

# Tutorial Letter 101/3/2018

## Legal aspects of environmental management

### LEG2601

### Semesters 1 & 2

#### IMPORTANT INFORMATION

Please register on myUnisa, activate your myLife e-mail address and make sure that you have regular access to the myUnisa module website, LEG2601-2018-S1/S2, as well as your group website.

Note: This is an online module and therefore it is available on myUnisa. However, in order to support you in your learning process, you will also receive some study material in printed format.

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# 1 INTRODUCTION

Dear Student

Welcome to Legal Aspects of Environmental Management.

We are pleased to welcome you to this module, LEG2601, and hope that you will find it both interesting and rewarding. We shall do our best to make your study of this module successful. You will be well on your way to success if you start studying early in the semester and resolve to do the assignments properly.

As a student at a distance learning institution, it is important that you interact with your lecturers and fellow students. You can, therefore, expect that we will make contact with you on myUnisa, which will provide you with all the information you require for your studies. We will also guide you with regard to the study material and provide feedback on your performance (e.g. in the assignments). You must take responsibility for your studies, which includes accessing the necessary study material on myUnisa, studying the prescribed study material, and completing and submitting your assignments before or on the due dates.

Do not hesitate to contact us (on myUnisa, by email or by telephone) if you experience any problems with the content of this tutorial letter or any aspect of the module.

Because this is a fully online module, you will need to use myUnisa to study and complete the learning activities for this course. Visit the website for LEG2601 on myUnisa frequently. The website for your module is LEG2601-18-S1/S2.

## 1.1 Getting started

Owing to the nature of this module, you can read about the module and find your study material online. Go to the website at <https://my.unisa.ac.za> and log in using your student number and password. You will see LEG2601-18-S1/S2 in the row of modules displayed in the orange blocks at the top of the webpage: LEG2601-18-S1 if you are registered for the first semester or LEG2601-18-S2 if you are registered for the second semester. Select the **More** tab if you cannot find the module you require in the orange blocks. Then click on the module you want to open.

You will receive this tutorial letter and a printed copy of the online study material for your module. While the printed material may appear different from the online study material, it is the same, as it has been copied from the myUnisa website.

We wish you every success with your studies!

# 2 OVERVIEW OF LEG2601

## 2.1 Purpose

The purpose of this module is to equip students with knowledge, skills, attitudes and competencies to analyse the legal impact of human beings on the natural, socioeconomic and cultural environments and solve problems relating to the legal aspects of environmental management in South Africa.

This module is delivered using myUnisa and the internet as well as peer group interaction. Your lecturers will interact with you on myUnisa and via e-mail.

## 2.2 Outcomes

For this module, you will have to master several outcomes:

- **Specific outcome 1: Students are able to recognise the role of some of the basic legal aspects of environmental management in everyday life.**

The assessment criteria related to this outcome require students to demonstrate that they can do the following:

- Identify basic legal aspects of environmental management in real or simulated fact scenarios.
- Interpret and analyse daily occurrences within the legal framework of environmental management.

- **Specific outcome 2: Students are able to think critically and analytically within the basic contextual legal framework of environmental management.**

The assessment criteria related to this outcome require students to demonstrate that they can do the following:

- Interpret and explain basic legal problems relating to environmental management within different contexts.
- Provide an unbiased and balanced perspective on basic legal problems regarding environmental management.

- **Specific outcome 3: Students are able to contribute to the realisation of a just society based on a legal democracy through their basic knowledge and skills regarding environmental management.**

The assessment criteria related to this outcome require students to demonstrate that they can do the following:

- Use acquired skills and knowledge regarding the basic legal aspects of environmental management to advance legal awareness of the environment within their communities.
- Reflect on basic legal problems regarding environmental management and seek responsible solutions.
  - Interpret basic constitutional values and apply them to environmental management problems in society.

