed the product which has caused the injury or damage as his/her own if the product is labelled with his/her name, trade mark or other distinguishing feature.
- (2) The provisions laid down in subsection 1(3) shall not apply to import between countries which have ratified the Convention on jurisdiction and the enforcement of judgments in civil and commercial matters done at Lugano on 16 September 1988, in so far as a decision made in favour of the insured party is, due to ratification, enforceable against the liable party under subsection 1(1), (2) or (4).
- (3) The application of subsection 1(3) and subsection 2 of this section to the Principality of Liechtenstein and the Swiss Confederation shall be subject to separate provisions issued by decree. (879/1993)

Section 6 (99/1993)

If the product does not indicate its manufacturer or producer, the party which has put the product in circulation shall be liable for the injury or damage caused by the product in the same way as the manufacturer, unless he/she, within a reasonable time after receiving the claim for

compensation from the injured party or after receiving a notification regarding the injury or damage in another manner, notifies the injured party of the identity of the party liable for the injury or damage under section 5 or of the party which has supplied him/her with the product. If the product does not indicate the importer under section 5, the same shall also apply to an imported product even if the product indicates the party liable for the injury or damage under section 5(1)(1) or 5(1)(4).

Exemption from liability

Section 7

- (1) Liability for damages under sections 5 and 6 shall be exempted if the party from which compensation is claimed proves that:
 - (1) he/she did not put the product in circulation in the course of his/her business; or
 - (2) the defect in the product which caused the injury or damage is attributable to compliance of the product with mandatory regulations issued by a public authority.
- (2) Liability for damages shall also be exempted if the party from which compensation is claimed can show that it is probable that the defect which caused the injury or damage did not exist at the time when he/she put the product in circulation.
- (3) The liability of the manufacturer or producer of a component shall also be exempted if he/she proves that the defect which caused the injury or damage is attributable to the design of the product into which the component has been incorporated or to the instructions given by the product manufacturer. (99/1993)

Damages

Section 8

- (1) The damages under this Act shall be determined, where appropriate, in accordance with the Tort Liability Act (412/1974).
- (2) Liability for damages under this Act shall be exempted for damage caused to property below the amount of FIM 2,350. The amount mentioned may be revised by decree when found necessary in the light of economic development and the development of monetary circumstances. (99/1993)

Limitation of actions

Section 9

- (1) An action for damages under this Act shall be instituted within three years from the date on which the claimant became aware or should have become aware of the damage, the defect in the product and the identity of the liable party. (99/1993)
- (2) However, an action for damages shall be instituted within ten years from the date on which the liable party referred to in sections 5 or 6 put the product which caused the injury or damage in circulation.

Miscellaneous provisions

Section 10

A contractual term, agreed upon before the injury or the damage occurred, which limits the right of the injured party to compensation laid down in this Act shall be null and void.

Section 11

This Act shall not affect the right of the injured party to compensation based on a contract or by virtue of the Tort Liability Act or any other act.

Section 12

Action for damages under this Act may also be instituted in the court of law of the claimant's place of residence.

Section 13 (99/1993)

The party which has imported the product into Finland shall be liable to assist the insured party in translating a claim for compensation into a foreign language. If the importer does not assist the injured party, the importer shall compensate the insured party for the necessary costs caused by having the claim translated. The above duty to assist and compensate shall also apply to the party which has put the product in circulation, unless he/she, within a reasonable time and on request, informs the claimant of the identity of the importer.

Section 13a (99/1993)

In the insurer has, under the Motor Liability Insurance Act (279/1959), the Employment Accidents Insurance Act (608/1948), the Act on Employment Accidents Insurance for Farmers

(1026/1981) or under medicine liability insurance, paid compensations which the injured party would have been entitled to claim from the liable party under this Act, the right of the injured party to compensation laid down in this Act shall not be transferred to the insurer.

Entry into force

Section 14

- (1) This Act enters into force on 1 September 1991.
- (2) Liability under this Act shall extend to the party which has put the product which has caused the injury or damage in circulation after the entry into force of this Act.