

Juridical Analysis of Civil Liability of Livestock Business Actors for Environmental Pollution

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Abstrak

Penelitian ini menganalisis konstruksi tanggung jawab perdata pelaku usaha peternakan atas pencemaran lingkungan hidup dalam hubungan antara Pasal 1365 Kitab Undang-Undang Hukum Perdata dan rezim khusus Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup sebagaimana telah diubah melalui rezim Cipta Kerja. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus terbatas. Hasil penelitian menunjukkan bahwa pertanggungjawaban usaha peternakan tidak dapat ditentukan hanya berdasarkan jenis usahanya. Pasal 1365 KUH Perdata tetap relevan untuk pencemaran yang menuntut pembuktian perbuatan melawan hukum, kesalahan, kerugian, dan hubungan kausal, sedangkan Pasal 87 UUPPLH memperkuat kewajiban ganti rugi dan tindakan pemulihan. Pasal 88 mempertahankan konsep tanggung jawab mutlak, namun perubahan rumusan pasca-Cipta Kerja menimbulkan perdebatan mengenai standar pembuktian. Limbah organik peternakan pada umumnya tidak otomatis termasuk limbah B3, sehingga penerapan Pasal 88 harus didasarkan pada karakter kegiatan, penggunaan atau pengelolaan B3, atau terbuktinya ancaman serius terhadap lingkungan hidup. Penelitian merekomendasikan pendekatan berbasis risiko, bukti ilmiah, dan prinsip pencemar membayar agar kepastian hukum bagi pelaku usaha sejalan dengan perlindungan masyarakat dan pemulihan lingkungan.

Kata Kunci: tanggung jawab perdata; usaha peternakan; pencemaran lingkungan; tanggung jawab mutlak; prinsip pencemar membayar.

Abstract

This study examines the construction of civil liability for livestock business actors causing environmental pollution through the relationship between Article 1365 of the Indonesian Civil Code and the special regime under Law Number 32 of 2009 on Environmental Protection and Management, as subsequently amended under the Job Creation framework. It employs normative legal research using statutory, conceptual, and limited case approaches. The study finds that liability cannot be determined merely from the sectoral label of a livestock enterprise. Article 1365 remains relevant where a claimant must establish an unlawful act, fault, loss, and causation, while Article 87 of the Environmental Law strengthens compensation and environmental-restoration obligations. Article 88 continues to use the concept of absolute liability, although the post-Job Creation wording has generated debate about the applicable evidentiary standard. Ordinary organic livestock waste is not automatically classified as hazardous and toxic waste; consequently, Article 88 should not be applied solely because pollution

originates from a farm. Its use requires a functional assessment of the activity, including the use or management of hazardous substances or waste and whether the activity creates a serious environmental threat. The article proposes a risk-based and evidence-based liability framework, supported by scientific evidence and the polluter pays principle, to reconcile legal certainty for business actors with effective protection of affected communities and environmental restoration.

Keywords: *civil liability; livestock business; environmental pollution; strict liability; polluter pays principle.*

INTRODUCTION

Environmental quality is not merely a matter of public policy but a constitutional interest. Article 28H(1) of the 1945 Constitution recognises the right to a good and healthy environment, while Law Number 32 of 2009 on Environmental Protection and Management (UUPPLH) translates that right into duties of prevention, control, supervision, dispute resolution, and restoration. Economic development is therefore legally conditioned by environmental responsibility: business activity may pursue productivity and profit, but it must internalise the risk and cost of pollution rather than transfer those burdens to neighbouring communities or future generations.¹

Livestock production illustrates this tension particularly clearly. Farms generate manure, wastewater, residual feed, odour, nutrients, pathogens, and other by-products whose environmental significance depends on scale, management practices, receiving media, and local carrying capacity. Scientific studies of livestock waste in Indonesia show that poorly managed animal waste can contaminate soil and water and create public-health risks. Yet livestock waste is heterogeneous. Ordinary manure is not automatically hazardous and toxic waste (B3), and the legal consequences of a small farm releasing untreated organic wastewater cannot simply be equated with those of an undertaking that uses hazardous substances or generates B3 waste.²

