

## YOU ARE RESPONSIBLE FOR LOSS OR DAMAGE IN THE BUILDING YOU OCCUPY – NOT YOUR LANDLORD

In 2021, a tragic incident occurred during the installation of a new elevator in Cocoa House, Ibadan and it resulted in the death of one of the technicians working on the project, while three others sustained injuries. If you were a business owner renting an office space in the building and one of your guests sustained an injury or, worse, who would be held liable?

Even if you do not own the building that you operate your business from, you can still be held liable for injury or damage suffered by other parties visiting the building. Occupiers' liability cover, also known as public liability insurance, can protect you from being sued for death, injury or property damage by paying any legal fees and/or compensation if you are sued by an aggrieved party.

Legally, the occupier is the person or organization that has taken possession of the property for public use over an agreed period. Most Nigerians believe that if they rent a building, the landlord is responsible for any injury or damage that occurs in the property.



image ref: [https://en.wikipedia.org/wiki/Cocoa\\_House](https://en.wikipedia.org/wiki/Cocoa_House)

This is incorrect.

The 'occupier' is defined as the person in control of the premises. As such, in most instances the law will define the occupier or resident tenant, rather than the absent owner, as the occupier of a premises.

This means that if you are a resident of a property, or a business owner with a rented business premises, you will be considered an 'occupier' – regardless of whether you rent or own the premises. This also means that anyone occupying a property, regardless of who owns that property, is responsible for taking measures to ensure the premises are safe and free from hazards for third parties. If third parties visiting the premises suffer injury, death, loss or damage to property, the occupier is liable to compensate the victims for this damage, loss or death.



There are a surprising number of measures and technologies that occupiers can adopt today in terms of preventive maintenance. In many advanced economies, occupiers, tenants and landlords use AI tools like seismograph, creep meters, and lasers to detect and manage dangers before they happen. In some countries these new technologies have dramatically decreased occupier injury rates and almost removed occupier death rates entirely. Even with these

advanced technologies and practices, the reality is that damage to occupier property and equipment or third-party injuries and even death occur daily on premises around the world. Even the best occupiers' danger detection and management technologies cannot, for example, prevent flooding, tornadoes, earthquakes and wildfires, or account for basic human error.

So, while the landlord may be responsible for procuring insurance for the building, and tenants still need to take out contents insurance for furniture, equipment, tools and decorative items, neither building nor contents insurance protect occupiers from being held liable for injury, loss, damage or death that occurs to third parties on premises that they occupy.

Occupier liability cover is essential, regardless of the type of premises that you occupy and it is mandatory in Nigeria. At N10,000 per floor for public buildings cover, the legislated minimum cover is below the real costs that occupiers generally incur when things go wrong. Despite this very low bar, most occupiers in Nigeria still fail to purchase occupier liability cover. While low awareness appears to be a key driver of poor compliance, ignorance of the law is no excuse.

The National Insurance Commission (NAICOM) in collaboration with trade associations like the Nigeria Insurers Association (NIA) and Council of Registered Insurance Brokers (NCRIB) embarked on public awareness and education campaigns to reduce the cost and impact of occupier loss, injury and death on the Nigerian economy – estimated to run into hundreds of millions each year.

The aim of the campaigns is to:

- Motivate occupiers to procure occupiers' liability insurance for the properties they occupy, whether for rent, tenancy, or lease.
- Ensure that insurers are available to provide occupiers seeking information with legally correct guidance

- Support collaboration between trade associations and bodies representing occupiers in specific lines of businesses aimed at broadening and deepening compliance across all industries and sectors
- Where necessary, enforce the law

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Occupiers' liability cover provides a mechanism for individuals, families and business to manage the impact of accident, fire, explosion, storm, and other perils. Rather than face bankruptcy through massive liability suits or even criminal charges, occupiers' liability helps businesses get back on their feet when disaster strikes.

Most insurers are happy to explain how occupiers' liability works as well as how to calculate the costs of potential accidents at your premises.



Talking to an insurer or broker about occupiers' liability cover is a valuable exercise in helping people understand the potential risks that they face in the premises they occupy as well as how to anticipate, prevent and manage these risks when they occur.