

Uniform Occupiers' Liability Act

(1973 Proceedings, pages 28, 336)

1. In this Act

Interpretation

(a) "occupier" means,

- (i) a person who is in physical possession of premises, or
- (ii) a person who has responsibility for, and control over, the condition of premises, the activities conducted on those premises and the persons allowed to enter the premises,

and, for the purposes of this Act, there may be more than one occupier of the same premises;

(b) "premises" includes

- (i) land and structures or either of them, excepting portable structures and equipment other than those described in paragraph (iii),
- (ii) ships and vessels,
- (iii) trailers and portable structures designed or used for a residence, business, or shelter,
- (iv) railway locomotives, railway cars, vehicles, and aircraft while not in operation.

2. Subject to section 3(4), and sections 4 and 9, this Act determines the care that an occupier is required to show toward persons entering on the premises in respect of dangers to them, or to their property on the premises, or to the property on the premises of persons who have not themselves entered on the premises, that are due to the state of the premises, or to anything done or omitted to be done on the premises, and for which he is in law responsible.

Application of Act

3. An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that any person, and his property, on the premises, and any property on the premises of a person, whether or not that person himself enters on the premises, will be reasonably safe in using the premises.

Occupiers' duty of care

(2) The duty of care referred to in subsection (1) applies in relation to

Where duty of care applies

- (a) the condition of the premises;
- (b) activities on the premises; or
- (c) the conduct of third parties on the premises.

Exception

(3) Notwithstanding subsection (1), an occupier has no duty of care to a person in respect of risks willingly accepted by that person as his own risks.

Special standards of care

(4) Nothing in this section relieves an occupier of premises of a duty to exercise, in a particular case, a higher standard of care which, in that case, is incumbent upon him by virtue of an enactment or rule of law imposing special standards of care on particular classes of person.

Contracting out

4. (1) Subject to subsections (2), (3), and (4), where an occupier is permitted by law to extend, restrict, modify, or exclude his duty of care to any person by express agreement, or by express stipulation or notice, the occupier shall take reasonable steps to bring such extension, restriction, modification, or exclusion to the attention of that person.

Where subs. (1) does not apply

- (2) Subsection (1) does not apply to a person,
 - (a) who is not privy to the express agreement;
 - (b) who is empowered or permitted to enter or use the premises without the consent or permission of the occupier.

Contracts

(3) Where an occupier is bound by contract to permit persons who are not privy to the contract to enter or use the premises, the duty of care of the occupier to such persons shall, notwithstanding anything to the contrary in that contract, not be restricted, modified or excluded thereby.

Idem

(4) This section applies to express contracts entered into before or after the commencement of this section.

Independent contractors

5. (1) Notwithstanding section 3(1), where damage is caused by the negligence of an independent contractor engaged by the occupier, the occupier is not on that account liable under this Act if, in all the circumstances,

- (a) the occupier exercised reasonable care in the selection and supervision of the independent contractor; and
- (b) it was reasonable that the work that the independent contractor was engaged to do should have been undertaken.

(2) Subsection (1) shall not be construed as restricting ^{Idem} or excluding the liability of an occupier for the negligence of his independent contractor imposed by any other Act.

(3) Where there is damage under the circumstances set ^{Idem} out in subsection (1) and there is more than one occupier of the premises, each occupier is entitled to rely on subsection (1).

6. (1) Where the premises are occupied or used by virtue of a tenancy under which a landlord is responsible for the maintenance or repair of the premises, it is the duty of the landlord to show toward any person who, or whose property, may be on the premises the same care in respect of risks arising from any failure on his part in carrying out his responsibility, as is required by virtue of this Act to be shown by an occupier of premises toward persons entering on or using them. ^{Landlord and tenant relationship}

(2) Where premises are occupied by virtue of a subtenancy, subsection (1) applies to any landlord who is responsible for the maintenance or repair of the premises comprised in the subtenancy. ^{Subtenancies}

(3) For the purposes of this section, a landlord shall not be deemed to be in default in his duty under subsection (1) unless his default is such as to be actionable at the suit of the occupier. ^{Default}

(4) Nothing in this section shall be construed as relieving a landlord of any duty he may have apart from this section. ^{No relief}

(5) For the purposes of this section, obligations imposed by any enactment in respect of a tenancy shall be deemed to be imposed by the tenancy, and "tenancy" includes a statutory tenancy, an implied tenancy, and any contract conferring the right of occupation, and "landlord" shall be construed accordingly. ^{Interpretation}

(6) This section applies to tenancies created before or after the commencement of this section. ^{Application}

7. The *Tortfeasors and Contributory Negligence Act* ^{Tortfeasors and Contributory Negligence Act} [or the *Contributory Negligence Act* or *Tortfeasors Act*] applies to this Act.

8. (1) Except as otherwise provided in subsection (2), the Crown in right of the Province is bound by this Act, and the *Proceedings Against the Crown Act* applies. ^{Crown bound}

Exceptions

(2) This Act does not apply to the Crown in right of the Province or in right of Canada or to a municipality where the Crown or the municipality is the occupier of a public highway or public road [or a road under the *Forest Act* or the *Private Roads Act*].

Not to affect
certain relation-
ships

9. This Act does not apply to or affect

- (a) the liability of an employer in respect of his duties to his employee;
- (b) the liability of any person by virtue of a contract for the hire of, or for the carriage for reward of persons or property in, any vehicle, vessel, aircraft, or other means of transport;
- (c) the liability of any person under the *Innkeepers Act* [or *Hotelkeepers Act*]; or
- (d) the liability of any person by virtue of a contract of bailment.

No retroactivity

10. Subject to section 4(4) and section 6(6), this Act applies only in respect of a cause of action arising after this Act comes into force.
