

(No. 36)

DEFECTIVE PRODUCTS (LIABILITY) LAW, 5740—1980 *

Definitions.

1. In this Law —

“manufacturer” means a person who is engaged, for commercial purposes, in the manufacture or assembly of products, and includes —

- (1) a person who represents himself as the manufacturer of a product by using his name or trade mark or in any other manner;
- (2) the importer, for commercial purposes, of a product manufactured abroad;
- (3) the supplier of a product whose local manufacturer, or importer, is not identifiable on the face thereof;

“manufacture” shall be construed in accordance with the definition of “manufacturer”;

“product” includes a component of a product, the packaging of a product, a product attached to immovable property, and a building;

“personal damage” means death, illness, injury or a physical, psychological or mental defect.

Manufacturer's liability.

2. (a) A manufacturer shall be liable to compensate any person who incurs personal damage as a result of a defect in a product manufactured by such manufacturer (such person hereinafter referred to as “the injured party”), and it shall be immaterial whether or not there was fault on the part of the manufacturer.

(b) Where damage is caused by a defective component, the manufacturer of the product and the manufacturer of the component shall both be liable.

(c) The supplier of a product whose local manufacturer, or importer, is not identifiable on the face thereof shall be exempt from liability under this Law if, within a reasonable time after the injured party has required him to do so, he furnishes him with particulars enabling the name and full business address of the manufacturer or importer or of a supplier from whom he purchased the product to be ascertained.

* Passed by the Knesset on the 29th Adar, 5740 (17th March, 1980) and published in *Sefer Ha-Chukkim* No. 964 of the 9th Nisan, 5740 (26th March, 1980), p. 86; the Bill and an Explanatory Note were published in *Hatza'ot Chok* No. 1376 of 5739, p. 30.

3. (a) A product is defective if —

Defective
product.

- (1) it is likely to cause personal damage owing to a defect therein or
- (2) in the circumstances of the case, for reasons of safety, warnings or directions for handling and use are called for and they have not been provided or are inadequate to the danger involved.

(b) A product shall be presumed to have been defective if the circumstances of the case are more consistent with the conclusion that it was defective than with the conclusion that it was not.

4. (a) In an action under this Law, a manufacturer shall have no defence except —

Defence.

- (1) that the defect arose after the product left his control; if he proves that the particular product concerned underwent reasonable safety checks before leaving his control, the defect shall be presumed to have arisen after the product left his control;
- (2) that in the state of scientific and technological development at the time the product left his control, he could not have known that with regard to its design it did not meet reasonable safety standards;
- (3) that he had not intended the product to leave his control and that he took reasonable steps to prevent its leaving his control and to warn the relevant section of the public of the risk involved;
- (4) that the injured party knew of the defect and the risk involved and voluntarily exposed himself to that risk.

(b) It shall not be a defence to an action against a manufacturer that negligence of the injured party contributed to the damage, but if the injured party was grossly negligent, the Court may reduce the amount of compensation having regard to the extent of his negligence.

(c) Where the injured party was under twelve years of age —

- (1) the defence set out in subsection (a) (4) shall not be available;
- (2) the Court shall not reduce the compensation under subsection (b).

5. (a) In calculating compensation under this Law for loss of earnings and loss of earning capacity, income in excess of treble the national wage average according to the data of the Central Bureau of Statistics immediately before the determination of the compensation shall not be taken into account; where the compensation is exempt from income tax, the injured party's

Compensation.

losses shall, for the purposes of the compensation, be calculated on the basis of his income after deduction of the income tax leviable thereon at the time of determination of the compensation; provided that the reduction of compensation as result of the deduction of tax shall not exceed 25 per cent of the amount of the relevant income.

(b) Compensation under this Law for other than pecuniary damage shall not exceed fifty thousand shekalim. The Minister of Justice may, in consultation with the Minister of Finance and with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, increase the amount. The amount shall be linked to the consumer price index from the date of the coming into force of this Law or from the date of the increase of the amount, as the case may be.

Prescription.

6. (a) The period of prescription of a claim under this Law shall be three years.

(b) An action under this Law may only be brought within ten years from the end of the year in which the product left the manufacturer's control.

Stipulation limiting liability.

7. A stipulation limiting the manufacturer's liability under this Law shall be void; this provision shall not derogate from the right of the manufacturer to obtain indemnity from another, provided that indemnity shall not be obtainable from a person who came into possession of the product for personal, family or household purposes.

Applicability of Civil Wrongs Ordinance.

8. Matters relating to damage caused by a defective product which are not specially provided for by this Law shall be governed, *mutatis mutandis*, by the provisions of the Civil Wrongs Ordinance (New Version)¹.

Restrictions on applicability.

9. (a) This Law shall not apply to —

(1) live farm animals, poultry and fish;

(2) other unprocessed agricultural produce; for this purpose, cleaning, sorting, de-greening, packing, storage and refrigeration shall not be regarded as processing.

(b) This Law shall not apply to damage caused outside Israel.

Saving of laws.

10. This Law shall not derogate from rights under the Civil Wrongs Ordinance (New Version) or under any other law.

Implementation.

11. The Minister of Justice is charged with the implementation of this Law and may, with the approval of the Constitution, Legislation and Juridical Committee of the Knesset, make regulations as to any matter relating to such implementation.

¹ *Dinei Medinat Yisrael (Nusach Chadash)* No. 10, p. 266; NV vol. II, p. 5.

12. This Law shall come into force on the first day of the month following the expiration of six months from the date of its adoption by the Knesset. Commencement.

MENAHEM BEGIN
Prime Minister

SHMUEL TAMIR
Minister of Justice

YITZCHAK NAVON
President of the State