INSTRUCTIONS

1. Students are requested, in their own interests, to write legibly.
2. This paper consists of THREE (3) pages. Please ensure that you have all of them.
3. You must answer any THREE (3) questions.
QUESTION 1

(a) Discuss the obligation placed on environmental authorities to take socio-economic considerations into account in deciding applications for environmental authorisations. Your answer should include a discussion of the case of Fuel Retailers Association of South Africa v Director-General Environmental Management, Department of Agriculture, Conservation and Environment, Mpumalanga Province & others 2007 (6) SA 4 (CC) – the ‘Fuel Retailers’ case – and other relevant cases where appropriate.

(15)

(b) Explain the legal requirements which must be complied with in order to dispose of industrial effluent into a municipal sewerage system, ensuring that you explain as fully as possible how the National Water Act 36 of 1998 applies.

(10)

QUESTION 2

a. Critically discuss how South African law provides for the conservation of so-called ‘threatened and protected species’.

(12.5)

b. Critically discuss the law in South Africa relating to alien and invasive species.

(12.5)

(25)
QUESTION 3

Bheki Ngozwana, the CEO of BN Mining Co Ltd (BN), approaches you for advice in respect of a mining development he is planning. He is intending to carry out prospecting activities, followed by mining, in certain areas under the jurisdiction of the eThekwinini Municipality. The land on which the company wants to mine is currently zoned as open space (which is not the appropriate zoning for mining). He tells you that an official in the Department of Mineral Resources informed him that there was no need to make an application for rezoning because the Minerals and Petroleum Development Act 28 of 2002 (the ‘MPRDA’) takes precedence over town planning laws. He wants you to inform him if this is correct. In the course of your answer, make reference to the applicable legislation, including at least the Constitution of the Republic of South Africa, 1996, and the MPRDA; and at least the Gauteng Development Tribunal and Maccsand cases.

(25)

QUESTION 4

Critically discuss the various enforcement options which are, or could, be used in the enforcement of South African environmental law, giving examples from South African legislation. In the course of your answer, provide some indication as to how effective such mechanisms are in practice.

(25)

[TOTAL FOR PAPER: 75 MARKS]