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Product Liability & Safety 2026

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Hong Kong Sar, China: Law and Practice

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HONG KONG SAR, CHINA

Law and Practice

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Contents

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1. Product Safety

1.1 Product Safety Legal Framework

Main Laws and Regulations

The main laws and regulations on general product safety in Hong Kong are based on the following common law and statutes:

- Claims of tort in negligence – a civil action for the breach of duty of care against a product manufacturer, supplier, distributor, etc;
- Claims in Contract – a civil action for breach of the express or implied terms of a contract;
- Sale of Goods Ordinance (Cap 26) – regulates general goods for sale to be of merchantable (satisfactory) quality, fit for purpose, as described on the package and sign, and corresponding with the sample;
- Consumer Goods Safety Ordinance (Cap 456) – the core legislation for consumer goods ordinarily supplied for private use or consumption, it imposes a general duty that goods be reasonably safe in all circumstances; and
- Consumer Goods Safety Regulation (Cap 456A) – subsidiary legislation dealing with practical compliance issues, including warning and caution labelling requirements, which must be shown clearly and be in both English and Chinese, where applicable.

Product-Specific Laws and Regulations

Numerous product-specific laws and regulations exist. Examples include the following:

- Electricity Ordinance (Cap 406) and the Electrical Products (Safety) Regulation (Cap 406G) – applies to household electrical products supplied in Hong Kong and requires compliance with essential safety requirements; it also includes certification of safety compliance requirements for relevant electrical products;
- Toys and Children's Products Safety Ordinance (Cap 424) – applies to toys and specified children's products and requires compliance with prescribed safety standards rather than relying only on the general safety requirement under the Consumer Goods Safety Ordinance;
- Public Health & Municipal Services Ordinance (Cap 132) – regulates the quality of food on sale for human consumption and drugs;
- Food Safety Ordinance (Cap 612) – applies to food products and requires the implementation of food tracing and record-keeping mechanisms;
- Pharmacy and Poisons Ordinance (Cap 138) and Dangerous Drugs Ordinance (Cap 134) – applies to pharmaceutical products, poisons, and dangerous drugs;
- Chinese Medicine Ordinance (Cap 549) – applies to proprietary Chinese medicine and traditional Chinese herbal medicine; and
- Dangerous Goods Ordinance (Cap 295) – applies to dangerous goods such as explosive, flammable, radioactive, or corrosive substances, as well as compressed gases.

At the moment, medical devices in Hong Kong are only subject to a voluntary, non-legal regulatory regime, the "Medical Device Administrative Control System" (MDACS).

Note also that the Trade Descriptions Ordinance (Cap 362) prohibits false or misleading claims about product safety or quality.

1.2 Regulatory Authorities for Product Safety

In Hong Kong, a number of government departments and statutory bodies oversee product safety.

The Customs and Excise Department (C&ED) serves as the primary law enforcement agency for general consumer product safety. It enforces the Consumer Goods Safety Ordinance (Cap 456), the Toys and Children's Products Safety Ordinance (Cap 424), the Trade Descriptions Ordinance (Cap 362), and related subsidiary legislation.

The C&ED has the power to investigate suspected unsafe consumer products, conduct market surveillance and testing, and take enforcement action when goods do not meet applicable safety requirements or have applied false or misleading descriptions. It also has the power to initiate criminal prosecution against the suppliers, manufacturers, importers and sellers of the goods in question.

The Consumer Council is a statutory body established under the Consumer Council Ordinance (Cap 216) to promote the protection of consumer rights. Its work is primarily educational. While it is empowered to receive consumer complaints, it lacks direct enforcement authority. However, it regularly conducts product testing and publishes reports and warnings.

Other government departments serve as sector-specific regulators, including:

- The Electrical and Mechanical Services Department (EMSD) – this regulates household electrical products. It administers and enforces the Electrical Products (Safety) Regulation, carries out inspections, and may pursue prosecutions for non-compliant products.
- The Drug Office and the Medical Device Division of the Department of Health (DH) – these regulate pharmaceutical products, medicines, and medical devices, including registration, quality, and post-market surveillance.
- The Centre for Food Safety of the Food and Environmental Hygiene Department (FEHD) – this manages food safety, including imports, labelling, and hygiene standards.
- The Fire Services Department (FSD) – this regulates dangerous goods, including their manufacture, storage, transportation and use.

It may come as a surprise that certain sectors have no specific regulators. One example is cosmetic products. Depending on the ingredients involved, a cosmetic product might only be covered by the regulation for general product safety enforced by the C&ED, or the regulation for pharmaceutical products or Chinese medicine enforced by the DH.