The central legal problem is therefore not whether livestock pollution can create civil liability; it plainly can. The harder question is which liability route should govern a particular case. Indonesian private law provides a general tort basis through Article 1365 of the Civil Code, traditionally requiring an unlawful act, fault, damage, and causal connection. Environmental law then overlays this general rule with special provisions, especially Article 87 on compensation and certain measures and Article 88 on absolute liability for specified risk categories. This layered architecture creates both opportunities for stronger protection and difficulties of classification when the source of pollution is an activity, such as livestock production, that is not named sector-by-sector in Article 88.³

The debate has become more complex after the Job Creation reforms. The original 2009 wording of Article 88 expressly stated that liability applied without the

¹ Constitution of the Republic of Indonesia 1945, art. 28H(1); Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, as amended by Law Number 6 of 2023.

² I Ketut Suada and I Wayan Masa Tenaya, "Analysis of Cattle Waste Which Has the Potential to Contaminate the Environment and Spread Diseases in Society," *Buletin Veteriner Udayana* 15, no. 5 (2023), <https://doi.org/10.24843/bulvet.2023.v15.i05.p38>.

³ Indonesia, Indonesian Civil Code, art. 1365; Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, arts. 87–88.

need to prove fault. The Job Creation legislation removed that phrase while retaining the statutory expression of absolute liability. Scholars have consequently divided over whether the amendment substantively weakened strict liability or merely altered wording without eliminating the doctrine. Later judicial and academic discussion confirms that the meaning of Article 88 cannot be resolved by a literal comparison alone; its function must be read together with the provision, its explanation, environmental principles, and contemporary procedural guidance for environmental cases.⁴

For livestock businesses, this controversy has practical importance. If every pollution claim is forced into Article 1365, victims may face substantial evidentiary barriers where technical causation, waste pathways, or operational information are controlled by the defendant. Conversely, if Article 88 is applied automatically to every farm merely because pollution occurred, absolute liability would be detached from the statutory triggers that justify exceptional liability. A defensible approach must therefore distinguish ordinary fault-based pollution from activities that satisfy the higher-risk conditions of environmental absolute liability.⁵

Existing Indonesian scholarship has extensively addressed strict liability, the polluter pays principle, environmental standing, restoration, forest and land fires, hazardous waste, and judicial reasoning. However, livestock pollution is rarely used to test how the general tort regime and the special environmental regime should interact where the waste is predominantly organic and non-B3. This article fills that narrower gap by constructing a decision framework for determining when Article 1365, Article 87, and Article 88 should operate, individually or cumulatively, in disputes involving livestock enterprises.⁶

The article addresses two questions. First, how should Indonesian law structure the civil responsibility of livestock business actors for environmental pollution after the Job Creation amendments? Second, what criteria should distinguish fault-based liability from absolute liability in livestock-pollution disputes? The analysis is directed toward doctrinal clarity rather than field measurement: it does not treat unsystematic observations about particular farms as empirical evidence, but instead uses the characteristics of livestock waste as a normative risk context to test the legal framework.⁷

⁴ Andri Gunawan Wibisana, "Undang-Undang Cipta Kerja dan Strict Liability," *Bina Hukum Lingkungan* 5, no. 3 (2021): 494–522, <https://doi.org/10.24970/bhl.v5i3.216>; Muhammad Ainurrasyid Al Fikri, "The Impact of the Elimination of the Principle of Strict Liability on Environmental Pollution Post the Job Creation Act," *Strata Law Review* 4, no. 1 (2026): 12–21, <https://doi.org/10.59631/slr.v4i1.156>.

⁵ Rania Syifa Busroni and Citraesmi Widoretno Putri, "Strict Liability in Indonesian and Dutch Environmental Civil Law: A Comparative Study," *Jurnal USM Law Review* 8, no. 3 (2025): 2785–2799, <https://doi.org/10.26623/julr.v8i3.13128>.

