

Chapter 8

INDONESIA

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Introduction

Indonesia does not yet have separate product liability legislation, as such, addressing the legal liability of product manufacturers and sellers to users, buyers and even bystanders for injury or damage suffered on account of defective products. Nevertheless, it has enacted umbrella consumer protection legislation³ that made a breakthrough by shifting the burden of proof in favor of public consumers in certain cases and creating a legal basis for class action lawsuits by a group of consumers having common interests. This legislation and industry specific legislation (for example, Law No 23/1997 on Environmental Management, and specific intellectual property rights protection legislation) together with the Indonesian *Civil Code* (which is based on the Dutch civil law system) provide a framework of tort and contract law principles within which to deal with product liability issues in Indonesia.

Consumer awareness of product liability has grown rapidly over the past five to ten years. For example, food-related cases⁴ and an exploding liquid propane gas case⁵ have resulted in decisions articulating liability for product-related losses and compensable damages. Nevertheless, traditional legal concepts of privity of contract and fault-based theories of producer liability are still applied except in particular contexts where strict liability concepts have been mandated by legislation, as in the case of certain environmental damage actions. Product liability-related jurisprudence is

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2 The substantive contribution of Indonesian law firm Hadiputranto, Hadinoto & Partners in reviewing the legal issues involved is gratefully acknowledged.

3 *Consumer Protection Law* (Law No 8/1999). Class actions are now governed by Supreme Court Regulation No 1/2002 on Class Actions.

4 *P Silalahi v Pasar Swalayan Macan Yaohan Merak Jingga* (2003); *Syamsurizon v PT Coca-Cola Distribution Indonesia* (2003).

5 *MS Daulay v Pertamina, PT Topindo Raya Sejati and PT Kemgas Tama Indonesia* (2002).

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