Mandatory Part

1. **Type of environmental damage, date of occurrence and/or discovery of the damage and date on which proceedings were initiated under this Directive**

The need to enact the law was examined in two instances of environmental damage:

**Case 1**

The first instance concerned environmental damage in the Pafos coastal area from the installation of drainage pipes discharging into the sea. This was initially examined under Article 3(b) with regards to damage to protected species and natural habitats, which under the national legislation has been interpreted to include the coastline and protected coastal areas in accordance with the relevant land planning legislation. The drainage pipes, apart from the impacts caused to the coastline during their installation, could potentially lead to pollution. Following consultations with the Department of Environment and the district administration offices, the company implemented all necessary remediation measures, the pipelines were removed and the coastal area was restored.

**Type of environmental damage:** Damage to protected species and habitats, potential water (coastal water) damage.

**Date of occurrence of the damage:** 2009

**Date of discovery of the damage:** 2009

**Date on which proceedings were initiated under this Directive:** 2009

**Case 2**

The second instance was the Saitas forest fire, which had resulted in significant environmental damage in the Troodos area. In this case, it was established that the fire had taken place prior to the entry into force of the ELD legislation which was therefore not applicable, while in addition liability for the damage could not be established. In the case of fires, difficulties are encountered in establishing causality between the environmental damage and the liable activities/operators.

**Type of environmental damage:** Damage to protected species and habitats

**Date of occurrence of the damage:** 29/6/2007

**Date of discovery of the damage:** 29/6/2007

**Date on which proceedings were initiated under this Directive:** The national legislation was not applicable (Law 189(I)/2007 came into force on 31/12/2007).

To date, there have been no severe accidents that fall under the remit of the ELD largely due to the small size of the island, the size of the companies, which are in their majority SMEs, and the dominance of the service sector and of activities that by nature are not likely to result in major, large-scale environmental accidents.
2. **Activity classification code of the liable legal person(s)**

In the first case, the operator is not listed in the activities of Annex III. Enactment of the Directive was considered under Article 3(1)(b). In the second case, it was not possible to establish causality and liability for the environmental damage, although enactment of Directive would again be under Article 3(1)(b).

3. **Resort to judicial review proceedings either by liable parties or qualified entities**

To date there have been no cases where there was resort to judicial review proceedings by liable parties in accordance with Article 11(4), or by qualified entities in accordance with Article 13(1).

4. **Outcome of the remediation procedure**

(a) In the first case of environmental damage, the drainage pipes that had been installed were removed and the coastal area was restored.

(b) In the second case of the Saitas forest fire, the Forestry Department proceeded with the reforestation of the destroyed forest area.

5. **Date of closure of proceedings**

Not applicable. No proceedings were initiated under the ELD. In the first instance, the remediation measures were concluded within 2009, while in the second reforestation of the area still continues.

**Voluntary Part**

1. **Experience gathered regarding the implementation of financial security instruments**

Regarding the issue of financial security, the national law allows for non-compulsory insurance or other financial security. Consultations have been carried out with the financial security sector during and following the transposition of the Directive and a seminar was conducted so as to promote the creation of appropriate insurance instruments for operators, yet to date no market has been created for such financial products. The consultations and promotion efforts emphasized that due to the country's size and the dominance of SMEs, the market is too small for such insurance products and the packages would be too costly. The small market size and the current economic crises have temporarily halted steps to further promote the issue.

The further development of insurance products and instruments is hindered by the small size of the market and operators, a significant percentage of which are SMEs, the lack of interest, and the resulting high costs of insurance packages. Due to the current financial crises taking further action is not being actively considered so as to avoid overburdening the already struggling SMEs.

SMEs are sufficiently dealt with through the permits issued under existing environmental legislation and bank guarantees. Currently, only one company is offering insurance packages for environmental damage, therefore there is no competition in the insurance market and operator needs are not sufficiently covered. The lack of appropriate financial security options leads to insufficient coverage for possible liabilities arising from ELD, with many liabilities remaining uninsurable. It may be concluded that voluntary financial security has not been successful to date and there is no interest in insurance packages for environmental liability.
Given that financial security is voluntary and the majority of large companies are not insured due to the problems mentioned earlier, it is estimated that in the case of a large scale incident the environmental damage incurred would not be covered sufficiently by any available financial security instruments. Nevertheless, taking into account the size and nature of activities, damage may be effectively addressed through other legislation, while in cases of serious damage resort to Court remains an option under criminal law.

2. Information on actions to promote the application of the Directive

Awareness activities and seminars were conducted in 2008-2009, including a seminar specifically for promoting the creation of appropriate insurance instruments for operators, together with consultations with the financial security sector during and following the transposition of the Directive.

3. Application of thresholds in determining the significance of environmental damage

No criteria or thresholds have been established for assessing the significance of damage allowing significance to be determined on a case-by-case basis, which is considered preferable given that the severity of the damage depends on the receiving environment, the components affected, and the type and particularities of the damage itself. Rather than assigning thresholds it is considered preferable to establish methodologies for assessing damage. Given the small size of the country and the majority of companies, operations and the possibility of pollution incidents are closely monitored and dealt with through other legislation and the relevant permits.

Significant damage is considered to include the large scale destruction of forests by fires, destruction of the Natura 2000 habitats and protected species, pollution that could affect the good status of water bodies and bathing waters, and large-scale interventions on the coastline. The severity of the damage provides a threshold for assessing implementation of the ELD provisions, which in turn depends on the type of incidence, the magnitude, and the affected environment. Generally, the significance will be determined by the specific circumstances of an incident.

4. Relationship between ELD and other legislation

To a large extent, pollution and environmental damage control is achieved through other legislation covering industrial pollution, waste and nature protection and the permits issued under this.

5. General information and difficulties in the application of the Directive

One of the advantages of the ELD is that it potentially increases the options available for addressing environmental damage and may in cases encourage operators to implement precautionary measures or undertake voluntary remediation.

Given the limited cases encountered so far it is difficult to address the possible challenges of implementation, although it is foreseen that the main problems will be difficulties in establishing causality between environmental damage and liable operators, or, in the case of gradual and diffuse pollution, determining the actual time period when the damage actually occurred. For instance, based on experience to date, in the case of forest fires establishing liability may be difficult. Identifying the liable operators may also be complicated in the case of gradual, diffuse damage.
arising from coastal activities due to the vast number and diversity of activities taking place in the tourist areas.

Moreover, despite efforts so far, the awareness of the main stakeholder groups and competent authorities remains relatively low. Action needs to be taken to further raise awareness and improve understanding of the ELD provisions. Information provision is needed for industry, insurance providers and NGOs to ensure that they are aware of the provisions of the legislation, as well as training to assist the relevant competent authorities over implementation of the ELD provisions and particularly the establishment of causality, evaluation of environmental damage and the determination of appropriate remediation measures. Although some experience has been gained from the implementation of other legislation on the evaluation of environmental damage and the estimation of remediation costs, this remains limited, particularly in the case of certain large scale activities, while resources for assisting operators and insurance providers in assessing remediation projects and costs are restricted.

Guidelines and training sessions at EU level regarding the evaluation of environmental damage and its significance, including use of available instruments would be helpful in effectively implementing the ELD legislation. Experience exchange with states that have applied thresholds and particular methodologies, and have succeeded in advancing and promoting insurance products could provide significant assistance, as would the development of appropriate tools, the presentation of actual case studies, and the development of a webpage and clearing-house for effective networking and experience-sharing.