⁶ Diah Ayu Rachma and Aditya Mochamad Triwibowo, "Penerapan Prinsip Strict Liability dalam Penegakan Hukum Lingkungan di Indonesia," *Jurnal Yudisial* 16, no. 1 (2023), <https://doi.org/10.29123/jy.v16i1.574>; Siti Shanda Radhova, Sigar P. Berutu, and Aida Ardini, "A Legal Analysis of the Application of Strict Liability and the Role of Courts in Civil Litigation for Environmental Pollution," *Al-Adalah: Jurnal Hukum dan Politik Islam* 11, no. 2 (2026), <https://doi.org/10.30863/ajmpi.v11i2.11460>.

⁷ Muzakkir Abubakar, "Hak Mengajukan Gugatan dalam Sengketa Lingkungan Hidup," *Kanun Jurnal Ilmu Hukum* 21, no. 1 (2019): 93–108, <https://doi.org/10.24815/kanun.v21i1.12766>.

RESEARCH METHOD

This research is normative legal research. Its primary object is the coherence of legal norms governing civil liability for pollution, not the behaviour of a sampled population. The statutory approach examines the Civil Code, the 1945 Constitution, UUPPLH as amended by Law Number 6 of 2023, Government Regulation Number 22 of 2021, Minister of Environment Regulation Number 7 of 2014 on environmental losses, and Supreme Court Regulation Number 1 of 2023 on adjudicating environmental cases. These instruments are read systematically to identify the relationship between general tort rules, environmental compensation, restoration, absolute liability, and evidentiary requirements.⁸

A conceptual approach is used to examine fault liability, strict or absolute liability, the polluter pays principle, causation, restoration, and risk allocation. A limited case approach draws on Indonesian environmental litigation and judicial scholarship concerning strict liability, particularly cases involving high-risk pollution or land and forest fires, not to transplant their facts into livestock disputes but to identify the reasoning courts use when determining liability and environmental restoration. Secondary materials are prioritised from peer-reviewed journals with verifiable DOI records and recent publications, while older sources are used only when they have a foundational doctrinal role.⁹

The materials are analysed through legal interpretation and normative synthesis. The analysis proceeds in four stages: identifying the legal basis of the claim; identifying the statutory trigger and the type of waste or risk involved; determining the appropriate burden and object of proof; and matching the legal consequence to compensation, restoration, preventive measures, or a combination of remedies. This structure is intended to avoid the common error of treating Article 1365, Article 87, and Article 88 as mutually exclusive provisions when, in environmental disputes, they can perform different but complementary functions.¹⁰

RESULTS AND DISCUSSION

The Normative Architecture of Civil Environmental Liability

Article 1365 of the Civil Code remains the general foundation for civil liability arising from an unlawful act. In environmental disputes, its four conventional elements—unlawfulness, fault, loss, and causation—must be translated into an ecological setting. Unlawfulness may arise from violation of statutory duties, environmental approvals, quality standards, or the broader duty not to infringe the rights and legally protected interests of others. Fault may consist of intent or negligence, including failures to install, operate, or maintain reasonably necessary waste-management systems. Loss may encompass private economic or health-

⁸ Indonesia, Government Regulation Number 22 of 2021 on the Implementation of Environmental Protection and Management; Indonesia, Ministry of Environment Regulation Number 7 of 2014 on Environmental Losses Due to Environmental Pollution and/or Damage; Indonesia, Supreme Court Regulation Number 1 of 2023 on Guidelines for Adjudicating Environmental Cases.

⁹ Hera Alvina Satriawan, M. Hotibul Islami, and Yudi Pratama Putra, "Penalaran Hukum Hakim dalam Menerapkan Prinsip Strict Liability terhadap Perkara Kebakaran Hutan," *Jurnal Yudisial* 18, no. 1 (2025), <https://doi.org/10.29123/jy.v18i1.750>.

