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STATUTORY INSTRUMENTS

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1987 No. 1280 (N.I. 15)

NORTHERN IRELAND

**The Occupiers' Liability  
(Northern Ireland) Order 1987**

*Made*

21st July 1987

*Coming into Operation*

22nd September 1987

At the Court at Buckingham Palace, the 21st day of July 1987

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1974 c. 28

*Title and commencement*

1. This Order may be cited as the Occupiers' Liability (Northern Ireland) Order 1987 and shall come into operation on the expiration of two months from the day on which it is made.

*Interpretation*

2. The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

1954 c. 33 (N.I.)

*Duty of occupier to person other than his visitors*

3.—(1) The rules enacted by this Article 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

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(b) if so, what that duty is.

(2) For the purposes of this Article, 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—

1957 c. 25 (N.I.)

(a) any person who owes in relation to the premises the duty referred to in section 2 of the Occupiers' Liability Act (Northern Ireland) 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 paragraph (1) 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 Article, 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 Article 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 Article 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 Article to persons using a road and this Article does not affect any duty owed to such persons.

(8) Where a person owes a duty by virtue of this Article, 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 Article—

“road” means—

(a) a road as defined in Article 2(2) of the Roads (Northern Ireland) Order 1980, and

1980 NI 11

(b) any other road or way over which there exists a public right of way;

“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.

*Visitors using premises for recreation etc. ; modification of Unfair Contract Terms Act 1977*

4. At the end of section 1(3) of the Unfair Contract Terms Act 1977 (which defines the liability, called “business liability”, the exclusion or restriction of which is controlled by virtue of that Act) there is added—

1977 c. 50

“but liability of an occupier of premises for breach of an obligation or duty towards a person obtaining access to the premises for recreational or educational purposes, being liability for loss or damage suffered by reason of the dangerous state of the premises, is not a business liability of the occupier unless granting that person such access for the purposes concerned falls within the business purposes of the occupier”.

*Application to Crown*

5. Article 3 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.

1947 c. 44

G. I. de Deney  
Clerk of the Privy Council

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EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes further provision with respect to the civil liability under the law of Northern Ireland of an occupier to persons on his land.

Article 3 replaces the rules of common law governing the duty of an occupier as to the safety of persons who are on his land without his permission. Article 4 amends the definition of the term “business liability” for the purposes of Part I of the Unfair Contract Terms Act 1977, thereby enabling the occupier of business premises, such as farmland, who permits visits for recreational or educational purposes, such as rock climbing, to include terms in the permission which restrict or exclude his liability to such visitors in respect of the dangerous state of the premises.