

# Occupiers Liability



## Key Points to Consider

- An occupier owes a duty to intruders in relation to risks of which they are aware
- An occupier is not automatically absolved by putting up a warning notice

The Occupiers Liability Act 1984 has implications for those occupiers of premises who want to implement preventive measures intended to deter intruders from unlawfully entering their premises. Below is the legal opinion as provided by the Home Office Legal Advisers Branch.

The Occupiers Liability Act 1984 is intended to fix the duties which an occupier of premises owes to persons, other than visitors, who come onto their premises. Generally speaking a visitor is someone who has the occupier's permission, whether expressed or implied, to be on the premises.

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**The duties owed to visitors are regulated by the Occupiers Liability Act 1957.**

Following the passing of the 1957 Act, doubts arose as to the extent of the duty owed by an occupier to persons who did not have permission to come onto their premises, in other words trespassers, who might be expected to be found there. The 1984 Act is intended to put an end to these doubts by placing the occupier's duty to such persons on a statutory basis.

The Act has a clear application to intruders who, because they do not have the occupier's permission, cannot be said to be visitors. Section 1(3) has the effect that an occupier owes a duty to intruders in relation to risks of which they are aware, and against which they may reasonably be expected to offer some protection. Subsection (4) provides that it is their duty to take **reasonable steps** to ensure that the intruder does not suffer injury; but **subsection(3) provides that their duty may be discharged by taking reasonable steps to give warning of the danger or discourage persons from incurring the risk.**



Thief resistant devices are clearly contemplated by Section 1(1)(a), whether they take the form of devices which may be said to be part of the state of the premises or come into existence as a result of things done or omitted to be done on the premises.



The terms “visitors” does not include an intruder, but the act is drafted so as to impose duties in relation to people who are and consequently applies to intruders.

Section 1(5) provides the duty may, in an appropriate case, be discharged by taking such steps as are reasonable to give warning of the danger. This does not mean that an occupier is automatically absolved by putting up a warning notice, only that a warning notice may, depending on the circumstances, be sufficient to discharge his duty.

So far as crime prevention is generally concerned, the effect of the Act is that an occupier will be liable for injuries sustained by an intruder because of the thief resistant devices, whose **existence is not reasonably apparent to the intruder.** For example, a device which gives an intruder an electric shock would probably make the occupier liable, if no warning was given.

The same must apply to razor wire which is very dangerous material.

Things like barbed wire and broken glass are much more obvious risks and the duty to warn intruders against them is much less strong. However, in terms of crime prevention, it is always advisable to warn potential intruders of the risks they would encounter trying to enter premises without permission. If this is done in all cases where devices are installed, which may

cause injury to intruders, the likelihood is that the occupiers concerned will have discharged their duty pursuant to section 1(5) of the 1984 Act.





Sir Robert Peel created the Metropolitan Police in 1829. He set out nine principles for policing. The First Principle was:

**“To prevent crime and disorder, as an alternative to their repression by military force and severity of legal punishment.”**

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