¹⁰ Rizqa Maulidya et al., "Implementation of the Principle of Strict Liability Through Civil Law Enforcement to Protect and Manage the Environment," *International Journal of Law, Social Science, and Humanities* 2, no. 3 (2025): 348–354, <https://doi.org/10.70193/ijlsh.v2i3.244>.

related loss as well as legally recognised environmental loss, while causation must connect the defendant's conduct to the pollution and resulting damage.¹¹

Article 87 UUPPLH adds an environmental-specific remedial layer. It requires a person in charge of a business or activity that commits an unlawful act in the form of pollution or environmental damage causing loss to another person or the environment to pay compensation and/or take certain actions. The provision is important because environmental civil liability is not exhausted by monetary payment. Restoration may require clean-up, rehabilitation, pollution control, replacement of environmental functions, monitoring, or other measures needed to return environmental conditions as far as possible to an acceptable state. Minister of Environment Regulation Number 7 of 2014 provides a methodology for calculating environmental loss, reinforcing the idea that ecological injury can be valued separately from individual loss.¹²

The polluter pays principle supplies the normative logic linking liability and restoration. It seeks to prevent polluters from externalising the cost of environmentally harmful activity to the public. Indonesian scholarship, however, correctly warns that the principle should not be simplified into a licence to pollute after paying compensation. Its stronger function is cost internalisation: the party creating the pollution risk should bear the costs of prevention, control, response, compensation, and restoration to the extent required by law. For livestock enterprises, this means that waste-management cost is part of the cost of doing business, not an optional expenditure that can be shifted to surrounding residents.¹³

Table 1. Functional Relationship among Article 1365 Civil Code, Article 87 UUPPLH, and Article 88 UUPPLH

Provision	Primary Function	Key Trigger	Principal Consequence
Article 1365 Civil Code	General unlawful-act liability	Unlawful conduct, fault, loss, causation	Compensation and civil remedies
Article 87 UUPPLH	Environmental compensation and restoration	Unlawful pollution/damage causing loss to persons or environment	Compensation and/or specified restorative actions
Article 88 UUPPLH	Exceptional risk-based absolute liability	Use of B3, production/management of B3 waste, and/or activities creating a serious environmental threat	Absolute liability within the statutory risk category, subject to judicial interpretation after Job Creation reform

¹¹ Indonesia, Indonesian Civil Code, art. 1365; Christabel Daniella, Naomi Inly Parhusip, and Marchya Gwenervee Mongkaw, "Pertanggungjawaban Perdata atas Perbuatan Melawan Hukum dalam Kasus Perusakan Lingkungan Hidup di Indonesia," *Cessie: Jurnal Ilmiah Hukum* 4, no. 5 (2026), <https://doi.org/10.55904/cessie.v4i5.1947>.

¹² Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, art. 87; Indonesia, Ministry of Environment Regulation Number 7 of 2014 on Environmental Losses Due to Environmental Pollution and/or Damage.

¹³ Damar Sinatria Putra, "Dirty Dollars: Profits Over Planet in Indonesia's Application of the Polluter Pays Principle," *Indonesian Journal of Environmental Law and Sustainable Development* 3, no. 1 (2024): 61–96, <https://doi.org/10.15294/ijel.v3i1.78894>; Elly Kristiani Purwendah and Eti Mul Erowati, "Prinsip Pencemar Membayar (Polluter Pays Principle) dalam Sistem Hukum Indonesia," *Jurnal Pendidikan Kewarganegaraan Undiksha* 9, no. 2 (2021), <https://doi.org/10.23887/jpku.v9i2.34137>.

Source: authors' analysis of the Civil Code and UUPPLH.

Article 88 after the Job Creation Reform: Continuity, Change, and Evidentiary Consequences

Article 88 is exceptional because it reallocates risk away from the ordinary fault model. Under the original 2009 wording, the provision expressly stated that a person whose actions, business, or activities used B3, produced or managed B3 waste, and/or created a serious environmental threat was absolutely liable for resulting loss without the need to prove fault. The post-Job Creation text removed the final phrase referring expressly to the absence of fault proof. This textual change is legally significant, but it does not justify two opposite simplifications: that strict liability has unquestionably disappeared, or that nothing at all changed.¹⁴

One line of scholarship argues that the amendment weakened victim protection by reintroducing uncertainty about fault. Another, notably Andri Gunawan Wibisana, argues that the concept of strict liability remains because the operative provision still uses absolute-liability language and because the doctrine should be understood functionally. Case-based scholarship likewise shows that courts have continued to engage with strict-liability reasoning after the amendment. The better conclusion for doctrinal analysis is therefore that Article 88 remains part of the positive law, but its evidentiary operation must be justified through interpretation rather than assumed from the deleted phrase.¹⁵

