

Extended liability for suppliers – DB12

Benefits of extended liability

When members of the Danish industry association *Danske Byggecentre* (Danish builders' merchants) sell construction materials to professional customers (e.g. contractors), generally the professional customers have the right to complain about latent defects in the construction materials for up to 5 years. If the construction materials are included in a construction where the contractor is a consumer, the consumer may claim liability for defects against the contractor for up to 10 years after delivery of the construction in which the construction materials were used. Accordingly, the contractor is generally liable towards consumers for latent defects in construction materials discovered more than 5 years after the contractor has delivered the construction in which the construction materials were used.

Similarly, members of *Danske Byggecentre* are generally liable for latent defects in construction materials for up to 10 years if the construction materials were sold to consumer customers.

In 2012, *Danske Byggecentre* launched a scheme under which its members may offer their professional customers an extended complaints period in relation to construction materials supplied for construction with a consumer as the contractor. The extended complaints period presumes that the supplier of the construction materials by registration through *Danske Byggecentre* has accepted the extended liability. The scheme allows the members of *Danske Byggecentre* the opportunity to offer the same long complaints period that the builders' merchants and the professional customers are obligated to offer their consumer customers pursuant to mandatory legislation.

Consequently, the professional customers will have a direct and immediate interest in purchasing construction materials from suppliers who have accepted the extended liability. Similarly, the builders' merchants will have an interest in selling products from the suppliers who have accepted the extended liability.

Suppliers also benefit from accepting the extended liability. *Danske Byggecentre* has made it easy for the builders' merchants and the professional customers to identify the suppliers who have accepted the extended liability. The relevant suppliers are listed at www.udvidetansvar.dk. Similarly, it is easily ascertained if a supplier has not accepted the extended liability. Consequently, builders' merchants and their professional customers will find it attractive to choose a supplier who has accepted the extended liability.

A supplier who has accepted DB12 "Extended liability" will therefore appear more reliable to builders' merchants as well as to their professional customers. Accepting the "Extended liability" signals that the supplier has confidence in his own products and that the supplier wants to offer his customers the certainty associated with extended liability. For a supplier, accepting the extended liability may also constitute a competitive factor relative to suppliers who do not offer extended liability.

4 benefits of extended liability

- Competitive advantage
- Credibility
- Good service
- Signals that the supplier warrants his product

Acceptance of extended liability

By accepting the "Extended liability", the supplier assumes liability for inherent but latent defects in construction materials that existed at the time of manufacture for a period of up to 10 years after supply to the construction in which the construction materials were used. As such, the supplier accepts that the builders' merchants' professional customers may carry on claims regarding inherent defects in construction materials for the 10-year period corresponding to the liability that professional customers have towards their customers, and builders' merchants are secured to the extent that the direct customer is a consumer. Construction materials subject to extended liability are products that will be permanently part of a construction, i.e. *"any item or any system that is manufactured and released for free circulation for the purpose of being permanently included in construction works or parts of construction works"*.

An overview of suppliers who have accepted the "Extended liability" according to DB12 and thus are subject to the 10-year complaints period may be found at www.udvidetansvar.dk/tiltraadt/.