1.3 Obligations to Commence Corrective Action

Hong Kong has a high standard of consumer product safety. Under the Consumer Goods Safety Ordinance (Cap 456), the supply, manufacture, or importation into Hong Kong of unsafe consumer goods constitutes a criminal offence. It is, however, a defence if the person did not know, or had no reasonable grounds to believe, that the goods failed to comply with safety requirements. Thus, once it becomes known that certain consumer products are unsafe, the prudent course of action for the relevant parties is to voluntarily recall the product from the market to protect themselves against criminal prosecution.

Furthermore, the C&ED has been given wide power to serve notices. Failure to comply with the following also constitutes a criminal offence:

- A notice to warn, obliging a person, at their own expense and arrangement, to publish a warning on unsafe consumer goods and the steps to be taken.
- A prohibition notice, prohibiting a person from supplying unsafe consumer goods for a specified period not longer than six months. The period is extendable if proceedings have also been commenced for criminal prosecution and the destruction of seized or detained consumer goods.
- A recall notice, obliging the immediate withdrawal from the market of unsafe consumer goods that carry a significant risk of causing a serious injury.
- A testing notice, requiring suspected unsafe consumer goods to be tested.
- A modification notice, obliging a manufacturer, importer or supplier of consumer goods to modify the goods or their labelling, packaging or advertising, to comply with safety requirements or standards.
- An advertising notice, obliging those who advertise specified consumer goods to include warning notices in the advertisements, or to cease the advertising.

The C&ED had also been given the power to enter premises, and inspect and seize consumer goods and related documents, where there is reasonable belief that an offence under the Consumer Goods Safety Ordinance (Cap 456) or Toys and Children's Products Safety Ordinance (Cap 424) had been committed.

For food products, the Food Safety Ordinance (Cap 612) provides a legal framework for mandatory record-keeping for the acquisition of records and capture of aquatic products, as well as the wholesale supply of food. Records must be kept in accordance with a product's shelf life. For food with a shelf-life of three months or less, records must be kept for at least three months. For food with a longer shelf-life, records must be kept for at least 24 months.

The FEHD is given broad power, similar to that of the C&ED, to make food safety orders, to prohibit the importation or supply, to recall, to impound, and to destroy products. Once an order is made, failure to comply constitutes a criminal offence.

Furthermore, the FEHD is empowered to obtain records and information for purposes connected to a food safety order. Failure to keep proper records, or to supply information, is also a criminal offence.

1.4 Obligations to Notify Regulatory Authorities

In Hong Kong, for general consumer goods, there is no general statutory duty of self-reporting to the regulator. However, as the regime and the required standard are backed by regulatory offences it is advisable for those at risk of criminal liability to take proactive measures once safety issues in products are known.

Typical triggering events include reports from local or overseas agencies, as well as regular testing conducted by the manufacturers, importers and suppliers, or the authorities.

If a product is discovered to be unsafe, the manufacturers, importers and suppliers should act promptly to minimise the risk of criminal prosecution.

- For general products, the relevant party may voluntarily give notice to the C&ED and to the public. There are no time limits or formal requirements. Note that the C&ED may issue a warning, prohibition, suspension, or recall notices. The failure to comply with notices constitutes an offence.
- For electrical products, notifications should be made to the EMSD, which provides a guideline on voluntary recall, covering the initiation of recall, the arrangements, and the information that should be provided.
- For voluntary recall of food products, the FEHD has an established workflow and guideline covering notice, recall, and follow-up actions. Notifications should be made using the “Food Recall Notification Form” available on the website of the Centre for Food Safety.

1.5 Penalties for Breach of Product Safety Obligations

Under the Consumer Goods Safety Ordinance (Cap 456), supplying, manufacturing or importing goods that fail the general safety requirement can lead to a level 6 fine (HKD100,000) and imprisonment for up to one year on a first conviction. On subsequent convictions, penalties rise to a fine of HKD500,000 and up to two years’ imprisonment. Where the offence is ongoing, there may be an additional fine of up to HKD1,000 per day for the period the offence continued.

Similar penalties apply for failing to comply with safety control notices, such as requirements to issue warnings, stop supply, or carry out recalls.

Note that where a body corporate has committed an offence under an ordinance, there may be personal criminal liability on the part of the director, manager, secretary or other similar officers. Prosecutions may be extended to these officers if the offence is committed with their consent or connivance, or if the offence can be attributed to any neglect on the part of these persons.

While convictions for regulatory offences are typically not published, there are reports of prosecution for supplying a variety of unsafe products under the Consumer Goods Safety Ordinance, including face cream with unsafe ingredients, household chemicals lacking bilingual warnings, and laser pointers lacking safety features.

2. Product Liability

2.1 Product Liability Causes of Action and Sources of Law

Hong Kong does not have a single, comprehensive statute dedicated to product liability. Instead, civil causes of action generally arise under the common law principles of contract and tort, supplemented by specific statutes addressing product safety and quality.

