

Product Liability

Reform in the EU and UK



Overview

Key changes

Practical tips

About Osborne Clarke

The new Product Liability Directive will:

- Bring software, AI systems and digital services within the scope of product liability law.
- Allow consumers to sue importers, manufacturers' authorised representatives, service providers and distributors.
- Bring remanufacturers into scope that make substantial modifications to products.
- Widen the scope of circumstances relevant to determining if a product is defective, including product recalls and compliance with safety regulations.
- In some cases, increase the "long stop" limitation period from 10 to 25 years, which applies after a product is placed on the market.
- Expressly include medically recognised psychological harm as an actionable injury.
- Allow consumers to seek compensation for damage in the form of destroyed or corrupted data.
- Give claimants enhanced rights to seek disclosure of documents.
- Allow courts to presume products are defective in complex cases, placing the onus on defendants to prove otherwise.
- Ensure that there is always an entity in the EU that can be held liable for a product, primarily a manufacturer, importer or authorised representative, failing which a fulfilment service provider (for example, warehousing) or distributors or online platforms.



Product Liability The European Management And Quality Challenge

Rachel Sandford



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