

Occupiers' Liability

In April 1994, the Commission published a [Report on Occupiers' Liability \(LRC 46-1994\)](#), building on its 1993 [Consultation Paper on Occupier's Liability \(LRC CP 7-1993\)](#) and following a request by the Attorney General in March 1992. The Report is written on the assumption that the reader will have read or have available our Consultation Paper. It does not repeat, except to the limited extent necessary, the analysis of the law and the arguments.

The principal task for the Commission in this context was to establish which particular classes of entrant should be covered by legislation, how the duty of care should be defined and whether or not children should be afforded special treatment in such provisions. The report made twenty recommendations which included the following:

- (i) Legislation should be provided for two classes of entrant on lands or premises viz., visitors and trespassers;
- (ii) The duty of an occupier to all visitors should be a common duty of care, except to the extent that it may be varied by the exception to be made for recreational use and in the case of visitors who willingly accept the risks involved;
- (iii) The duty of an occupier to a trespasser should be a duty not to injure the trespasser intentionally or to act with gross negligence towards him or her;
- (iv) There should be no special exemption for trespass or recreational use by children;
- (v) Provisions should allow an occupier to vary or exclude liability by contract; and
- (vi) There should be statutory definitions of "premises", "occupier" and "visitor".

Draft Legislation in Report

Draft legislative provisions are included in the Report.

Information on Implementation

Recommendations of the Commission were implemented by the *Occupiers' Liability Act 1995*