

OCCUPIERS' LIABILITY ACT 1957

1. Preliminary

(1) The rules enacted by the two next following sections shall have effect, in place of the rules of the common law, to regulate the duty which an occupier of premises owes to his visitors in respect of dangers due to the state of the premises or to things done or omitted to be done on them.

(2) The rules so enacted shall regulate the nature of the duty imposed by law in consequence of a person's occupation or control of premises and of any invitation or permission he gives (or is to be treated as giving) to another to enter or use the premises, but they shall not alter the rules of the common law as to the persons on whom a duty is so imposed or to whom it is owed; and accordingly for the purpose of the rules so enacted the persons who are to be treated as an occupier and as his visitors are the same (subject to subsection (4) of this section) as the persons who would at common law be treated as an occupier and as his invitees or licensees.

(3) The rules so enacted in relation to an occupier of premises and his visitors shall also apply, in like manner and to the like extent as the principles applicable at common law to an occupier of premises and his invitees or licensees would apply, to regulate-

- (a) the obligations of a person occupying or having control over any fixed or moveable structure, including any vessel, vehicle or aircraft; and
- (b) the obligations of a person occupying or having control over any premises or structure in respect of damage to property, including the property of persons who are not themselves his visitors.

(4) A person entering any premises in exercise of rights conferred by virtue of an access agreement or order under the National Parks and Access to the Countryside Act, 1949, is not, for the purposes of this Act, a visitor of the occupier of those premises.

2. Extent of occupier's ordinary duty

(1) An occupier of premises owes the same duty, the "common duty of care", to all his visitors, except in so far as he is free to and does extend, restrict, modify or exclude his duty to any visitor or visitors by agreement or otherwise.

(2) The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there.

(3) The circumstances relevant for the present purposes include the degree of care, and of want of care, which would ordinarily be looked for in such a visitor, so that (for example) in proper cases-

- (a) an occupier must be prepared for children to be less careful than adults; and
- (b) an occupier may expect that a person, in the exercise of his calling, will appreciate and guard against any special risks ordinarily incident to it, so far as the occupier leaves him free to do so.

(4) In determining whether the occupier of premises has discharged the common duty of care to a visitor, regard is to be had to all the circumstances, so that (for example)-

- (a) where damage is caused to a visitor by a danger of which he had been warned by the occupier, the warning is not to be treated without more as absolving the occupier from liability, unless in all the circumstances it was enough to enable the visitor to be reasonably safe; and
- (b) where damage is caused to a visitor by a danger due to the faulty execution of any work of construction, maintenance or repair by an independent contractor employed by the occupier, the occupier is not to be treated without more as answerable for the danger if in all the circumstances he had acted reasonably in entrusting the work to an independent contractor and had taken such steps (if any) as he reasonably ought in order to satisfy himself that the contractor was competent and that the work had been properly done.

(5) The common duty of care does not impose on an occupier any obligation to a visitor in respect of risks willingly accepted as his by the visitor (the question whether a risk was so accepted to be decided on the same principles as in other cases in which one person owes a duty of care to another).

(6) For the purposes of this section, persons who enter premises for any purpose in the exercise of a right conferred by law are to be treated as permitted by the occupier to be there for that purpose, whether they in fact have his permission or not.

3. Effect of contract on occupier's liability to third party.

(1) Where an occupier of premises is bound by contract to permit persons who are strangers to the contract to enter or use the premises, the duty of care which he owes to them as his visitors cannot be restricted or excluded by that contract, but (subject to any provision of the contract to the contrary) shall include the duty to perform his obligations under the contract, whether undertaken for their protection or not, in so far as those obligations go beyond the obligations otherwise involved in that duty.

(2) A contract shall not by virtue of this section have the effect unless it expressly so provides, of making an occupier who has taken all reasonable care answerable to strangers to the contract for dangers due to the faulty execution of any work of construction, maintenance or repair or other like operation by persons other than himself, his servants and persons acting under his direction and control.

(3) In this section, "stranger to the contract" means a person not for the time being entitled to the benefit of the contract as a party to it or as the successor by assignment or otherwise of a party to it, and accordingly includes a party to the contract who has ceased to be so entitled.