Breach of Contract

Claims in contract law apply where there is a direct agreement between the consumer and the seller or supplier. A plaintiff may sue for breach of expressed or implied contractual terms. The Sale of Goods Ordinance (Cap 26) implies certain consumer protection terms in contracts, such as requirements that goods match their description, are of satisfactory quality, and are fit for their intended purpose. The consumer can claim damages if these expectations are not met and the defect leads to loss or injury. This is the main cause of action for direct purchasers, as it is not fault-based but requires a contractual relationship.

Tort of Negligence

The tort of negligence provides the main route for claims against manufacturers, importers, distributors, or suppliers, even those that typically have no direct contract with the ultimate consumer. To succeed, the plaintiff must prove that the defendant:

- owed the plaintiff a duty of care;
- breached that duty by falling below the expected standard (eg, through poor design, manufacturing errors, or inadequate warnings); and that
- this breach had caused foreseeable harm or damage.

Courts assess liability objectively based on what a reasonable person in the defendant's position would have done. This fault-based approach extends protection to end-users, bystanders and others affected by the product.

Breach of Statutory Duty

Generally, the breach of statutory duty does not give rise to a distinct civil cause of action. However, when specific statutory duty has been breached, it is strong evidence to support a claim. Especially when the parties concerned have been convicted of the relevant offences.

Examples of such statutes include the Consumer Goods Safety Ordinance (Cap 456), which requires manufacturers, importers and suppliers to ensure consumer goods are reasonably safe, or the Electrical Products (Safety) Regulation (Cap 406G) for relevant electronic items. Other sector-specific rules cover food, toys, or dangerous goods. While these primarily create criminal offences, they can serve as important information in civil claims by setting the standards of expected level of safety or care.

2.2 Standing to Bring Product Liability Claims

In Hong Kong, only parties with proper standing can bring product liability claims which differs between the cause of action in contract and tort.

Claims in Contract

Under the privity of contract, only parties with a direct contractual relationship, typically the buyer and the seller, have standing to bring breach of contract claims. This route suits situations where the purchaser suffers loss because the product does not meet the implied terms on quality, description, or fitness for purpose. Third parties outside the contract, such as family members or bystanders, generally do not have standing unless this is expressly provided or the contract purports to benefit them. This is through the operation of the Contracts (Rights of Third Parties) Ordinance (Cap 323).

Claims in Tort of Negligence

The tort of negligence offers the broadest standing beyond a contractual relationship. Any person who suffers foreseeable harm or damage from a defective product can bring a claim against the manufacturer, importer, distributor, or supplier. This includes not only the buyer but also end-users, family members, guests, or even bystanders injured by the product.

Other Considerations

Executors or administrators can bring claims on behalf of a deceased person whose death resulted from a defective product. Parties that suffer pure economic loss in tort may face stricter hurdles, as courts are cautious about allowing such claims without physical damage or personal injury.

Mentally incapacitated persons, as well as minors, can also sue with the assistance of a "next friend" or a guardian ad litem.

2.3 Time Limits for Product Liability Claims

Hong Kong law sets clear statutory deadlines for starting product liability civil claims to ensure fairness and legal certainty for all parties. These time limits, known as limitation periods, are governed by the Limitation Ordinance (Cap 347) and vary depending on the type of claim and the nature of the harm suffered. Missing these deadlines usually means the plaintiff loses the right to sue, so timely action is essential. Courts apply these rules strictly but offer limited extensions in exceptional cases.

General Claims in Contract and Tort

For most breach of contract claims and negligence claims that do not involve personal injury, the limitation period is six years. This period normally starts from the date the cause of action accrues, such as when the breach occurs or when the damage happens. Businesses and individuals should act promptly once they discover a potential claim, as delays can bar recovery of losses, repair costs, or other economic harm.

Personal Injury Claims

Claims for personal injury, including those arising from defective products, have a shorter limit of three years. The clock starts from the date of the injury or, if later, from the date the plaintiff knew or should reasonably have known about the injury and its link to the product. This “date of knowledge” rule helps plaintiffs who cannot immediately identify the problem, such as in cases of latent defects or delayed symptoms.

Extensions and Special Situations

Courts have the discretion to extend time limits in rare circumstances if it would be equitable to do so. The Limitation Ordinance lists a host of factors to consider, that mainly revolve around the duration of the delay and the conduct of the parties. Hence, there are no automatic extensions, even in cases that involve death or serious injuries.

Furthermore, for cases that involve a minor, the limitation period is frozen until the child attains the age of 18. However, a claim may be commenced by the child through a “next friend”. Thus, for a potential defendant, the risk of civil litigation is uncertain.

2.4 Jurisdictional Requirements for Product Liability Claims

There are no special rules governing jurisdiction over product liability claims. Hong Kong courts assume jurisdiction only in cases where there is sufficient connection to the territory. The key consideration is whether the potential defendant is based locally or overseas.

