

Product Liability

Requirements:

- (1) Must have a faulty/defective product**
- (2) Which Caused a personal injury.

Common Law Liability

Started out - *Donoghue v Stephenson*

Establishing Duty of Care:

Manufacturer/Repairer owes a duty of care to anybody who is injured by the product, not just the user of the product.

Haseldine v Daw & Sons

Stennett v Hancock

Must use appropriate warnings.

Vacwell Engineering v BDH Chemicals

C must prove D was negligent.

But courts may be quick to infer

Evans v Triplex Safety Glass

Grant v Australian Knitting Mills

Causation, Remoteness & Defences

principles apply in the usual manner for negligence

Pure Economic Loss – Defective Goods/Buildings.

Where goods simply fail to work – there is no damage on which to base the duty of care.

Losses from defective construction of building – recognised.

Dutton v Bognor Regis Urban District Council

Anns v Merton London Borough

Junior Books v Vietchi Ltd

More Restrictive Approach:

D & F Estates Ltd v Church Comrs for England

Murphy v Brentwood District Council

Statutory Liability		
<p>Defective Premises Act 1972</p> <p>may be possible to recover for repair costs here. Can't use the act if...(must use common law) Product defect - caused <£275 property damage Product defect - damaged property used for business purposes</p>		
<p>**Consumer Protection Act 1987** & EC Directive:</p> <p>Act introduced to comply with an EC directive Liability for defective products - to help protect consumers</p>		
<p>Anyone can use it Any person who suffers damage because of a defective product. Don't have to be the direct consumer.</p>	<p>Type of loss? Primarily – for personal injuries & death. Also – if product causes damage to private property – only >£275.</p>	<p>Who can you sue?</p> <p>S 2(3): (a) 'producers' (b) any person who brand names a product (c) any person importing (d) any supplier in a chain of distribution who refuses to give the name of the person supplying him the product</p>
<p>Must be a 'Product'? s.1(2) <i>'means goods or electricity and ... includes a product which is comprised in another product, whether by virtue of being a component part or raw material or otherwise'.</i></p>		<p>Must be a 'Defect'?</p> <p>s.3 'if the safety of the product is not such as persons generally are entitled to expect' <i>taking into account:</i> (a) 'the manner in which, and the purposes for which, the product has been marketed' (which includes packaging, warnings, and instructions); (b) 'what might reasonably be expected to be done with... the product'; (c) 'the time at which the product was supplied by its producer to another'</p> <p>Claimant – must prove goods are defective. <i>Worsley v Tambrands</i> <i>Richardson v LRC Products Ltd</i> <i>Abouzaid v Mothercare</i> <i>A and others v National Blood Authority</i> <i>Bogle v McDonald's Restaurants Ltd</i> <i>Pollard v Tesco Stores</i></p>

General Defences
<p>Under the Act: Remoteness – Unclear?? Contributory Negligence – s.6(4) Yes <i>Piper v JRI (Manufacturing) Ltd</i> <i>Commission v UK</i> <i>A and others v National Blood Authority</i></p>
<p>s.4 = General Defences: Burden of proof is on the defendant</p>
<p>S. 4(1) a-f (a) 'that the defect is attributable to D's compliance with any requirement imposed by or under any enactment or with any Community obligation'; (b) 'the person proceeded against did not at any time supply the product to another'; (c) that the supply was not in the course of a business, and was not done with a view to profit; (d) 'that the defect did not exist at the relevant time'; (e) 'that the state of scientific and technical knowledge at the relevant time was not such that a producer of products of the same description as the product in question might be expected to discover the defect if it had existed in products while they were under his control' (the so-called 'development risks' defence); that the defect— (i) constituted a defect in a product ('the subsequent product') in which the product in question had been comprised; and (ii) was wholly attributable to the design of the subsequent product or to compliance by the producer of the product in question with instructions given by the producer of the subsequent product</p>