

Chapter 14

NEW ZEALAND¹

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Introduction

Product liability in New Zealand is governed by a combination of New Zealand's unique accident compensation scheme and a common law system based on the English model. The accident compensation regime is radically different from the approach taken in other countries, and fundamentally distinguishes the New Zealand approach from that taken in any other country. By contrast, the approach to product liability in the remaining aspects of the New Zealand system not covered by the accident compensation regime is similar in most respects to the approach taken in other British Commonwealth countries such as England, Canada and Australia. As a result the principles applicable in New Zealand are a combination of principles which are variously either unique or relatively common in an international context.

As explained below, where the accident compensation scheme applies, the right to sue for compensatory damages is removed and replaced by an entitlement to accident compensation largely run through a statutory administrative body with limited recourse to the judicial system. The accident compensation regime is so comprehensive that a great deal of attention has been paid to determining the circumstances in which damages claims for personal injury can still be brought. As a consequence much of the jurisprudence focuses upon the exceptional circumstances where damages claims can proceed, rather than on the more routine scenarios where accident compensation eligibility bars claims for compensatory damages.

In the product liability context, it is important to appreciate that New Zealand's accident compensation regime does not bar all claims for personal injury – although it certainly prevents a large proportion of such claims.

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