

Occupiers' Liability – Know The Laws of Your Province



Unlike workers, visitors who get hurt on your property can sue you for money damages.

Unlike workers, visitors and other third parties who get hurt on an employer's property can bring lawsuits for money damages under so-called occupiers liability laws. While the forms of occupiers liability laws vary—as between whether it comes from a statute or common law, that is, case law made by judges—the rules are basically the same everywhere: Owners and occupiers must make their property 'reasonably safe' for and use 'reasonable care' to protect visitors and other entrants from 'reasonably foreseeable harm.' Here's a summary of the rules across Canada.

Occupiers Liability Laws Across Canada



- Have an Occupiers Liability Act statute
- Follow negligence (common) law
- Follow occupiers liability common law

- **Six provinces** have adopted Occupiers Liability Act statutes
- Occupiers liability requires occupiers to use reasonable care to make the property reasonably safe for entrants
- Liability extends to **both property's condition and how it's used**
- Trespassers enter property at their **own risk**
- Owners can't contract out of their occupiers liability duties
- **New Brunswick** and the **3 territories** use negligence law to determine occupiers' liability

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Occupiers' Liability Requirements Across Canada

FEDERAL

No occupiers liability act or common law

ALBERTA

An occupier of premises owes a duty to every visitor on the occupier's premises to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which the visitor is invited or permitted by the occupier to be there or is permitted by law to be there (*Occupiers Liability Act*, Sec. 5)

BRITISH COLUMBIA

An occupier of premises owes a duty to take that care that in all the circumstances of the case is reasonable to see that a person, and the person's property, on the premises, and property on the premises of a person, whether or not that person personally enters on the premises, will be reasonably safe in using the premises (*Occupiers Liability Act*, Sec. 3)

MANITOBA

An occupier of premises owes a duty to persons entering on the premises and to any person, whether on or off the premises, whose property is on the premises,

to take such care as, in all circumstances of the case, is reasonable to see that the person or property, as the case may be, will be reasonably safe while on the premises (*Occupiers Liability Act*, Sec. 3)

NEW BRUNSWICK

Normal negligence law applies.

NEWFOUNDLAND

Occupiers liability comes from case law, not statute.

NOVA SCOTIA

An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that each person entering on the premises and the property brought on the premises by that person are reasonably safe while on the premises (*Occupiers Liability Act*, Sec. 4)

ONTARIO

An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons are reasonably safe while on the premises (*Occupiers Liability Act*, Sec. 3)

PRINCE EDWARD ISLAND

An occupier of premises owes a duty to take such care as in all the circumstances of the case is reasonable to see that persons entering on the premises, and the property brought on the premises by those persons, are reasonably safe while on the premises (*Occupiers Liability Act*, Sec. 3)

QUÉBEC

Occupiers liability comes from case law, not statute.

SASKATCHEWAN

Occupiers liability comes from case law, not statute.

THE 3 TERRITORIES

Normal negligence law applies.