

With reference to the Consumer Protection Act 1987, explain how far it is true to say that liability in tort for damage caused by a defective product is strict. In your view, do the rules which you have explained achieve an appropriate balance between fault based and strict liability?

The key source of law relating to product liability is the Consumer Protection Act 1987. This implements the strict liability regime introduced by EU Directive 85/374/EEC on liability for defective products (Product Liability Directive). Product liability is the area of law in which manufacturers, distributors, suppliers and retailers are held responsible for any injury's products cause. An action under the CPA or for negligence can be brought for death, personal injury and damage caused to private property as the result of a product defect.

<https://www.pinsentmasons.com/out-law/guides/product-liability-under-the-consumer-protection-act>

Explanation

The question requires an explanation of the extent of strict liability in tort for damage caused by defective products. Points to be covered:

Consumer Protection Act 1987: Imposes strict liability for damage caused by defective products. Explain the provisions of the Act which achieve strict liability:

CPA s.2 (1) – where damage is caused by a defect in a product [*the defendant*] shall be liable for the damage.

CPA s.3 – There is a defect in a product if the safety of the product is not such as persons generally are entitled to expect.

Liability is outcomes based (existence of a defect causing damage) not fault based (no requirement for lack of reasonable care).

Examine the provisions in more detail:

Relevant defendants: CPA s.2 identifies the following as defendants upon whom liability is imposed:

- - The producer of the product
- - A person holding himself out as producer of the product, by putting his name or distinguishing mark on it: the 'own brander'.
- - The importer into the EU (in order to supply it in the course of business)

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