

M. Dewis / D. C. Hutchins / P. Madge

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PRODUCT LIABILITY

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Warranty

Guarantee

CAUTION
the container

DO NOT INHALE

3 YEAR

For external
use only

NO SMOKING
INFLAMMABLE
GAS

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If affected do not drive or operate
machinery. Avoid alcoholic drink.

TESTED

DANGER

THIS CONSTRUCTION
IS TEMPORARILY
OUT OF USE

LONDON BOROUGH OF BRENT

Product Liability

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Product Liability

Foreword

The prospect of the introduction of strict product-liability legislation is concentrating managers' thoughts on how to minimize the risks involved in providing products and services to meet market requirements. To understand the subject one needs to know about both the present legal position and the principle of strict liability which is now so widely advocated. A knowledge of the protection that can be provided by insurance cover is also necessary. But most important is familiarity with the policies and procedures which are available to industry to reduce the risks. Quality assurance, already widely recognized as an important management tool, is now generally accepted as the primary means of implementing effective product-liability prevention programmes.

Managers, technologists and businessmen will rapidly have to become knowledgeable in fields which are currently foreign to many of them, particularly in relation to the law, insurance and quality-assurance practices. This book is a timely aid as we seek to acquire experience in these fields, which are becoming increasingly interwoven with our customary work.

It is appropriate that The Institute of Quality Assurance should be associated with this book which breaks new ground in the field of quality assurance. I, too, am delighted to be connected with it. I am confident that it will be essential reading material for all industrial managers with responsibilities in this field.

Robert Feilden.

G. B. R. Feilden, CBE, FRS
President, The Institute of Quality Assurance

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Part I

LAW

by Malcolm Dewis

1 *Product-liability Law and Enforcement*

The aim of this part of the text dealing with product-liability law is to ascertain how far producers are liable for defects in their products and, if so, to whom, and what they can do in order to avoid or minimize liability. For these purposes it will be necessary to define the expressions 'defect' and 'liability' and also ascertain how far the establishment of good quality-control systems by companies may affect the legal position. The legal part of the book ranges from an analysis of criminal liability in connection with products and the relevant enforcement agencies, such as trading standards departments and the Health and Safety Executive, to tort, with its emphasis (at present) on negligence, though reference is also made to the recommendations of the Royal Commission on Civil Liability and Compensation for Personal Injury. As part of civil law, mention is also made of contractual liability for product defects, the position of retailers and the recent Unfair Contract Terms Act 1977. In other words the legal aspect of the book is principally concerned with products that are dangerous in the sense that they may give rise to prosecution or alternatively have caused physical injury or damage to property, and the liability that attaches to manufacturers and suppliers of such products. This includes consumer and industrial products, and the Consumer Safety Act and the Health and Safety at Work Act are examined. Finally European developments concerning product liability are considered along with the American regime of product liability and the need for insurance.

Doctrine of Product Liability

A doctrine of product liability denotes a system where liability in law exists in respect of defects in products. The liability may arise in respect of defects which cause physical or, alternatively, economic loss, a distinction accommodated in English law by tort and contract;