Supreme Court Regulation Number 1 of 2023 is relevant because it modernises the procedural framework for environmental adjudication and expressly recognises scientific evidence as a central feature of environmental cases. In disputes over livestock pollution, scientific evidence can perform two distinct roles. First, it can establish whether a discharge exceeded applicable environmental standards and caused environmental harm. Second, where Article 88 is invoked, evidence can help determine whether the activity falls within the statutory risk category, including whether it uses or manages hazardous substances or waste or creates a serious environmental threat. This preserves a crucial distinction: absolute liability may alter what must be proved about fault, but it does not eliminate the need to identify the defendant, the qualifying activity, the occurrence of loss, and a legally sufficient causal relationship.¹⁶

Why Livestock Businesses Are Not Automatically Subject to Article 88

The statutory design of Article 88 is activity- and risk-based rather than sector-based. It does not list “mining,” “plantations,” “factories,” or “livestock farms” as automatic categories. Instead, it identifies functional triggers: the use of B3, the production or management of B3 waste, and activities that create a serious

¹⁴ Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, art. 88, as amended under the Job Creation framework; Lalu Aria Nata Kusuma, “Environmental Disputes Without Protection of Strict Liability Principles: Again, Law on Job Creation,” *Law and Justice* 7, no. 1 (2022): 1–13, <https://doi.org/10.23917/laj.v7i1.699>.

¹⁵ Andri Gunawan Wibisana, “Undang-Undang Cipta Kerja dan Strict Liability,” *Bina Hukum Lingkungan* 5, no. 3 (2021): 494–522, <https://doi.org/10.24970/bhl.v5i3.216>; Haryo Sudrajat, “Implementation of Strict Liability in the Settlement of Environmental Disputes Based on the Job Creation Act (Analysis of Decision Number 102/PDT.G-LH/2021/PT PLK),” *BIRCI-Journal* 5, no. 2 (2022), <https://doi.org/10.33258/birci.v5i2.5767>.

¹⁶ Indonesia, Supreme Court Regulation Number 1 of 2023 on Guidelines for Adjudicating Environmental Cases.

environmental threat. This point is decisive. A livestock business may fall within Article 88 if its actual operations meet one of those triggers, but the mere fact that it raises animals and produces organic waste is insufficient.¹⁷

Ordinary manure, urine, wastewater, residual feed, and odour can cause substantial nuisance and pollution when poorly managed, yet they are not, by that fact alone, B3 waste. Government Regulation Number 22 of 2021 distinguishes hazardous-waste management from non-B3 waste management and establishes a broader environmental-control framework. Accordingly, the legal classification of a livestock discharge must begin with the actual material and activity. If a farm uses disinfectants, chemicals, medicines, fuels, or other hazardous materials, the presence of such substances may be relevant, but legal classification depends on the applicable criteria and not on assumption.¹⁸

The alternative Article 88 trigger—an activity that creates a serious environmental threat—requires equally careful analysis. “Serious threat” should not be reduced to any detectable odour or any neighbourhood complaint, because that would collapse the distinction between Article 87 and Article 88. Relevant indicators may include the magnitude and duration of contamination, the sensitivity of the affected ecosystem, risks to drinking-water sources, repeated or uncontrolled releases, public-health consequences, and the difficulty or cost of restoration. The assessment should be supported by environmental data and expert evidence. Where the threat is localised, remediable, and attributable to negligent waste management without the characteristics of extraordinary environmental risk, fault-based liability under Article 1365 combined with Article 87 may be the more doctrinally coherent route.¹⁹

This does not mean that ordinary livestock pollution is legally minor. Article 87 can impose both compensation and restorative action, and regulatory authorities may separately apply administrative measures under UUPPLH and Government Regulation Number 22 of 2021. The distinction concerns the legal basis and burden of proof, not the seriousness with which pollution should be addressed. A farmer or company that negligently discharges untreated waste may still face substantial liability even when Article 88 does not apply.²⁰

Table 2. Proposed Liability Test for Livestock-Pollution Disputes

Step	Question	Legal Significance	Likely Route
1	Is there pollution/damage and legally cognisable loss?	Establishes environmental injury and standing/remedy issues	If no, civil environmental claim fails; if yes, continue
2	Is the defendant’s conduct unlawful or negligent?	Tests general tort and Article 87 elements	Article 1365 + Article 87
3	Does the activity use B3 or produce/manage B3 waste?	Tests an express Article 88 trigger	Article 88 may apply

¹⁷ Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, art. 88.