## 3 LECTURER(S) AND CONTACT DETAILS

### 3.1 Lecturer(s)

The primary lecturer for this module is Mr H Coetzee

**Department:** Public, Constitutional and International Law

**Telephone:** 012 429 8566

**E-mail:** [coetzjh@unisa.ac.za](mailto:coetzjh@unisa.ac.za)

The secondary lecturer for this module is Ms E Raubenheimer

**Department:** Public, Constitutional and International Law

**Telephone:** 012 429 8376

**E-mail:** [raubee@unisa.ac.za](mailto:raubee@unisa.ac.za)

You are welcome to visit us to discuss any queries or problems about the module. However, **please make an appointment beforehand** or you will run the risk of the lecturer not being available to see you. Our offices are on the 7th floor of the Cas van Vuuren Building on the Main Campus (Muckleneuk Ridge) in Pretoria: Mr Coetzee at 7-96 and Ms Raubenheimer at 7-44.

### 3.2 Department

You can contact the Department of Public, Constitutional and International Law as follows:

Telephone number: +27 (0) 12 429 8339

E-mail: [matlawm1@unisa.ac.za](mailto:matlawm1@unisa.ac.za)

### 3.3 University

To contact the University, follow the instructions in the brochure **Study @ Unisa**. Remember to have your student number available whenever you contact the University.

Whenever you write to a lecturer, please include your student number to enable the lecturer to help you more effectively.

## 4 RESOURCES

### 4.1 Joining myUnisa

If you have access to a computer that is linked to the internet, you can quickly access resources and information at the University. The myUnisa learning management system is the University's online campus that will help you communicate with your lecturers, with other students and with the administrative departments at Unisa – all through the computer and the internet.

You can start at the main Unisa website at <http://www.unisa.ac.za> and then click on the myUnisa orange block. This will take you to the myUnisa website. To go to the myUnisa website directly, go to <https://my.unisa.ac.za>. Click on the **Claim UNISA Login** on the right-hand side of the screen on the myUnisa website. You will then be prompted to give your student number in order to claim your initial myUnisa details as well as your myLife e-mail login details.

For more information on myUnisa, consult the brochure **Study @ Unisa**, which you received with your study material.

Unisa has entered into partnerships with establishments (referred to as Telecentres) in various locations across South Africa to enable you (as a Unisa student) free access to computers and the Internet. This access enables you to conduct the following academic related activities: registration; online submission of assignments; engaging in e-tutoring activities and signature courses; etc. Please note that any other activity outside of these are for your own costing e.g. printing, photocopying, etc. For more information on the Telecentre nearest to you, please visit [www.unisa.ac.za/telecentres](http://www.unisa.ac.za/telecentres).

For more information on myUnisa, consult the brochure **Study @ Unisa**, which you received with your study material.

### 4.2 Other resources – printed support material

Because we want you to be successful in this online module, we also provide you with some of the study material in printed format. This will allow you to read the study material even if you are not online.

The printed study material will be sent to you at the beginning of the semester, but you do not have to wait for it before you start studying – you can go online as soon as you have registered and find all your study material there. The material we will send you is an **offline** copy of the formal content for the online module. Having an offline copy will enable you to study for this module **WITHOUT** having to use the internet or to go to an internet café. It will save you time and money, and you will be able to read and re-read the material and start doing the activities.

It is very important that you log in to myUnisa regularly. We recommend that you log in at least once a week or every ten days to do the following:

- **Check for new announcements.** You can also set your myLife e-mail account to receive the announcement e-mails on your cellphone.

We hope that by giving you extra ways to study the material and practise all of the activities, this system will help you succeed in the online module. To get the most out of the online course, you **MUST** go online regularly to complete the activities and assignments on time.

Remember, the printed support material is backup material for everything that is found online on myUnisa. It does not contain any extra information. **In other words, do NOT wait for the printed support material to arrive before you start studying.**

### 4.3 Library services and resource information

For brief information, go to [www.unisa.ac.za/brochures/studies](http://www.unisa.ac.za/brochures/studies).

For detailed information, go to <http://www.unisa.ac.za/library>. For research support and services of personal librarians, click on **Research support**.

The Library has compiled numerous library guides:

- finding recommended reading in the print collection and e-reserves – <http://libguides.unisa.ac.za/request/undergrad>
- requesting material – <http://libguides.unisa.ac.za/request/request>
- postgraduate information services – <http://libguides.unisa.ac.za/request/postgrad>
- finding, obtaining and using library resources and tools to assist in research – [http://libguides.unisa.ac.za/Research\\_Skills](http://libguides.unisa.ac.za/Research_Skills)
- contacting the Library/finding us on social media/frequently asked questions – <http://libguides.unisa.ac.za/ask>

## 5 HOW TO STUDY ONLINE

### 5.1 What does it mean to study fully online?

Studying fully online modules differs completely from studying some of your other modules at Unisa.

