



# Introductory guide to environmental damage



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# Chapter 1

## Introduction

In March 2009 the government department for Environment, Food and Rural Affairs (Defra) implemented the European Environmental Liabilities Directive (ELD) into English law.

Regulations for the other nations quickly followed and the implementation dates are presented below:

- England: The Environmental Damage (Prevention and Remediation) (England) Regulations 2009 No. 153 implemented on the 1 March 2009.
- Wales: The Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009 No. 995 (W. 81) implemented on the 6 May 2009.
- Scotland: The Environmental Liability (Scotland) Regulations 2009 No. 266 implemented on the 24 June 2009.
- Northern Ireland: The Environmental Liability (Prevention and Remediation) Regulations (Northern Ireland) 2009 No. 252 implemented on the 24 July 2009 .

The ELD seeks to encourage prevention of environmental damage to sensitive habitats and species by applying stringent (and potentially costly) remedial measures should damage or imminent threat of damage be present. Where operators are found to be liable, then the remedying of the damage will be required back to a pre-damage condition.

This guide was developed by the Energy Institute, with the assistance of ENVIRON, with the objective of introducing and explaining Environmental Damage in the context of the new Regulations. It is also a precursor to more detailed guidance which is in preparation by the Energy Institute. The detailed guidance will provide operators with practical approaches to help site managers establish and maintain baseline condition information for the natural habitats and protected species on and around their sites.

This introductory guide aims to:

- Explain the main concepts introduced in the European Environmental Liabilities Directive (ELD).
- Identify the important components of the Environmental Damage/Liability Regulations that have implemented the ELD into national Law.
- Explain what this means to operators of sites, including:
  - How gathering existing information on the sensitive species and habitats in the vicinity of a site can help protect against regulatory determination and overly stringent remediation.
  - A case study to illustrate the value of prior knowledge about a site's environmental setting.
  - How best to deal with damage if it occurs.