Defendants Present in Hong Kong

Courts have clear jurisdiction if the defendant (eg, a manufacturer, importer, distributor or seller) is physically present, resides, or carries on business in Hong Kong. In these situations, plaintiffs can serve court documents directly within the territory without needing special permission. This straightforward route applies to local companies and individuals involved in the product supply chain.

Foreign Defendants

For defendants outside Hong Kong, plaintiffs must obtain court permission to serve documents abroad under Order 11 of the Rules of the High Court. The plaintiff applies without notice to the defendant and must show a good arguable case that the claim falls within a recognised gateway.

Key gateways relevant to product liability include tort claims (such as negligence) where the damage was sustained in Hong Kong or resulted from an act committed there. Contract claims may qualify if the contract was made in Hong Kong, breached in Hong Kong, or governed by Hong Kong law. The plaintiff must also demonstrate a serious issue to be tried on the merits and that Hong Kong is the appropriate forum, considering factors like the location of evidence and witnesses.

Additional Considerations

Courts assess overall convenience, including the location of evidence and witnesses. Foreign plaintiffs may need to provide security for costs. Defendants can challenge jurisdiction on grounds such as forum non conveniens. Under this common law doctrine, even if a Hong Kong court has jurisdiction over a matter, it may still recognise that another foreign court is the more appropriate forum and refuse to handle the case.

2.5 Pre-Action Procedures and Requirements for Product Liability Claims

Hong Kong law does not impose mandatory pre-action procedures for general civil claims. Parties can usually start court proceedings directly. However, unreasonable pre-action conduct may have implications in cost assessment. Thus, sending a letter before action to the intended defendants remains common practice and is strongly encouraged.

Special Rules for Personal Injury Cases

Product liability claims involving personal injury follow stricter rules under Practice Direction 18.1, which prescribes a detailed pre-action protocol and directions for alternative dispute resolution procedure.

Briefly, the plaintiff must send a formal letter of claim (with supporting documents and medical reports) to the proposed defendant at least four months before starting proceedings. The defendant should reply constructively within one month. Both sides then exchange information on liability and damages over the next three months, as well as proposals for expert report or examination.

These directions apply when a product safety issue has resulted in death or injury. Failure to follow them can result in cost penalties, even if the plaintiff wins the case.

Pre-Action Discovery

Plaintiffs may also apply to the court for pre-action discovery of documents. The court grants this only if the target is likely to become a party and the documents are directly relevant. This is a powerful tool that helps build a stronger case before filing.

Consequences of Non-Compliance

Courts consider pre-action conduct when deciding costs. Unreasonable behaviour, such as ignoring a reasonable letter or refusing early information exchange, may lead to paying the other side's costs on an indemnity basis. In personal injury cases, non-compliance can delay proceedings or result in wasted costs orders.

Businesses facing potential claims should respond promptly and co-operatively by engaging legal representatives to minimise the risk of adverse costs consequence.

2.6 Rules for Preservation of Evidence in Product Liability Claims

There are no product-specific preservation rules. However, businesses involved in potential product liability disputes in Hong Kong must take active steps to preserve relevant evidence. This duty arises once litigation is reasonably anticipated, even before formal proceedings begin. It covers documents, electronic records, and the product itself. Failure may lead to adverse inferences and costs sanctions.

Key Requirements

Parties must suspend routine document and records disposal policies and retain all materials that could relate to the dispute. This includes design records, manufacturing details, testing data, complaints, and the defective product where possible. Note also the duty of document preservation under the detailed provisions in Practice Directions SL1.2 for a pilot scheme for the discovery of electronic documents in commercial cases. An obligation is placed upon legal representatives to inform their clients of the duty of preservation as soon as litigation is contemplated.

Courts expect reasonable and proportionate preservation efforts. For products, plaintiffs and defendants should secure the item to allow inspection and testing by experts. Failure to preserve the actual product can seriously weaken a claim or defence, as physical evidence is often central to proving a defect.

Practical Steps for Businesses

For potential defendants, steps to be taken to fulfil their duty to preserve documents include:

- to identify and notify key people (such as employees involved in design, quality control, or sales) to stop deleting or altering files;
- to secure physical products, samples or prototypes in a safe location to prevent loss, damage or tampering; and
- to create a clear internal record of the steps taken to preserve evidence.

Consequences of Breaching the Rules

Courts may draw adverse inferences against a party that destroys or fails to preserve evidence. This could lead to the court assuming the missing material would have been unfavourable. Other sanctions include adverse costs orders. Hence, businesses should implement clear internal protocols to meet these expectations efficiently.

2.7 Rules for Disclosure of Documents in Product Liability Cases

Generally, product liability claims follow the same civil procedure rules on document disclosure as other cases. These rules are set out in Order 24 of the Rules of the High Court. They promote fairness by requiring each party to share evidence relevant to the dispute so that both sides can prepare their case properly and not be ambushed at trial.