¹⁸ Indonesia, Government Regulation Number 22 of 2021 on the Implementation of Environmental Protection and Management.

¹⁹ Subadi, Ananda Prima Yurista, and Muhammad Buana, “Strict Liability within Indonesia’s Environmental Legal System: Examining the Necessity of Its Reintroduction,” *Journal of Law, Environmental and Justice* 4, no. 2 (2026), <https://doi.org/10.62264/jlej.v4i2.304>.

²⁰ Farrel Salma Fadhilah, Immamulhadi, and Dadang Epi Sukarsa, “Implementation of the Polluter Pays Principle in Environmental Law Enforcement in Indonesia,” *Lambung Mangkurat Law Journal* 11, no. 1 (2026): 224–243, <https://doi.org/10.32801/abc.v11i1.308>.

4	If not, does the activity create a serious environmental threat?	Tests the residual high-risk Article 88 trigger	Article 88 may apply if supported by scientific evidence
5	What remedy is required?	Separates victim compensation from ecological restoration	Damages, restoration, preventive measures, or combined relief

Source: authors' normative reconstruction.

Causation, Scientific Evidence, and the Position of Affected Communities

Environmental causation is often more difficult than ordinary tort causation because pollutants move through water, soil, air, and biological pathways. A claimant living near a farm may observe odour, discoloration of water, fish mortality, or health symptoms, but those observations must be connected to the defendant's activity with sufficient legal reliability. PERMA Number 1 of 2023 strengthens the role of scientific evidence and requires courts to consider the validity of methods and sampling procedures. For livestock cases, this may include upstream-downstream water sampling, microbiological analysis, nutrient measurements, waste-flow mapping, operational records, veterinary and chemical records, and expert interpretation.²¹

The need for scientific evidence should not become an impossible barrier for communities. Environmental information asymmetry is structurally important: business actors usually possess production records, waste-management designs, monitoring data, and access to the premises, while affected residents may only observe the external consequences. Courts therefore need procedural sensitivity when allocating evidentiary burdens and assessing circumstantial evidence. Indonesian environmental litigation has long developed standing mechanisms, organisation claims, representative actions, and public-interest approaches to prevent environmental rights from becoming practically unenforceable.²²

At the same time, scientific uncertainty should not be used to impose liability without a rational causal foundation. The purpose of environmental adjudication is not to replace evidence with suspicion, but to evaluate evidence in a manner appropriate to complex ecological harm. Where multiple potential pollution sources exist, the court should examine source signatures, timing, pathways, operational deviations, and alternative explanations. This is particularly important in rural and peri-urban settings where domestic wastewater, agriculture, small industries, and livestock activities may affect the same water body.²³

Compensation and Environmental Restoration as Distinct but Complementary Remedies

A central advantage of the environmental-liability regime is that it distinguishes private compensation from environmental restoration. Residents may suffer medical expenses, loss of clean water, reduced use of property, loss of income,

²¹ Indonesia, Supreme Court Regulation Number 1 of 2023 on Guidelines for Adjudicating Environmental Cases.

²² Muzakkir Abubakar, "Hak Mengajukan Gugatan dalam Sengketa Lingkungan Hidup," *Kanun Jurnal Ilmu Hukum* 21, no. 1 (2019): 93–108, <https://doi.org/10.24815/kanun.v21i1.12766>; Agnes Grace Aritonang, "Peran Alternatif Penyelesaian Sengketa di Luar Pengadilan dalam Perlindungan dan Pengelolaan Lingkungan Hidup," *Crepido* 3, no. 1 (2021): 1–12, <https://doi.org/10.14710/crepido.3.1.1-12>.

