

Décor-Grille Security

147 Easterly Road, Leeds LS8 2RY

Tel: 0113 248 4747 Fax: 0113 248 7858

Email: info@dgsecurity.co.uk Website: www.dgsecurity.co.uk



*Designing out Crime
Designing In Security*

RAZOR SPIKE – IS IT LEGAL?

A copy of an internal memo sent to Acanthus Security
2 Duke Street, Norwich, Norfolk, by the West Yorkshire Police

Recently several enquiries have been received regarding the above act and its implications for occupiers of premises who wish to implement preventative measures to deter intruders. In 1985 HOCPD obtained legal opinion for circulation to all Force Crime Prevention Officers. A recent check reveals that the original opinion is still valid. The thrust of the act is that an occupier will be liable for injuries sustained by an intruder because of a thief resistant device where existence is not reasonably apparent to the intruder. The full opinion is reproduced to ensure Crime Prevention Officers are familiar with it.

The Occupiers Liability Act 1984 is intended to fix the duties that an occupier of premises owes to persons other than visitors who come on to his premises. Generally speaking a visitor is someone who has the occupiers permission, whether express or implied to be on the premises. The duties owed to visitors are regulated by the Occupiers Liability Act of 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 his permission to come onto his 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 occupiers 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 he is aware and against which he may reasonably be expected to offer some protection. Subsection (4) provides that his duty is to take reasonable steps to insure that the intruder does not suffer injury; but subsection (5) provides that taking reasonable steps to give warning of the danger or to discourage persons from incurring the risk may discharge his duty.

- 1 Thief resistant devices are clearly contemplated by Section 1 (1) (a), whether they take the form of devices that 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 to the premises.
- 2 The term "visitor" does not include an intruder but the Act is drafted to as to impose duties in relation to people who are not visitors and consequently applies to intruders.
- 3 Section (15) provides that the duty main 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 generally is concerned, it seems to me that the effect of the Act is that an occupier will be liable for injuries sustained by an intruder because of thief resistant devices, whose existence is not reasonably apparent to the intruder. For example, a device that gave an intruder an electric shock would probably make the occupier liable if no warning were given. I think the same must apply to razor wire, which, as I understand it, is very dangerous material. Things like barbed wire and broken glass are much more obvious risks and I think the duty to warn intruders against them is much less strong. However I should have thought that in terms of crime prevention it was always advisable to warn potential intruders of the risks they would run in 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.