The Automatic Discovery Process

After pleadings close, each party must exchange a list of documents within 14 days. The list must include every relevant document that is or has been in the party's possession, custody or power. Relevance covers anything that could help prove or disprove an issue in the case or lead to further useful inquiries, even those that are damaging to one's case. This duty continues throughout the proceedings, so parties must disclose any new relevant documents that come to light later.

Documents Commonly Disclosed in Product Liability Cases

Product liability disputes often involve technical and internal records. Typical items include design specifications, manufacturing processes, safety test reports, quality control logs, customer complaints, and internal emails or memos discussing potential risks. Electronic records, data files and video footage also qualify as documents and must be listed.

Inspection and Further Disclosure

Once lists are exchanged, parties may inspect and copy non-privileged documents. If one side believes the disclosure is incomplete, it can apply to the court for an order for specific discovery of particular documents or categories. The court is empowered to grant pre-action discovery and non-parties discovery, by sections 41 and 42 of the High Court Ordinance (Cap 4) in certain situations where the court considers it necessary for justice or to save costs.

Consequences of Non-Compliance

Under Order 24, rule 16, failure to fulfil the obligation can lead to serious sanctions. The court may dismiss the action or strike out the defence and enter judgment. Furthermore, any party who fails to comply with an order for discovery or production, or any solicitor who fails to give notice to a client, may even be liable to spend time in prison.

2.8 Rules for Expert Evidence in Product Liability Cases

Product liability claims in Hong Kong frequently turn on technical questions that judges cannot resolve without assistance. Issues such as product design flaws, manufacturing defects, safety standards, or the link between a fault and resulting harm often require experts' input.

Legal Foundation

Section 58 (1) of the Evidence Ordinance (Cap 8) provides the basis for admitting expert opinion evidence in civil proceedings. It allows a person with the necessary knowledge or experience to give opinion evidence on any relevant matter falling within their expertise in technical, scientific, medical, or other fields.

Court Oversight and Permission

The procedural rules are set out under Part IV of Order 38. Parties must first obtain the court's permission, usually at the case management conference, or secure agreement from all other parties. The court may direct the use of a single joint expert, limit the number of experts, or restrict the issues they address. Written expert reports should also be disclosed.

Duties of Experts

Experts owe an overriding duty to the court rather than to the party that instructs them. They must remain independent, objective and impartial at all times. Before their report can be adduced, experts must confirm in writing that they have read and agree to follow the Code of Conduct for Expert Witnesses set out in Appendix D to the Rules of the High Court. Reports must state the expert's qualifications, the facts and assumptions relied upon, the reasoning process, any limitations, and be verified by a statement of truth.

Role During Proceedings

Expert reports are exchanged well before trial. The court may order experts to meet and prepare a joint statement that identifies areas of agreement and disagreement. Unless otherwise ordered, experts give oral evidence under oath and face cross-examination. In appropriate cases the court may also appoint its own independent expert. Failure to comply with directions can lead to exclusion of expert evidence.

2.9 Burden of Proof in Product Liability Cases

Product liability cases follow the civil burden and standard of proof. The plaintiff carries the primary responsibility for proving their claim. This applies to civil actions based on negligence or breach of contract. The plaintiff must prove all the elements for each cause of action.

For tort, the plaintiff must demonstrate that the defendant owed them a duty of care, that the defendant breached that duty by, for example, producing a defective product, and that the breach caused loss or injury. For breach of contract, the plaintiff must prove the existence of a contract with the defendant, and the breach of express or implied terms of the contract.

The standard of proof is the balance of probabilities. This means the plaintiff must show it is more likely than not that the defendant's actions or the product defect led to the loss or injury. Courts do not require proof beyond reasonable doubt, which is the higher standard used in criminal cases.

Proving these elements can be challenging, especially with complex technical products where design, manufacturing and testing may be involved. In an action in tort, the doctrine of res ipsa loquitur may help. Where an accident would not normally happen without negligence, the court may infer fault and expect the defendant to provide an explanation. However, it is only a rule of evidence. The burden remains on the plaintiff to establish the core facts of the case.

However, if the defendant raises defences such as contributory negligence, they bear the burden of proving negligence on the part of the plaintiff.

2.10 Courts in Which Product Liability Claims Are Brought

Civil claims in Hong Kong are brought in three levels of court. The small claims tribunal, the district court, or the court of first instance of the High Court. The main difference in jurisdiction is the amount being claimed. However, there are other considerations such as complexity, costs, and legal representation.