- **All your study material and learning activities for online modules are designed to be delivered online on myUnisa.** Although we give you a printed copy to support your studies, the module is designed to be delivered online.
- **All of the communication between you and the University happens online.** Lecturers will communicate to you by e-mail, and by using the **Announcements** and the **Discussion Forums**. You can use both these ways to ask questions and contact your lecturers.

## 5.2 The myUnisa tools you will use

All of the information about myUnisa tools is located under **Unit 0** on the myUnisa website for this module. However, we thought it was important to highlight the tools that will be used for your formal assignments.

In this module, there is one type of assessment using myUnisa tools:

- **Assignments:** Written assignments need to be typed in a Word document and submitted online in the same way as you will submit all the other assignments online. Depending on the assignment, you may be asked to fill in a form or type a document. These typed assignments must be submitted as Word documents using the online **Assignments** tool on myUnisa. The instructions for submitting these assignments are given under **Unit 0**.
- **Discussions:** This is the place where the online discussion forums take place and where you can share your ideas and insights with other students in your group.

## 6 ASSESSMENT

### 6.1 Assessment plan

There are two assignments per semester for this module. Details regarding the submission of assignments are available on myUnisa. All the other information regarding your examinations and how your marks will be calculated will also be posted on myUnisa. The assignments for this module are also available on myUnisa. We have given you a breakdown of the formal assignments as they become due during the semester:

- **Due dates of assignments**

The closing dates for the submission of the assignments are as follows:

#### FIRST SEMESTER

##### Assignment 01

**Due date: 16 March 2018**

**Unique assignment number: 779032**

##### Assignment 02

**Due date: 06 April 2018**

**Unique assignment number: 689054**

#### SECOND SEMESTER

##### Assignment 01

**Due date: 17 August 2018**

**Unique assignment number: 802681**

##### Assignment 02

**Due date: 7 September 2018**

**Unique assignment number: 820305**

**IN ORDER TO BE ADMITTED TO THE EXAMINATION, YOU MUST SUBMIT THE TWO COMPULSORY ASSIGNMENTS ON OR BEFORE THEIR SUBMISSION DATES.**

**No exceptions to this rule will be allowed.** Please start and complete your assignments in good time. Do not let unexpected illness or other personal traumas prevent you from getting admission to the examination. All students who submit the compulsory assignments in time (before or on the date of submission) will be admitted to the examination, regardless of the marks they obtained for the assignments. In other words, students who submitted the compulsory assignments but obtained 0% will still be allowed to sit for the examination. Of course, they will not have a year mark. Students who do not submit the compulsory assignments before or on the due date will not receive admission to the examination.

To answer essay or problem questions satisfactorily, you must work through the study material carefully. The following basic guidelines may be of help:

- Structure your answer properly. Set out the relevant legal principles (case law, legislation, etc), apply these principles to the given facts and then reach a conclusion.
- Your answer must be coherent, based on sound legal arguments, and substantiated and supported by referencing to relevant authority (legislation, case law, articles by legal writers and so on).
- Language must be clear and grammatically and stylistically correct.

Also take note of the assessment criteria set out with each outcome for this module.

**Please note:** Although students may work together when preparing assignments, each student must write and submit his or her own individual assignment. In other words, each student must submit his or her own work. It is unacceptable for students to submit identical assignments on the basis that they worked together. This amounts to plagiarism and none of these assignments will be marked. Furthermore, these students may be penalised or subjected to the University's disciplinary proceedings.

## **ASSIGNMENTS FOR SEMESTER 1**

### **Assignment 01**

**Due date: 16 March 2018**

**Unique assignment number: 779032**

#### **Question 1**

What is the role of international and regional conventions (treaties) in South African environmental law? [10]

#### **Question 2**

Indicate how the term “environment” can be explained both in a broad and in a narrow context. [10]

### **Assignment 02**

**Due date: 06 April 2018**

**Unique assignment number: 689054**

#### **Instructions:**

- Complete your answers on a Unisa mark-reading sheet.
- There are ten questions.
- Each question has a number of options as possible answers. Only one option/statement in each question is correct. You must therefore identify the correct option (1, 2, 3 or 4) and mark only one of the squares (options) for each question. If you mark more than one square for a specific question, you will receive no mark for the question.

