

Defective Product Liabilities Bill Is Tabled for Online Public Hearing

The Office of Consumer Protection Board (OCPB) tabled the second draft of the Defective Product Liabilities Act (DPLA) for the second public hearing / consultation from 27 November to 12 December 2023 after its first draft was approved by the Cabinet and reviewed by the Council of State in 2022. The bill aims at providing clear and sufficient protection to the buyers and the sellers in relation to goods the defects of which are not obvious at the time of the transaction or upon delivery. The bill also sets out the types of defects, the rights of the parties and the liabilities of the sellers for different types of goods.

Our summary of some major provisions of the DPLA draft is as follows:

1. The “buyer” includes an assignee or a successor of rights of the buyer. The “seller” means a person who sells goods in the normal course of his/her business operation.
2. The goods under this law do not include used goods and live animals.
3. An agreement made between the parties before the defect is found is void if the agreement is contrary to the provisions of the DPLA and if it is detrimental to or burdensome on the buyer.
4. If the defect of the goods is found within six months from its delivery date, it shall be assumed that such defect already existed when the goods was delivered.
5. The buyer has the rights to:
 - (1) demand the seller to repair the goods;
 - (2) demand the seller to change the goods;
 - (3) demand price reduction; and
 - (4) terminate the contract.The exercise of the rights above does not affect the rights of the buyer to claim for damages.
6. Hire-purchase contracts and sale contracts whereby the purchase price is paid by a third-party lender are also governed by this DPLA.
7. Liabilities for defects of:
 - (1) automobiles and motorcycles;
 - (2) electrical appliances, electronics devices and mechanical devices; and
 - (3) other products similar to the products under No.1 or No. 2 to be later prescribed by enactment of a Royal Decreeare governed by the product-type specific provisions of the DPLA.

The bill is currently being reviewed for the second round by the Council of State. It is expected to be submitted to the Cabinet, the House of Representatives and the Senate respectively for their reading, review and approval in 2024.



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