The Small Claims Tribunal

The small claims tribunal has a maximum jurisdiction for monetary claims of HKD75,000. Proceedings here are informal and quick, with no lawyers allowed to represent the parties. Cases are presided over by a single professional adjudicator without a jury. This makes it accessible for individuals with smaller product-related losses, such as minor injuries or damaged goods. Parties are also encouraged to mediate and reach settlements through the Integrated Mediation Office (West Kowloon).

The District Court

Cases involving more than HKD75,000 but not exceeding HKD3 million are generally heard in the district court. It is a formal court with strict adherence to procedural and evidential rules. Legal representations are allowed. Cases are heard by a single professional judge without a jury. Given the upper limit of jurisdiction, the bulk of civil cases are heard at this level of court.

The High Court

Higher-value claims above HKD3 million, or those involving complex legal issues, serious personal injuries, or multiple parties, go to the court of first instance of the High Court. This court has unlimited jurisdiction and deals with more significant product liability matters, such as major manufacturing defects affecting many users. Cases are typically heard by a single professional judge without a jury. However, jury trials remain available in limited cases of defamation. The legal costs scale at the High Court is substantially higher than at the district courts.

Transfer of Cases

Parties should note that the tribunal and courts have the power to transfer cases that are inappropriate for that forum. One example is when the amount claimed or counterclaimed exceeds the jurisdiction of the court.

2.11 Appeal Mechanisms for Product Liability Claims

Parties who are dissatisfied with a final decision of an adjudicator or a judge in civil cases may challenge the decision through the appeal mechanism. However, this would generally concern challenges to the finding of law instead of facts. Appeals are also typically not as of right, hence parties may require permission to appeal.

Appeals From the Small Claims Tribunal

A dissatisfied party may first apply for a review by the adjudicator within seven days of the award or order. If still unhappy after review, the party can seek leave to appeal to the court of first instance of the High Court on a point of law only, under section 28 of the Small Claims Tribunal Ordinance (Cap 338). The time limit is generally seven days from service of the award or written reasons.

Appeals From the District Court

Sections 63–66 of the District Court Ordinance (Cap 336) govern appeals from the district court. A dissatisfied party must first apply to the trial judge for leave to appeal to the Court of Appeal within 28 days of the judgment being sealed or finalised. If leave is refused by the judge, the party may then apply directly to the Court of Appeal within 14 days of the refusal. There is no further appeal if leave is refused by the Court of Appeal.

Appeals From the Court of First Instance

Under section 14 of the High Court Ordinance (Cap 4), civil appeal from the court of first instance lies as of right to the Court of Appeal. Hence, no permission is required. The party must file and serve a notice of appeal within 28 days of the decision. In exceptional cases, parties may apply directly to the Court of Final Appeal for leave to appeal under the leap-frog procedure, if issued with a certificate by a judge of the court of first instance.

Appeals to the Court of Final Appeal

A party unhappy with the Court of Appeal's decision may seek leave to appeal to the Court of Final Appeal, the highest level of court of Hong Kong, pursuant to the Hong Kong Court of Final Appeal Ordinance (Cap 484). Leave will only be granted if the question involved in the appeal is one of great general or public importance. A party must first apply for leave from the Court of Appeal within 28 days of the judgment, and give the opposite party seven days' notice of the intended application. If leave is refused by the Court of Appeal, an application should then be made directly to the Court of Final Appeal within 28 days of the refusal.

2.12 Defences to Product Liability Claims

Defendants in Hong Kong product liability cases can protect themselves through several established routes. Claims usually rest on negligence or breach of contract, so defences target the core requirements of each.

Defences in Negligence Claims

Several practical defences help shift or reduce responsibility. The most common is contributory negligence, where the injured person failed to take reasonable care for their own safety. Courts may reduce damages to a percentage of the original award based on the plaintiff's share of fault.

Other common defences lie in novus actus interveniens for intervening acts breaking the chain of causation, or volenti non fit injuria for voluntary assumption of risk where the plaintiff knew and accepted the danger. Both serve as a complete defence.

Defendants such as suppliers or manufacturers can further argue that it was not possible to discover the defect with the scientific and technical knowledge available when the product was supplied.

Defences in Contractual Claims

Contractual claims are not fault-based, and considerations for defences differ from negligence accordingly. Sellers can show that the goods met the implied standards of quality, fitness for purpose and description under sale-of-goods rules. Carefully drafted exclusion or limitation clauses may also cap or exclude liability. However, these clauses are subject to the Control of Exemption Clauses Ordinance (Cap 71). All contractual terms seeking to exclude liability for death or personal injury are void, while other exclusion clauses are subject to the requirement of reasonableness.

2.13 The Impact of Regulatory Compliance on Product Liability Claims

Adherence to product safety regulations provides useful evidence in Hong Kong product liability cases. However, there are differences in the burden and standard of proof between civil and criminal cases. In parallel proceedings, this would raise important concerns.

