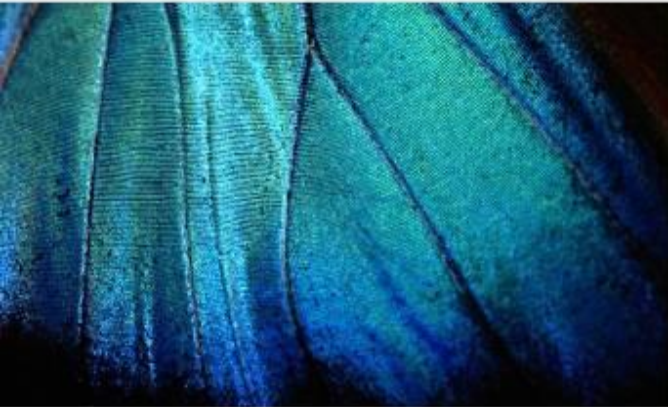


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**Building Control Regulations  
1997-2014  
Some Legal Issues  
Barrett Chapman**

**Engineers' Ireland**

**Rochestown Park Hotel, Cork**

**Monday, 13 October 2014**

# Arises

- Under contract
- In tort
- Pursuant to statute

# Contract

- Specific standard of care
- Implied term
- Fitness for purpose

# Tort

- Neighbour principle
- Duty of care

# Statute

- Sale of Goods and Supply of Services Act 1980
  - Necessary skills to render service
  - Due skill care and diligence
- Safety Health and Welfare at Work Act 2005
  - Designers
  - Contractors
  - Project supervisors

# Building Control (Amendment) Regulations 2014 – New Liabilities?

- Contract?
  - Designer
  - Builder
  - Assigned Certifier

# Building Control (Amendment) Regulations 2014 – New Liabilities?

- Tort?

- Designer
- Builder
- Certifier

“Based on the above, and relying on the ancillary certificates scheduled, I now certify, having exercised reasonable skill, care and diligence that the building or works is in compliance with the Second Schedule to the Building Regulations ...”



# Building Control (Amendment) Regulations 2014 – New Liabilities?

- Statute
  - Designer
  - Builder
  - Certifier

# Designer

	Contract	Tort	Statute
B.C.A.	X	✓	X
Owner	✓	✓	X
Third Party	X	✓	X

# Builder

	Contract	Tort	Statute
B.C.A	?	✓	X
Owner	✓	✓	X
Third Party	X	✓	X

# Assigned Certifier

	Contract	Tort	Statute
B.C.A	?	✓	X
Owner	✓	✓	X
Third Party	X	✓	X

# Contractual Limitations on Liability

- Time
- Cap
  - Monetary sum
  - Level of insurance
  - Type of loss
- Net Contribution clause

## Type of Loss

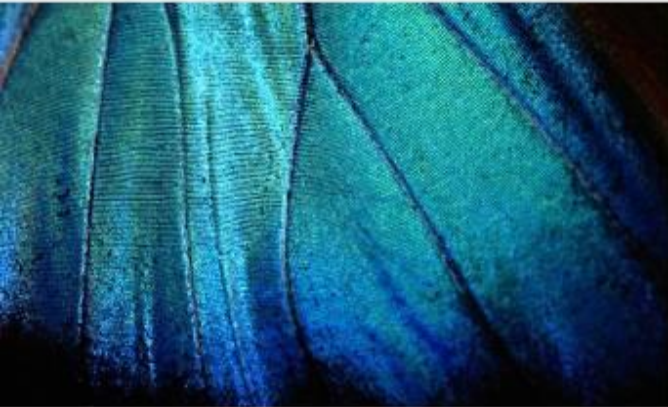
*“You shall not be liable for loss of rent or any other type of economic loss”*

BHP Petroleum & Ors v British Steel plc & Anor  
[1999]

# Issues

- Limit liability under BCAR2014?
  - Client?
  - Third parties?
- Is it insurable or akin to fitness for purpose
- Personal/company liability?
- Reliance on someone else's cert?
- Collateral warranties in favour of assigned certifiers?

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