(4) Where by the terms or conditions governing any tenancy (including a statutory tenancy which does not in law amount to a tenancy) either the landlord or the tenant is bound, though not by contract, to permit persons to enter or use premises of which he is the occupier, this section shall apply as if the tenancy were a contract between the landlord and the tenant.

(5) This section, in so far as it prevents the common duty of care from being restricted or excluded, applies to contracts entered into and tenancies created before the commencement of this Act, as well as to those entered into or created after its commencement; but, in so far as it enlarges the duty owed by an occupier beyond the common duty of care, it shall have effect only in relation to obligations which are undertaken after the commencement or which are renewed by agreement (whether express or implied) after that commencement.

5. Implied term in contracts.

(1) Where persons enter or use, or bring or send goods to, any premises in exercise of a right conferred by contract with a person occupying or having control of the premises, the duty he owes them in respect of dangers due to the state of the premises or to things done or omitted to be done by them, in so far as the duty depends on a term to be implied in the contract by reason of its conferring that right, shall be the common duty of care.

(2) The foregoing subsection shall apply to fixed and moveable structures as it applies to premises.

(3) This section does not affect the obligations imposed on a person by or by virtue of any contract for the hire of, or for the carriage for reward of persons or goods in, any vehicle, vessel, aircraft or other means of transport, or by virtue of any contract of bailment.

(4) This section does not apply to contracts entered into before the commencement of this Act.

OCCUPIERS' LIABILITY ACT 1984

1. Duty of occupier to persons other than his visitors

- (1) The rules enacted by this section shall have effect, in place of the rules of the common law, to determine-
- (a) whether any duty is owed by a person as occupier of premises to persons other than his visitors in respect of any risk of their suffering injury on the premises by reason of any danger due to the state of the premises or to things done or omitted to be done on them; and
 - (b) if so, what that duty is.
- (2) For the purposes of this section, the persons who are to be treated respectively as an occupier of any premises (which, for those purposes, include any fixed or movable structure) and as his visitors are-
- (a) any person who owes in relation to the premises the duty referred to in section 2 of the Occupiers' Liability Act 1957 (the common duty of care), and
 - (b) those who are his visitors for the purposes of that duty.
- (3) An occupier of premises owes a duty to another (not being his visitor) in respect of any such risk as is referred to in subsection (1) above if-
- (a) he is aware of the danger or has reasonable grounds to believe that it exists;
 - (b) he knows or has reasonable grounds to believe that the other is in the vicinity of the danger concerned or that he may come into the vicinity of the danger (in either case, whether the other has lawful authority for being in that vicinity or not); and
 - (c) the risk is one against which, in all the circumstances of the case, he may reasonably be expected to offer the other some protection.
- (4) Where, by virtue of this section, an occupier of premises owes a duty to another in respect of such a risk, the duty is to take such care as is reasonable in all the circumstances of the case to see that he does not suffer injury on the premises by reason of the danger concerned.
- (5) Any duty owed by virtue of this section in respect of a risk may in an appropriate case, be discharged by taking such steps as are reasonable in all the circumstances of the case to give warning of the danger concerned or to discourage persons from incurring the risk.
- (6) No duty is owed by virtue of this section to any person in respect of risks willingly accepted as his by that person (the question whether a risk was so accepted to be decided on the same principles as in other cases in which one person owes a duty of care to another).
- (7) No duty is owed by virtue of this section to persons using the highway, and this section does not affect any duty owed to such persons.
- (8) Where a person owes a duty by virtue of this section, he does not, by reason of any breach of the duty, incur any liability in respect of any loss of or damage to property.
- (9) In this section-
- "highway" means any part of a highway other than a ferry or waterway;
 - "injury" means anything resulting in death or personal injury, including any disease and any impairment of physical or mental condition; and
 - "movable structure" includes any vessel, vehicle or aircraft.

3. Application to Crown.

Section 1 of this Act shall bind the Crown, but as regards the Crown's liability in tort shall not bind the Crown further than the Crown is made liable in tort by the Crown Proceedings Act 1947.