

The EU Environmental Liability Directive 2004/35/CE

Cost - £15.2m ([Open Europe](#))

Talking Points

Affects a wide number of sectors

As the Directive relates to a broad section of sectors involving land and waste, anticipatory and recurring costs are incurred by farmers and other sections of the economy less well equipped to incur costs aimed at large multinationals.

Higher water bills

The Regulatory Impact Assessment predicted that the water industry will bear 12% of the costs, which will likely be transferred in higher water bills.

Fisheries

The Directive aims to minimise the harm done from bottom trawling, which wouldn't be necessary if the Common Fisheries Policy didn't encourage mass-trawling of British waters.

[Source: Regulatory Impact Assessment p.15-16](#)

What is it?

A directive to require member states to prevent and pay for environmental damage.

Under the directive, employers who cause environmental damage are liable to pay to remedy any damage caused.

Employers are liable for two forms of environmental damage:

- Strict – in respect of environmental damage caused by operators who professionally conduct potentially hazardous activities, e.g. waste management, water discharge and abstraction, activities connected with dangerous goods and substances
- Fault-based – environmental damage to protected species and natural habitats from all other occupational activities.

It is not a compensation based scheme as claims are brought about by public administrators (councils, quangos, government) and the organisation remedies them as a fine or levy. The directive orders:

- For protected species, natural habitats and water, to return the environment to the condition it was in before the event giving rise to the damage.
- For land, to remove the risk of human health being adversely affected.

The insurers, [Lloyds](#), point out this affects land the operator owns, not public lands. In the case of the government, then of course, it is public land.

Third Party Opinions:

“Costs of remediating damage or choosing to take anticipatory measures: agriculture (35%), manufacturing (11%), waste (17%), water (12%).” [UK Government Impact Assessment](#)