

# PRODUCT LIABILITY ACT

Act No. 6109, Jan. 12, 2000

Amended by Act No. 11813, May 22, 2013

Act No. 14764, Apr. 18, 2017

## Article 1 (Purpose)

The purpose of this Act is to help protect the injured persons and contribute to the improved safety of the citizens' life and the sound development of the national economy by providing for the liability of manufacturers, etc. for damages caused by the defects of their products.

## Article 2 (Definitions)

The definitions of terms used in this Act shall be as follows:

1. The term "product" means movables which are industrially manufactured or processed (including movables incorporated into another movables or immovables);
2. The term "defect" means any of the following defects of a product with regard to manufacturing, design or indication or lack of safety ordinarily expected of a product:
  - (a) The term "defect in manufacturing" means the lack of safety caused by manufacturing or processing of any product not in conformity with the originally intended design, regardless of whether the manufacturer faithfully performed the duty of care and diligence with respect to the manufacturing or processing of the product;
  - (b) The term "defect in design" means the lack of safety caused by failure of a manufacturer to adopt a reasonable alternative design in a situation where any damage or risk caused by the product would otherwise have been reduced or prevented if an alternative design had been adopted;
  - (c) The term "defect in indication" refers to cases where damages or risks caused by a product could have been reduced or avoided if a manufacturer had given reasonable explanation, instructions, warnings or other indications on the product but he/she fails to do so;
3. The term "manufacturer" means any of the following persons:
  - (a) A person who is engaged in the business of manufacturing, processing or importing products;
  - (b) A person who indicated that he/she is the person under (a) by putting his/her name, firm name, trademark or any other discernible sign on a product, or a person who made a misleading indication that he/she is the person under (a).

### **Article 3 (Product Liability)**

(1) A manufacturer shall compensate for damages to the life, body or property of a person caused by a defect of a product (excluding damages inflicted only to the relevant product).

(2) Notwithstanding paragraph (1), if a manufacturer causes serious damage to life or body of a person as a result of not taking necessary measures against a defect of a product despite the manufacturer's knowledge of such defect, the manufacturer shall be liable up to three times the damage sustained by the person. In such cases, the court shall consider the following factors when determining damages: <Newly Inserted by Act No. 14764, Apr. 18, 2017>

1. Degree of intentionality;
  2. Severity of damage caused due to the defect of the relevant product;
  3. Financial gains obtained by the manufacturer from supplying the relevant product;
  4. Where any criminal punishment or administrative disposition is imposed on the manufacturer due to the defect of the relevant product, severity of such criminal punishment or administrative disposition;
  5. Period during which the relevant product is supplied and supply volume;
  6. Financial status of the manufacturer;
  7. Efforts made by the manufacturer to repair the damage.
- (3) Where the manufacturer of a product cannot be identified, a person who supplies it by means of sale, lease, or other form of transaction for profit shall compensate for the damage referred to in paragraph (1): Provided, That the foregoing shall not apply if such person informs the injured person or his/her legal representative of the identity of the manufacturer or the supplier within a reasonable period upon request from the injured person or his/her legal representative. <Amended by Act No. 14764, Apr. 18, 2017>

### **Article 3-2 (Presumption of Defects, etc.)**

Where the injured person proves the following facts, it shall be presumed that the product had a defect at the time the product was supplied and damage was caused because of the defect:

1. That damage was caused to the injured person while the product was being used normally;
2. That the damage referred to in subparagraph 1 was attributable to a cause practically controllable by the manufacturer;
3. That the damage referred to in subparagraph 1 would not ordinarily be caused if it were not for the relevant defect of the product.

### **Article 4 (Exemptions)**

(1) Where a person who is liable for damages in accordance with the provisions of Article 3 proves any of the following facts, he/she shall be exempted from any liability for damages under this Act:

1. That the manufacturer did not supply the product;

2. That the existence of the defect could not be identified by the state of scientific or technical knowledge of the time when the manufacturer supplied the product;
  3. That the defect is attributable to the manufacturer who complied with the standard prescribed by any Act or subordinate statute of the time when he/ she supplied the product;
  4. In the case of raw materials or components, that the defect is attributable to the design or the instruction on manufacturing by the manufacturer of the product made of the relevant raw materials or components.
- (2) If the person who is liable for damages under the provisions of Article 3 fails to take appropriate measures to prevent damage caused by the defect, although he/she is either aware of or would have been able to know the existence of such defect after he/she supplied the product, he/she shall not be entitled to any exemption referred to in paragraph (1) 2 through 4.

#### **Article 5 (Joint Liability)**

Where not less than two persons are liable for the same damages, they shall be liable jointly for the damages.

#### **Article 6 (Restrictions on Special Agreement Concerning Exemption)**

Any special agreement intended to exclude or limit any liability for damages under this Act shall be null and void: Provided, That this shall not apply to cases where a person who is provided with any product to be used for his/her own business enters into the said special agreement with respect to damages caused by the product to his/her own business property.

#### **Article 7 (Extinctive Prescription, etc.)**

(1) The right of claim for damages under this Act shall be extinguished by the completion of prescription if the injured person or his/her legal representative does not exercise his/her rights within three years from the date on which the injured person or his/her legal representative becomes aware of both of the following facts:

1. Damage;
2. The person liable for the damage pursuant to Article 3.

(2) The right of claim for damages under this Act shall be exercised within 10 years from the date on which the manufacturer supplied the product which caused the relevant damages: Provided, That with respect to damages caused by any substances which are accumulated in the body and, in turn, hurt the relevant person's health, or any other damages the symptoms of which appear after a lapse of a certain latent period, the aforesaid period shall be reckoned from the date on which the damage occurs actually.

#### **Article 8 (Application of Civil Act)**

Matters concerning any liability for damages caused by the defect of a product shall be governed by the Civil Act except as otherwise provided for in this Act.

#### ADDENDA

(1) (Enforcement Date) This Act shall enter into force on July 1, 2002.

(2) (Applicable Cases) This Act shall apply to products supplied by a manufacturer on or after the enforcement date of this Act.

#### ADDENDUM <Act No. 11813, May 22, 2013>

This Act shall enter into force on the date of its promulgation.

#### ADDENDA <Act No. 14764, Apr. 18, 2017>

##### **Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation.

##### **Article 2 (Applicability)**

The amended provisions of Article 3 (2) and (3) and Article 3-2 shall apply beginning with products first supplied after this Act enters into force.