

Defective Premises

In May 1982, the Commission published its Report on [*Defective Premises \(LRC 3-1982\)*](#) which built on its 1977 Working Paper on [*The Law Relating to the Liability of Builders, Vendors and Lessors of the Quality and Fitness of Premises \(LRC WP 1-1977\)*](#) as part of its First Programme for Law Reform.

The recommendations made in the Commission's Report would have two main effects.

In the first place there would be imposed on every builder of premises a statutory duty to build the premises properly. Builders, architects, sub-contractors and others who undertake or carry out building work would be under a duty to see that the work is carried out in a good and workmanlike or, as the case may be, professional manner so that, in the case of a dwelling, it will be reasonably fit for human habitation and, in the case of other premises, they will be reasonably fit for the purpose for which they were intended. The duty would be owed not only to the person who commissioned the work but also to every person who acquires an estate or interest in the premises, so that subsequent purchasers would be protected. The statutory duty to build properly would extend to persons such as developers and local authorities who are involved (whether in discharge of a statutory duty or otherwise) in the provision of premises.

The second main effect of the Commission's proposals would be to impose on every vendor, lessor or other disponent of premises a statutory duty to take reasonable care to see to it that persons likely to be affected by defects in the state of the premises are reasonably safe from personal injuries and from damage to their property caused by any such defects. "Persons likely to be affected by defects in the state of the premises" would include not only the purchaser or lessee himself but would also cover, for instance, persons invited or allowed onto the premises by him. This rule would not apply unless the defects in the premises existed at the time of the sale or letting of the premises and were known or ought reasonably to have been known to the vendor or lessor. Also, a vendor or lessor would be absolved from his duty where he had given a warning sufficient to enable the person to whom it was given to be safe from personal injury or from damage to his property.

The Commission also recommends that it should not be possible to "contract out" of the duties to be imposed on builders, vendors or lessors.

The new statutory duties that the Law Reform Commission proposes should be imposed on builders of premises and on vendors and lessors of premises would be additional to any duties to which they are at present subject at common law.

Draft Legislation in Report

The Report is accompanied by a draft *Defective Premises Bill*.

Information on Implementation

Recommendations of the Commission were implemented by the introduction of the non-statutory HomeBond scheme.