²³ Sri Wahyuni et al., "Konsistensi Putusan Hakim terhadap Perkara Kerugian Lingkungan Hidup di Indonesia," *ADLIYA: Jurnal Hukum dan Kemanusiaan* 15, no. 2 (2021): 197–216, <https://doi.org/10.15575/adliya.v15i2.12909>.

or other personal damage. The environment itself may also suffer measurable degradation requiring clean-up, rehabilitation, monitoring, or ecological replacement. These are not necessarily the same loss. Minister of Environment Regulation Number 7 of 2014 provides a framework for calculating environmental loss, and environmental decisions increasingly recognise restoration as a remedy that cannot be replaced simply by a lump-sum payment to private claimants.²⁴

For livestock businesses, appropriate restoration is highly fact-dependent. It may require stopping direct discharge, constructing or improving waste-storage and treatment systems, preventing runoff during rainfall, rehabilitating contaminated drainage or water bodies, controlling odour, monitoring groundwater, or safely reusing organic waste through composting or other technically appropriate processes. The legal objective should be to interrupt the pollution pathway and restore environmental function, not merely to impose a financial sanction after the damage has occurred.²⁵

The polluter pays principle supports this remedial design. Recent Indonesian scholarship continues to identify a gap between the formal recognition of the principle and its consistent enforcement. A credible civil-liability regime should therefore make the cost of non-compliance at least as real as the cost of proper waste management. If remediation and preventive measures are systematically externalised to local government or affected residents, liability law fails both its corrective and deterrent functions.²⁶

A Reconstructed Model of Liability for Livestock Business Actors

The most coherent model is a graduated liability framework. The first layer is preventive compliance: environmental approval, waste-management obligations, quality standards, and monitoring duties define the minimum conduct expected from the business. A violation of these duties can become evidence of unlawfulness or negligence. The second layer is fault-based civil liability under Article 1365, strengthened by Article 87, where pollution results from negligent operation, inadequate storage, untreated discharge, or failure to comply with environmental obligations. The third layer is Article 88, reserved for cases that satisfy the statutory high-risk triggers.²⁷

This model resolves the apparent conflict between legal certainty and environmental protection. Business actors receive a predictable test: they are not subjected to absolute liability merely because they operate in the livestock sector, but they cannot avoid stronger liability where their actual operations use hazardous materials, manage hazardous waste, or create a serious environmental threat.

²⁴ Indonesia, Ministry of Environment Regulation Number 7 of 2014 on Environmental Losses Due to Environmental Pollution and/or Damage; Julio Mangindaan, "Bentuk-Bentuk Perbuatan yang Mengakibatkan Kerusakan dan Pencemaran terhadap Lingkungan Hidup serta Ganti Kerugian Berdasarkan Undang-Undang Nomor 32 Tahun 2009," *Lex et Societatis* 7, no. 9 (2019), <https://doi.org/10.35796/les.v7i9.27001>.

²⁵ Kana Kurnia, Indra Rizqullah Fawwaz, and Lita Herlina, "Penerapan Polluter Pays Principle dalam Perkara Tumpahan Minyak di Teluk Kota Balikpapan," *Jurnal Hukum IUS QUIA IUSTUM* 30, no. 3 (2023), <https://doi.org/10.20885/iustum.vol30.iss3.art5>.

²⁶ Nita Triana and Farah Nuril Izza, "The Perspective of Islamic Law on the Application of the Polluter Pays Principle in Indonesian Environmental Law," *Al-'Adalah* 17, no. 2 (2020): 359–382, <https://doi.org/10.24042/adalah.v17i2.8223>.

²⁷ Indonesia, Government Regulation Number 22 of 2021 on the Implementation of Environmental Protection and Management.

