

# Environmental Impairment Liability



Most people think that only businesses in certain industries such as waste management or chemicals manufacturing need environmental impairment liability. However, all businesses need to assess their environmental liability risks and review how their activities could affect the surrounding environment. Natural or man-made pollutants can be released through many different processes, and they take several different forms—including gases, powders and liquids. Businesses may not even be aware that they are gradually poisoning the surrounding environment by leaking pollutants.

Throughout the United Kingdom, country-specific regulations have been introduced to comply with EU directives concerning environmental damage. These regulations implement a ‘polluter pays’ principle, meaning that businesses must take precautionary measures to prevent environmental damage and take remedial actions if damage occurs. Failure to comply with regulations and or maintain proper standards can lead to high costs—from initial clean-up fees, remediation costs, fines and penalties to even imprisonment.

Most businesses mistakenly assume that their existing liability policies will also cover any issues that arise with pollution. For instance, standard public liability policies typically limit cover to third-party bodily injuries or property damage from pollution caused by a single, sudden and accidental incident, and they usually do not cover pollution from expected or gradual causes. This can leave a massive exposure gap. Environmental impairment liability, or environmental insurance, can plug this gap and go even further by offering cover for clean-up costs.

## What Does It Include?

Policies will vary widely based on the insurer, so businesses need to make sure they know exactly what their policy contains. Typical policies can include:

- Own site clean-up costs
- Third-party clean-up costs
- Investigation and defence costs
- Gradual pollution for third party legal liability during policy period
- Cover for both new and pre-existing pollution incidents—each may have their own limits of liability, terms and excesses
- Bio-diversity damage or environmental damage to protected sites or sites of scientific interest
- Business interruption in the event production needs to stop or there is intervention by a regulator

The insured will typically have a duty of mitigation, meaning that it must take all actions to minimise the extent of the damage and prevent it from spreading.

## Common Exclusions

Policies also widely on exclusions. The following are exclusions you may find:

- War
- Terrorism

### Provided by Sirelark Risk Services

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- Radioactive contamination
- Asbestos and lead pollution
- Toxic mould
- Escape from unspecified underground storage tanks
- Naturally occurring substances unless present in above normal conditions
- Intentional non-compliance with environmental legislation, guidance or instruction
- Regulatory fines and penalties

## Specialist Segments

For businesses that have a high rate of pollution potential, there may be bespoke cover available. This can include policies:

- Environmental contractors
- Industrial (Brownfield) site redevelopment
- Professional indemnity for environmental consultants
- Landfill sites
- Radioactive contamination

Environmental impairment liability policies change from insurer to insurer. By working with Sirelark Risk Services, you can rest assured that your policy fits your business' needs and keeps you compliant with the latest, most stringent regulations. We will work with you to help gauge your risks and make sure your business stays up and running, all while minimising its negative environmental impact.