#### **Marking of the assignment:**

- Each answer carries one mark.
- No mark will be awarded for an incorrect answer.
- No mark will be awarded for an unanswered question.
- The assignment will not be marked negatively (that is, marks will not be deducted for incorrect answers). [10]

#### **Question 1**

A public law relationship is ... .

- 1) where the parties act in their own capacity
- 2) less complex than a private law relationship
- 3) an unequal (vertical) relationship
- 4) based on a voluntary agreement between the subjects

## Question 2

Part A of Schedule 4 of the Constitution outlines ... .

- 1) cooperative government
- 2) functional areas of concurrent national and provincial power
- 3) functional areas in respect of which provinces have exclusive legislative competence
- 4) intergovernmental relations

## Question 3

In *Director, Mineral Development, Gauteng Region and Another v Save the Vaal Environment and Others* 1999 2 SA 709 (HHA) the court held that ... .

- 1) public participation and transparency **do** impose unnecessary and costly burdens on developers
- 2) land-use planning and management do **not** take place within the framework of the Constitution and the right to the environment
- 3) land-use planning and management take place within the framework of the Constitution and the right to the environment
- 4) public participation and transparency do not impose unnecessary and costly burdens on developers

## Question 4

In *Fuel retailers Association of Southern Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province and Others* 2007 10 BCLR 105 (CC) it was ruled that the building of a filling station requires an application for: ... .

- 1) a basic assessment only
- 2) an environmental authorisation only
- 3) rezoning only
- 4) rezoning and an application for environmental authorisation

## Question 5

... are the most important sources of environmental management in South Africa.

- 1) The Constitution
- 2) Case law and provincial legislation
- 3) Constitution and legislation
- 4) Parliamentary legislation

**Question 6**

A basic assessment must be carried out if the authorisation applied for is in respect of an activity listed in Government Notice ... .

- 1) R 982
- 2) R 983
- 3) R 984
- 4) R 985

**Question 7**

An environment assessment practitioner (EAP) must ... .

- 1) comply with regulation 15 of the Environmental Impact Assessment Regulations
- 2) comply with regulation 18 of the Environmental Impact Assessment Regulations
- 3) be independent
- 4) be subjective

**Question 8**

A heritage resource is ... .

- 1) a place or object of cultural significance
- 2) a place or object of economic significance
- 3) the Provincial Heritage Resources Authority
- 4) the National Heritage Resources Authority

**Question 9**

If a specified development impacts on a heritage resource, ... .

- 1) public participation must be waived
- 2) an evaluation of sustainable social and economic benefits is irrelevant
- 3) the responsible heritage resources authority must be notified
- 4) an assessment of the impact of the development on the heritage resource is unnecessary

**Question 10**

A *mandamus* ... .

- 1) compels a person who transgresses environmental law to pay a fine
- 2) is the same as the Aquilian action
- 3) compels an administrative body to perform its statutory duty
- 4) stipulates how an administrative body should exercise its power

[10]

## **ASSIGNMENT FOR SEMESTER 2**

### **Assignment 01**

**Due date: 17 August 2018**

**Unique assignment number: 802681**

#### **Question 1**

Discuss the notion of “sustainable development” and indicate how it is defined in the *National Environmental Management Act 107 of 1998 (NEMA)*. [20]

### **Assignment 02**

**Due date: 7 September 2018**

**Unique assignment number: 820305**

#### **Instructions:**

- Complete your answers on a Unisa mark-reading sheet.
- There are ten questions.
- Each question has a number of options as possible answers. Only one option/statement in each question is correct. You must therefore identify the correct option (1, 2, 3 or 4) and mark only one of the squares (options) for each question. If you mark more than one square for a specific question, you will receive no mark for the question.

#### **Marking of the assignment:**

- Each answer carries one mark.
- No mark will be awarded for an incorrect answer.
- No mark will be awarded for an unanswered question.
- The assignment will not be marked negatively (that is, marks will not be deducted for incorrect answers).

