

Civil Liability under the Environmental Laws



If a company or individual violates an environmental law, they're typically prosecuted by the government for the environmental offence. But the environmental laws may also give parties that were impacted by the offence the right to sue the violator. For example, a property owner whose land was polluted by a company's spill of a hazardous substance that violated environmental law may be permitted to sue the company under that law for any losses or damage caused by the violation. Here's a look at the civil causes of action permitted under the primary environmental statutes in each jurisdiction. Note that even if a jurisdiction's environmental law doesn't provide a civil cause of action, injured parties may still be able to sue for harm caused by an environmental violation under legal theories such as negligence or nuisance.

CIVIL LIABILITY UNDER THE ENVIRONMENTAL LAWS	
FED	<i>Canadian Environmental Protection Act:</i> 1. Any person who has suffered loss or damage as a result of conduct that contravenes any provision of this Act or the regulations may, in any court of competent jurisdiction, bring an action to recover from the person who engaged in the conduct: a. an amount equal to the loss or damage proved to have been suffered by the person; and b. an amount to compensate for the costs that the person incurs in connection with the matter and proceedings under this section [Sec. 40].
AB	<i>Environmental Protection and Enhancement Act:</i> Subject to certain restrictions, where a person is convicted of an offence under this Act, any person who suffers loss or damage as a result of the conduct that constituted the offence may, in a court of competent jurisdiction, sue for and recover from the convicted person an amount equal to the loss or damage proved to have been suffered [Sec. 219].
BC	<i>Environmental Management Act</i> doesn't provide a civil cause of action.
MB	<i>The Environment Act</i> doesn't provide a civil cause of action.
NB	<i>Clean Environment Act</i> doesn't provide a civil cause of action.

NL	<p><i>Environmental Protection Act:</i></p> <p>Where a person is convicted of an offence under this Act, the conviction is evidence of negligence and a person who suffers loss or damage as a result of the conduct that constituted the offence may, in a court of competent jurisdiction, sue for loss or damages suffered as a result of the conduct, which constituted the offence [Sec. 110].</p>
NT/ NU	<p><i>Environmental Rights Act:</i></p> <p>Every person resident in the Territories has the right to protect the environment and the public trust from the release of contaminants by commencing an action in the Supreme Court against any person releasing any contaminant into the environment [Sec. 6(1)].</p>
NS	<p><i>Environment Act:</i></p> <p>Where a person is convicted of an offence under this Act, the conviction is <i>prima facie</i> evidence of negligence and any person who suffers loss or damage as a result of the conduct that constituted the offence may, in a court of competent jurisdiction, sue for an amount equal to the reasonably foreseeable loss or damage proved to have been suffered as a result of the conduct that constituted the offence [Sec. 142].</p>
ON	<p><i>Environmental Protection Act:</i></p> <p>1. Her Majesty in right of Ontario or in right of Canada or any other person has the right to compensation:</p> <p>a. for loss or damage incurred as a direct result of:</p> <p>i. the spill of a pollutant that causes or is likely to cause an adverse effect;</p> <p>ii. the exercise of any authority under Sec. 100(1) or the carrying out of or attempting to carry out a duty imposed or an order or direction made under this Part; or</p> <p>iii. neglect or default in carrying out a duty imposed or an order or direction made under this Part;</p> <p>b. for all reasonable cost and expense incurred in respect of carrying out or attempting to carry out an order or direction under this Part, from the owner of the pollutant and the person having control of the pollutant [Sec. 99(2)].</p> <p>2. In this context, "loss or damage" includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income [Sec. 99(1)].</p> <p>3. The right to compensation may be enforced by action in a court of competent jurisdiction [Sec. 99(5)].</p>
PE	<p><i>Environmental Protection Act</i> doesn't provide a civil cause of action.</p>
QC	<p><i>Environment Quality Act</i> doesn't provide a civil cause of action.</p>

SK	<p><i>Environmental Management and Protection Act, 2002:</i></p> <ol style="list-style-type: none"> 1. Subject to certain restrictions, any person, including the Crown in right of Saskatchewan or in right of Canada, has a right to compensation from: <ol style="list-style-type: none"> a. the person responsible for a discharge for loss or damage incurred as a result of: <ol style="list-style-type: none"> i. the discharge of a substance; ii. neglect or default in the execution of a duty imposed pursuant to Sec. 4; or iii. an investigation or action taken pursuant to Secs. 8 or 52; and b. any person to whom an environmental protection order has been issued for loss or damage incurred as a result of the execution or intended execution, or neglect or default in the execution, of the environmental protection order without proof of fault, negligence or wilful intent [Sec. 15(3)]. 2. In this context, "loss or damage" includes: <ol style="list-style-type: none"> a. personal injury; b. loss of life; c. loss of use or enjoyment of property; and d. pecuniary loss, including loss of income [Sec. 15(1)].
YT	<p><i>Environment Act:</i></p> <ol style="list-style-type: none"> 1. Every adult or corporate person resident in the Yukon who has reasonable grounds to believe that: <ol style="list-style-type: none"> a. a person has impaired or is likely to impair the natural environment; or b. the Government of the Yukon has failed to meet its responsibilities as trustee of the public trust to protect the natural environment from actual or likely impairment may commence an action in the Supreme Court [Sec. 8(1)].