Communities likewise receive a clearer litigation structure: they need not force every case into the exceptional Article 88 regime to obtain restoration, because Article 87 already authorises compensation and certain actions when unlawful pollution causes loss.²⁸

The model also clarifies the role of regulatory classification. Whether a particular livestock enterprise requires AMDAL, UKL-UPL, or another form of environmental approval depends on applicable risk and scale criteria. These administrative classifications are relevant evidence, but they do not mechanically determine civil liability. A business that is formally classified as lower risk may still commit an unlawful act and incur liability if it pollutes. Conversely, the existence of an environmental approval does not immunise a business from civil responsibility where actual operations cause unlawful pollution or environmental damage.²⁹

Finally, liability should be forward-looking. Civil adjudication should encourage technical correction, transparent monitoring, and restoration. For recurring livestock pollution, a judgment that merely awards past compensation without requiring operational change risks reproducing the same dispute. Article 87's reference to "certain actions," the polluter pays principle, and the remedial orientation of environmental law provide a legal basis for orders that address the source of pollution, subject to proportionality and technical feasibility.³⁰

CONCLUSION

Civil liability for livestock-business pollution in Indonesia is governed by a layered legal structure rather than a single rule. Article 1365 of the Civil Code remains the general basis for unlawful-act liability and requires analysis of unlawfulness, fault, loss, and causation. Article 87 UUPPLH supplies the environmental remedial framework by authorising compensation and restorative action. Article 88 provides an exceptional absolute-liability regime for statutory high-risk categories. After the Job Creation reform, the deletion of the explicit phrase concerning proof of fault has created a genuine interpretive controversy, but it does not justify treating Article 88 as either wholly abolished or automatically unchanged. Courts must interpret its operation in light of the remaining statutory language, environmental principles, case law, and procedural rules.³¹

Livestock enterprises should not be classified as subjects of Article 88 solely because they generate manure, wastewater, or odour. Ordinary organic waste is not automatically B3 waste. Application of Article 88 requires a functional assessment of whether the activity uses hazardous substances, produces or manages hazardous waste, or creates a serious environmental threat. Where those triggers are absent,

²⁸ Isra Yani, "Reconstructing Civil Liability for Hazardous Waste Management: Strict Liability after the Job Creation Law in Indonesia," *Jurnal Hukum to-ra* 12, no. 2 (2026): 436–447, <https://doi.org/10.55809/tora.v12i2.688>.

²⁹ Dea Putri Aprilian and Yeti Sumiati, "Pertanggungjawaban Perdata Lingkungan Hidup PT. KCIC yang Mengakibatkan Kerugian di Desa Mekarsari, Kabupaten Bandung Barat," *Bandung Conference Series: Law Studies* 5, no. 1 (2025), <https://doi.org/10.29313/bcsls.v5i1.16056>.

³⁰ Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, art. 87; Muhamad Muhdar, "Eksistensi Polluter Pays Principle dalam Pengaturan Hukum Lingkungan di Indonesia," *Mimbar Hukum* 24, no. 1 (2012), <https://doi.org/10.22146/jmh.16247>.

³¹ Indonesia, Indonesian Civil Code, art. 1365; Indonesia, Law Number 32 of 2009 on Environmental Protection and Management, arts. 87–88, as amended by Law Number 6 of 2023.

negligent waste management can still generate substantial liability under Article 1365 together with Article 87, including compensation and restoration.³²

The article therefore recommends a risk-based liability test supported by scientific evidence. Regulators and courts should identify the material involved, pollution pathway, scale and duration of harm, environmental sensitivity, compliance record, and restoration needs before determining the legal basis of liability. This approach preserves legal certainty for responsible livestock businesses while ensuring that environmental costs are not transferred to affected communities. It also gives practical effect to the constitutional right to a good and healthy environment and to the polluter pays principle by linking liability not only to monetary compensation but also to effective ecological restoration and prevention of recurrence.³³

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³² I Ketut Suada and I Wayan Masa Tenaya, "Analysis of Cattle Waste Which Has the Potential to Contaminate the Environment and Spread Diseases in Society," *Buletin Veteriner Udayana* 15, no. 5 (2023), <https://doi.org/10.24843/bulvet.2023.v15.i05.p38>.

³³ Constitution of the Republic of Indonesia 1945, art. 28H(1); Damar Sinatria Putra, "Dirty Dollars: Profits Over Planet in Indonesia's Application of the Polluter Pays Principle," *Indonesian Journal of Environmental Law and Sustainable Development* 3, no. 1 (2024): 61–96, <https://doi.org/10.15294/ijel.v3i1.78894>.

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