

## ENVIRONMENT | ANGOLA: Environmental Liability

The Government of Angola approved a new **regulation on environmental liability**, through Presidential Decree nr. 194/11, of July 7.

### Object and scope

This regulation aims to establish environmental risk and damage liability based on the «polluter-pays» principle in order to prevent and repair environmental damages. It applies to any activity likely to cause environmental damages and to environmental damages or any imminent threat of such damages.

### Environmental liability

This diploma foresees:

- i. a **fault-based liability** regime regarding any natural or legal person that causes environmental damages. Said person shall be under the obligation to repair the damages caused and to pay an indemnity to the State and to any individual for losses and damages caused and must also take compensation measures and guarantee environmental recovery; and
- ii. a **strict liability** regime regarding any natural or legal person that in the course of any activity offends any third person or entities' rights or interests by way of any kind of environmental damage. Said person shall be under the obligation to repair and prevent the damages thereof, regardless of fault or willful misconduct.

### Preventive and remedial measures

Operators – defined as an entity taking forth any activity that might cause environmental damage – must take **preventive measures** whenever environmental damage has not yet occurred but there is an imminent threat of such damage. The preventive measures shall be taken immediately and be verified by the Competent Authority. Whenever environmental damages occur, operators must take the necessary **remedial measures** and immediately inform the Competent Authority under the terms set forth in the regulation and respective annex. Operators must also bear all costs regarding the preventive and remedial measures of the damages they cause.

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## Mandatory financial guarantees

According to the regulation, all persons, natural or legal, taking forth any activity that may involve risk of environmental damage – as defined in the legislation on environmental impact assessment – are under the obligation to hold a financial guarantee which allows them to cover the environmental liability regarding their activity.

## Civil liability insurance

Any person, natural or legal, taking forth any activity involving risk of environmental damage shall also be obliged to hold a civil liability insurance – in accordance with article 27 of the Angolan Environmental Framework Law (Law nr 5/98) – in order to cover their environmental liability under the new regulation.

## Fines

Whenever environmental damage occurs in direct violation of any legal rule or any condition contained in an environmental license, the polluting agent shall be subject to a **fine ranging between USD 1000,00 and 100.000.000,00** (one thousand US dollars to one hundred million US dollars). The polluting agent shall also be liable for the implementation and payment of any necessary remedial measures.

## Entry into force

The new regulation on environmental liability entered into force on **July 7, 2011**.

## Other relevant legislation

As regards recent legislation on environmental damages, it is also important to mention **Decree nr. 1/10, of January 13**, establishing a **legal regime regarding environmental audits for public and private activities likely to cause significant environmental damages**.

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