



# Occupiers Liability Act 1984

## 1984 CHAPTER 3

### **<sup>F1</sup> 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 <sup>MI</sup> 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.

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*Changes to legislation: There are currently no known outstanding effects for the Occupiers Liability Act 1984. (See end of Document for details)*

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- (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).
- [<sup>F1</sup>(6A) At any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to land which is access land for the purposes of Part I of that Act, an occupier of the land owes (subject to subsection (6C) below) no duty by virtue of this section to any person in respect of—
- (a) a risk resulting from the existence of any natural feature of the landscape, or any river, stream, ditch or pond whether or not a natural feature, or
  - (b) a risk of that person suffering injury when passing over, under or through any wall, fence or gate, except by proper use of the gate or of a stile.
- [ Where the land is coastal margin for the purposes of Part 1 of that Act (including any <sup>F2</sup>(6AA) land treated as coastal margin by virtue of section 16 of that Act), subsection (6A) has effect as if for paragraphs (a) and (b) of that subsection there were substituted “ a risk resulting from the existence of any physical feature (whether of the landscape or otherwise). ”]
- (6B) For the purposes of subsection (6A) above, any plant, shrub or tree, of whatever origin, is to be regarded as a natural feature of the landscape.
- (6C) Subsection (6A) does not prevent an occupier from owing a duty by virtue of this section in respect of any risk where the danger concerned is due to anything done by the occupier—
- (a) with the intention of creating that risk, or
  - (b) being reckless as to whether that risk is created.]
- (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.

#### Textual Amendments

- F1** S. 1(6A)-(6C) inserted (19.9.2004 for E., 28.5.2005 for W.) by [Countryside and Rights of Way Act 2000 \(c. 37\)](#), **ss. 13(2), 103(3)** (with s. 43); S.I. 2004/2173, art. 2(1)(c); S.I. 2005/423, art. 2(c)
- F2** S. 1(6AA) inserted (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), **ss. 306, 324(2)(d)** (with s. 308)

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#### Marginal Citations

M1 1957 c.31.

### <sup>F3</sup>[ 1A Special considerations relating to access land.

In determining whether any, and if so what, duty is owed by virtue of section 1 by an occupier of land at any time when the right conferred by section 2(1) of the Countryside and Rights of Way Act 2000 is exercisable in relation to the land, regard is to be had, in particular, to—

- (a) the fact that the existence of that right ought not to place an undue burden (whether financial or otherwise) on the occupier,
- (b) the importance of maintaining the character of the countryside, including features of historic, traditional or archaeological interest, and
- (c) any relevant guidance given under section 20 of that Act.]

#### Textual Amendments

F3 S. 1A inserted (19.9.2004 for E.) by 2000 c. 37, ss. 13(3), 103(3) (with s. 43); S.I. 2004/2173, art. 2(1) (c)

### 2 Visitors using premises for recreation etc.: modification of Unfair Contract Terms Act 1977.

At the end of section 1(3) of the <sup>M2</sup>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—

“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”.

#### Marginal Citations

M2 1977 c. 50.

### 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 <sup>M3</sup>Crown Proceedings Act 1947.

#### Marginal Citations

M3 1947 c. 44.

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#### **4 Short title, commencement and extent.**

- (1) This Act may be cited as the Occupiers' Liability Act 1984.
- (2) This Act shall come into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act extends to England and Wales only.

**Changes to legislation:**

There are currently no known outstanding effects for the Occupiers Liability Act 1984.