

ENVIRONMENTAL IMPAIRMENT INSURANCE (EIL) –
A ‘POLLUTION SOLUTION’ NECESSITY IN AFRICA

With public scrutiny on manmade Environmental disasters more common than ever, and the call for legislative change becoming more pronounced, incidences such as the recent oil spill in Mauritius (Mauritian Oil Spill) illustrate perfectly why commercial and industrial entities can no longer hide their civil liabilities for such occurrences into obscurity.

Public consciousness is now switched and the world is watching...and now it's acting.

Tanzania is a case in point: over the last few decades, the country has expanded and strengthened its environmental stances to enact into legislation The Environmental Management Act 2004 the first major piece of Environmental Legislation in Tanzania and provides the framework for all other subsequent environmental regulations going forward.

The recent incident in 2019 involving Acacia Mining Tanzania (Acacia Mining Tanzania) demonstrates this civil crackdown, and how entities and contractors in notably high risk trade activities need to ensure that their knowledge on such legislation is not only water tight, but they have the satisfactory insurance covers to protect them in the event that the worst was to happen.

Environmental Impairment Insurance is designed to be the complete pollution solution.

Environmental Impairment Insurance is a specialised policy that is designed to cover liability and sometimes clean-up costs associated with pollution.

Most businesses (it seems) are under the impression that the pollution extension under a General Liability or Property Damage policy will protect them in the event of an environmental incident (I know this is true especially, because I have had to explain the differences to client's on numerous occasions on the differences between Sudden and Accidental Pollution and Environmental Impairment Liability Cover) – the reality with the former is that cover only responds to claims arising from specific events and even then the policy may not adequately respond and with increasing environmental legislation the gaps in traditional insurances are becoming wider.

Pollution is pollution, thus an environmental policy does not restrict cover to only Sudden and Unforeseen releases but includes cover for loss arising from gradual pollution and also responds to changes in environmental legislation.

Action to clean-up pollution required by a Regulator under environmental law is not likely to be covered by traditional insurances – a Regulator is not a Third Party and therefore any remediation or clean-up imposed by the Environment Agency is not likely to be considered as Third Party Damage and not therefore covered under a General Liability pollution extension.

Regardless as to whether a spill or incident was 'sudden and unforeseen' it is unlikely a General Liability policy would contribute to any on-site clean-up costs where the spill occurred, furthermore a property policy does not consider the soil/groundwater beneath a location to be 'property' for the purposes of cover.



For more information on how Afro Asian Insurance Services Ltd can help you and your client's in procuring the best possible terms amongst our select and committed A Rated panel, please do not hesitate to contact us.

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