Civil courts regard compliance with requirements under the Consumer Goods Safety Ordinance and other standards as a factor showing that manufacturers, importers or suppliers took reasonable care. If such defendants are found not guilty of the relevant regulatory offences, this can strengthen the defence in negligence or contractual claims.

However, due to the higher standard of proof in criminal prosecution, the mere fact of an acquittal does not absolve the liability of the defendant in a civil action. Whereas if a defendant has been found guilty of a regulatory offence, it is strong evidence of breach of duty or standard in a civil action.

Limitations of Compliance as a Defence

However, meeting regulatory standards does not automatically protect against liability. The courts must still assess whether the defendant exercised reasonable care in all circumstances. Factors such as the adequacy of warnings for foreseeable risks remains relevant, even if basic rules were followed. Compliance alone does not guarantee that a product was safe for its intended or reasonably expected use.

As civil liability may arise from multiple facets of a defendant's duty, regulatory compliance only serves as a minimum baseline rather than an expected standard.

2.14 Rules for Payment of Costs in Product Liability Claims

Hong Kong generally follows the rule that costs follow the event, so the unsuccessful party is usually ordered to pay the successful party's costs, subject to the court's discretion.

These costs will be listed in the receiving party's bill of costs covering court fees, expenses for the engagement of lawyers and experts, and other reasonable disbursements linked to the proceedings. Recovery is usually on a taxed basis rather than full indemnity.

The court holds wide discretion when deciding costs orders. It reviews the conduct of both sides, including whether they acted reasonably or wasted court time. Partial success by the winning party, or a refusal to engage in mediation without good cause, could lead to a reduced award or different allocation.

Assessment and Recovery of Costs

If the parties cannot agree on the amount, the court conducts a taxation process to assess the bill of costs of the receiving party. It applies standard scales that limit recovery to a proportion of actual spending, typically 60–70% on a party-and-party basis. In rare cases involving unreasonable behaviour, the court may award costs on a more generous indemnity basis, allowing higher recovery.

2.15 Available Funding in Product Liability Claims

Third-party funding of ordinary litigation remains generally restricted by the common law doctrine of maintenance and champerty, which are both a crime and a tort. Hence, contingency fees and "no win, no fee" arrangements by solicitors are generally prohibited in Hong Kong civil litigation.

Available Funding in Product Liability Claims

Hong Kong offers limited options for funding product liability claims other than coverage by insurers, and there is no available funding in small claims tribunal claims. The Legal Aid Schemes operated by the Legal Aid Department may be available for claims in the district court and High Court.

Consumer Legal Action Fund

Consumers can apply to the Consumer Legal Action Fund for financial support in meritorious product liability or consumer claims. Established by the Hong Kong government and managed by the Consumer Council, this fund assesses applications based on the strength of the case, public interest, and the prospect of success. It can cover legal costs and, in appropriate cases, provide broader assistance to help individuals pursue claims they could not otherwise afford.

Third-Party Funding

Third-party litigation funding remains generally prohibited for court-based product liability claims. The common law rules against maintenance and champerty continue to prohibit unrelated third parties from financing litigation in return for a share of any recovery. However, these restrictions do not apply to arbitration or related proceedings, where funding has been permitted since 2019. As a result, parties in larger commercial disputes may prefer arbitration to access such funding.

2.16 Existence of Class Actions, Representative Proceedings or Co-Ordinated Proceedings in Product Liability Claims

Hong Kong has no class action regime. However, representative proceedings are possible under Order 15, Rule 12 of the Rules of the High Court or the Rules of the District Court, where a representative may sue or defend a claim as a representative to multiple parties having the same interest. The mechanism is, however, rarely used in Hong Kong and is even rarer for product liability claims.

The main requirement is the “same interest” test. One or more plaintiffs (or defendants) can represent a larger group if all members share the “same interest” in the claim. This requires that:

- the issues of fact and law are essentially identical across the group;
- members of the group have a common grievance; and
- the relief sought is the same for everyone (courts interpret this requirement strictly, which often prevents a direct claim for damages, due to often varying degrees of injury or loss suffered).

Representative proceedings are rarely used in product liability disputes in Hong Kong. The strict “same interest” test makes them difficult to apply to typical consumer claims involving defective goods, where personal injuries or losses vary. Individual members will likely need to commence separate action to prove the damages suffered, following a declaratory relief from the representative action.

Most cases proceed individually or in small groups, often supported by the Consumer Legal Action Fund managed by the Consumer Council for eligible consumers. There have been calls for reform and introduction of a proper class action system, particularly for consumer matters, but no comprehensive regime exists as yet.

2.17 Summary of Significant Recent Product Liability Claims

Hong Kong has relatively limited, reported modern product liability case law, and most claims still proceed through ordinary contract and negligence principles. Recent cases have mostly been brought as contractual claims and the disputes are factual in nature.

