



UNIVERSITY OF NAMIBIA

FACULTY	FACULTY OF AGRICULTURE, ENGINEERING & NATURAL SCIENCES		
DEPARTMENT	Environmental Science		
SUBJECT	ENVIRONMENTAL LAW		
SUBJECT CODE	EBL 5942		
DATE	November 2021		
DURATION	120 MINUTES	MARKS	100

Supplementary/Special Examinations

Examiner: Dr Tapiwa V. Warikandwa & Dr Christian Harris

Moderator: Professor Chris T. Chimimba

This question paper consists of THREE (3) pages, including the cover page.

Instructions:

1. Answer ALL questions in Section A and 1(ONE) question in Section B.
2. Number the answers on the front of the answer book in the same sequence you have answered them.
3. Please write legibly, to the point and cite references where appropriate.
4. Underline all citations.

SECTION A [60 Marks]

Question 1

You are approached by Mulonda Vatilifa who is a Director of Broom Petroleum (Pty) Ltd whose company is in the process of building an over 100-metre bridge over a stream in Landsville, Swakopmund. Such an activity requires a basic Environmental Impact Assessment (EIA) under the Environmental Management Act 7 of 2007 and the Environmental Management Act Regulations of 2012.

From your discussions with Mulonda, it has become apparent that the activity in question has already commenced without the necessary authorisation having first been obtained. Mulonda now wants to know whether he can:

- i. Still obtain the necessary authorisation from the relevant environmental authority, and
- ii. Be prosecuted for commencing the activity without the authorisation.

Discuss how you will advise him.

[20 Marks]

Question 2

Discuss the obligation placed on environmental authorities to take socio-economic considerations into account in deciding applications for environmental authorisations, and with reference to cases of *Confederation of Namibian Fishing Associations & Others v Environmental Commissioner Teofilus Nghitila & Others* (HC-MD-CIV-MOT-REV 335 of 2016) [2021] NAHCMD 308 (30 June 2021), *Baleni v Minister of Mineral Resources* 2019 2 SA 453 (GP), and other relevant cases.

[20 Marks]

Question 3

The precautionary principle, proposed as a new guideline in environmental decision-making, has four central components: taking preventive action in the face of uncertainty; shifting the burden of proof to the proponents of an activity; exploring a wide range of alternatives to possibly harmful actions; and increasing public participation in decision making.

With reference to the promotion of biological diversity protection, discuss the extent to which the precautionary principle has been reflected in Namibia's Environmental Management Act of 2007.

[20 Marks]

SECTION B [40 Marks]

Question 4

Biodiversity which represents the variety of life on Earth, is central to sustainable development, as it is critical for reducing poverty, creating sustainable livelihoods, and helping communities adapt to climate change. Although it represents the foundation of sustainable development and green economies, it is being depleted at an unprecedented rate as human populations, and their levels of consumption, increase.

Discuss the interrelationship between biodiversity protection, poverty, and sustainable development.

[40 Marks]

Question 5

The protection of the environment is a global issue as it concerns all countries irrespective of their size, stage, development, or ideology. With the development of science and technology and with the increase in population, tremendous changes in the environment have occurred and these ultimately change ecosystems of the world.

Given the above, discuss the following principles of environmental law:

- a) Preventive action principle;*
- b) Good neighbourliness and international cooperation principle;*
- c) Polluter Pays Principle; and*
- d) Public Trust doctrine.*

[40 Marks]

TOTAL 100 Marks