#### **Question 1**

The term “environment” can ... .

- 1) only be viewed in a narrow context
- 2) only be viewed in a broad context
- 3) be interpreted by the courts
- 4) not be further developed

**Question 2**

Just administrative action ... .

- 1) entails that administrative action must be lawful, reasonable and procedurally fair
- 2) entails that administrative action must be lawful, unreasonable and procedurally fair
- 3) is provided for in section 32 of the Constitution
- 4) is provided for in section 38 of the Constitution

**Question 3**

The scoping and environmental impact reporting procedure ... .

- 1) is the same as the basic assessment procedure
- 2) requires the appointment of an integrated environmental management specialist
- 3) requires the appointment of an environmental management inspector (EMI)
- 4) is more thorough than the basic assessment procedure

**Question 4**

Sustainable development as applied in South Africa ... .

- 1) integrates environmental protection and social upliftment
- 2) integrates environmental protection and economic development
- 3) integrates environmental protection and decision-making processes
- 4) integrates environmental protection, economic development and social upliftment

**Question 5**

Criminal sanctions ... .

- 1) are only used in a direct way
- 2) are only used in an indirect way
- 3) may take into account the cost incurred by the state for the rehabilitation of the offenders
- 4) may take into account the cost incurred by the state for the rehabilitation of the environment

### Question 6

In *Director, Mineral Development, Gauteng Region and Another v Save the Vaal Environment and Others* 1999 2 SA 709 (HHA) the court held that ... .

- 1) public participation and transparency impose unnecessary and costly burdens on developers
- 2) land-use planning and management do **not** take place within the framework of the Constitution and the right to the environment
- 3) land-use planning and management take place within the framework of the Constitution and the right to the environment
- 4) public participation and transparency do **not** impose unnecessary and costly burdens on developers

### Question 7

In the context of developments which threaten heritage resources, the National Heritage Resources Act 25 of 1999 provides for a ... .

- 1) National Heritage Resources Authority and for provincial heritage resources authorities
- 2) place or object of economic significance
- 3) Provincial Heritage Resources Authority
- 4) National Heritage Resources Authority

### Question 8

A scoping and environmental impact reporting (S&EIR) process must be carried out if the authorisation applied for is in respect of an activity listed in Government Notice ... .

- 1) R 984
- 2) R 983
- 3) R 982
- 4) R 985

### Question 9

An "organ of state" as per section 239 of the Constitution excludes ... .

- 1) the Department of Environmental Affairs
- 2) the Mpumalanga Department of Agriculture, Rural Development, Land and Environmental Affairs
- 3) a court or a judicial officer
- 4) the Department of Correctional Services

**Question 10**

A basic assessment must be carried out if the authorisation applied for is in respect of an activity listed in Government Notice ... .

- 1) R 982
- 2) R 983
- 3) R 984
- 4) R 985

[10]

**Self-evaluation assignment for semesters 1 and 2**

In addition to the two compulsory assignments above, you could also do a self-evaluation assignment. This means that you must **not** submit your answers to us. You must answer the question and then mark your own answer, using the suggested answer below.

**SELF-EVALUATION ASSIGNMENT**

Describe the procedure that has to be followed where the existence of a historic building will be threatened by the building of a 900 m<sup>2</sup> shopping centre. **[15]**

**6.2 Year mark and final examination/portfolio**

Your year mark for this module is calculated as follows:

The two compulsory assignments will count 25% towards your final mark for this module: 12.5% for the first assignment and 12.5% for the second assignment. The mark (out of 100) that you obtain for the examination will be converted to a mark out of 75. Thus, your final mark for the module will be calculated by adding your assignment/year mark to your converted examination mark. However, you must obtain a subminimum of 40% in the examination before your year mark will be added to your examination mark.

**7 CONCLUSION**

Do not hesitate to contact us by e-mail if you are experiencing problems with the content of this tutorial letter or with any academic aspect of the module.

We wish you a fascinating and satisfying journey through the learning material and trust that you will complete the module successfully.

Enjoy the journey!

Mr H Coetzee and Ms E Raubenheimer – lecturers for LEG2601.

**DEPARTMENT OF PUBLIC, CONSTITUTIONAL AND INTERNATIONAL LAW**