

PUBLISHED REPLACEMENT EU ACT

ASSESSMENT OF IMPACT

DSC REF: DSC/21/2024

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Directive (EU) 2024/2853 of the European Parliament and of the Council of 23 October 2024 on liability for defective products and repealing Council Directive 85/374/EEC *OJ L, 2024/2853, 18.11.2024*. See link: [Directive - 2024/2853 - EN - EUR-Lex](#)

This Directive replaces [Council Directive 85/374/EEC](#); Protocol Annex 2, Heading 8 on Goods – general provisions.

Summary of the Act

The objective of the Product Liability Directive is to provide an EU-level system for compensating consumers who suffer physical injury or damage due to defective products. The original Product Liability Directive was adopted in 1985 and has now been updated to address the perceived issues created by an increasingly digital and circular economy, emerging technologies, and perceived barriers to making claims (such as the lower limit for making claims and the challenges of proving defects in complex products such as those which are smart or AI-enabled).

The Directive shall apply to products placed on the market or put into service after 9th December 2026. Some of the key updates include:

- For the purposes of applying no-fault liability, the Directive includes a wider definition of "product" that now encompasses software, digital services, and integrated technologies.
- Compensable harm will now include medically recognised damage to psychological health.
- The evidence disclosure process has been updated, requiring defendants to share relevant parts of the technical documentation they are expected to possess, otherwise the product will be assumed defective.
- There is a reduced burden of proof for claimants in complex cases. In complex cases the claimant is only required to demonstrate that it is likely that the product was defective or that the defectiveness of the product is a likely cause of the damage.

- The expiry period for claiming compensation is extended to 25 years in cases where the symptoms of a personal injury are, according to medical evidence, slow to emerge.

Department(s) Responsible

Product safety is reserved to Westminster and policy and legislative responsibility lies with the Department for Business and Trade.

District Councils have enforcement responsibility for product safety in Northern Ireland. This differs from the rest of the UK where enforcement responsibility lies with Trading Standards within Local Authorities.

As this is a product safety and civil law matter, DfE has no responsibility. Most areas of consumer protection that fall within the remit of DfE are related to legislation with the primary purpose of ensuring that consumers purchasing goods or services are protected from misleading or aggressive trading practices and is enforced by Trading Standards.

As the Directive concerns civil liability for defective products, the Department of Finance (Minister Archibald) and Department of Justice (Minister Long) are likely to have an interest. In addition, Department of Health (Minister Nesbitt) may have an interest in respect of medical products; Department of Agriculture, Environment and Rural Affairs (Minister Muir) may have an interest in relation to agricultural products; and Department of Finance may have an interest in relation to financial products.

Assessment of Impact

It is not possible for the Department for the Economy to provide detailed analyses on matters which are not within our official responsibilities and/or our devolved competence.

UK Government Explanatory Memorandum

See Explanatory Memorandum completed by the Department for Business, Energy and Industrial Strategy on 25th October 2022 at **Annex B** (attached separately).

Analysis by the European Commission on its Impact Assessment

See the European Commission Impact Assessment and Executive Summary at **Annexes C & D** (attached separately).

Departmental Engagement

The Department for the Economy has had no engagement on these matters.