Courts continue to handle product liability disputes primarily through contractual claims with reliance on the Sale of Goods Ordinance, focusing on implied terms of merchantable quality and fitness for purpose. Recent cases illustrate how judges interpret these concepts in practice, often emphasising objective standards of safety, conformity with descriptions or samples, and reasonable expectations based on the product’s intended use.

Notable Recent Hong Kong Product Liability Cases

Counterfeit electronic components – Smith & Associates Far East Limited v EZ Ram Technology Limited [2023] HKDC 435

The buyer purchased thousands of memory chips described as genuine Samsung products. Tests later confirmed they were counterfeits. The district court found breaches of both express contractual terms requiring original equipment manufacturer parts and the implied term under the Sale of Goods Ordinance that goods must correspond with their description. The seller was held liable for the full loss. This case highlights the strict approach to description-based claims, especially in high-value electronics supply chains.

Non-compliant KN95 face masks – MJH International B.V. v Rome International Handbag Company Limited [2023] HKCFI 2441

A Dutch buyer ordered masks for the Dutch government, relying on samples and specifications meeting KN95 filtration standards. Several batches failed independent testing. The High Court ruled that the masks supplier breached implied conditions of sale by description and by sample, awarding sums of multimillion US dollars to the plaintiff. The judgment reinforced that compliance with agreed technical standards forms part of merchantable quality.

Defective hydraulic platforms for fire services – Echelles Riffaud SA v the Secretary for Justice [2024] HKCFI 1994

A manufacturer supplied hydraulic platforms to the Hong Kong government for use by the Fire Services Department. Critical defects emerged shortly after delivery, creating safety risks. The government rejected the platforms and terminated the contracts. The manufacturer sued, while the government counterclaimed. The court refused to imply terms that the platforms should be of merchantable quality or fit for the purpose of firefighting and high-level rescue operations, as these terms had been expressly stated in the contract. While the court found that it is necessary to imply a term of reasonable safety in a contract, this does not add much as a breach of the term would also mean that the platforms would not be merchantable or fit for purpose. In the end, the court held that the manufacturer should pay the government almost USD10 million in damages. The decision clarifies that safety expectations are especially high for products affecting life and public safety.

3. Recent Policy Changes and Outlook

3.1 Trends in Product Liability and Product Safety Policy

Hong Kong continues to maintain a stable product liability and safety framework built on common law principles and sector-specific ordinances. However, Hong Kong still does not have a standalone strict liability regime for unsafe products. Despite long-standing Law Reform Commission recommendations since 1998, a strict liability regime faces strong opposition and the government does not intend to take this forward.

On the other hand, regulatory enforcement remains active and up to date. Examples include the testing and recall of external power banks that pose burn and fire hazards. Product safety legislation is also regularly updated. In 2026, amendments to the Toys and Children's Products Safety Ordinance (Cap 424) updated standard safety requirements for toys and certain children's items, such as high chairs, paints, playpens, and wheeled conveyances.

Given the growing trend of e-commerce and online shopping in many aspects of daily life in Hong Kong, it comes as no surprise that this now forms a major area of concern. In 2025, around half of the complaints received by the Consumer Council concerned online shopping.

Software remains a grey area in Hong Kong. Under the Sale of Goods Ordinance (Cap 26), which is rooted in the UK Sale of Goods Act 1893, software supplied only in intangible form may fall outside "goods", while software embedded in physical products is more likely to fit within the existing definition for goods and chattel. Hence, liability arising from digital products and AI-enabled systems remains uncertain.

On the other hand, the regulatory regime for medical devices may shed light on the way forward, with both freestanding and embedded software in medical devices falling under the now-voluntary "Medical Device Administrative Control System" (MDACS).

3.2 Future Policy in Product Liability and Product Safety

Hong Kong is actively modernising its product safety rules to better protect consumers while supporting innovation and trade. The government is focusing on targeted updates to existing frameworks and preparing for new challenges from emerging technologies.

Strengthening Medical Device Oversight

One major area of development centres on medical devices. The Department of Health plans to establish the Hong Kong Centre for Medical Products Regulation by the end of 2026. This independent body will build on the existing MDACS, moving from its current voluntary listing approach to a full statutory registration regime. The reform introduces stronger pre-market checks and ongoing surveillance to ensure devices meet rigorous safety and quality requirements. It also supports faster access to new medical products through a primary evaluation system based on local assessments.

Addressing New Technologies

Policymakers are also turning their attention to digital and smart products. A new Protection of Critical Infrastructures (Computer Systems) Ordinance (Cap 653) came into effect on 1 January 2026, while updated guidance on artificial intelligence promotes responsible development and use. These initiatives may influence how liability applies to software, Internet of Things devices, and AI-powered items in the future. Overall, the emphasis remains on practical, risk-based improvements that balance consumer protection with business growth.

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