

SEMESTER 2 EXAMINATIONS - SUMMER 1998/99

LL.B. - SECOND, THIRD & FOURTH YEAR
BACHELOR OF CORPORATE LAW - THIRD YEAR
OCCASIONAL STUDENTS

ENVIRONMENTAL LAW II (LW358)

Mr. R. Friel
Mr. A. Doyle

Time Allowed: TWO Hours. ERASMUS students have 2½ Hours
Answer THREE Questions, ONE Question from Part A, and TWO Questions from Part B.

PART A
(Answer (a) OR (b))

1. (a) "Marketable permits outperform alternative solutions as far as technological progress is concerned since they establish the strongest incentives for firms to innovate in abatement activities." Discuss.
(b) Discuss the tension between economics and the environment. How do legal systems attempt to resolve this tension? How successful are such attempted resolutions?

PART B
(Answer at least TWO Questions)

2. What are the consequences of the Arcaro judgement for the implementations of EC environmental directives before the Irish Courts?
- Pyxun Beakin Ltd has operated 200 sow integrated piggery at Muiccanacn since 1990. It wished to double the size of its operations by building a second 200 sow piggery on a site of 100 metres away on the other side of the Swallow River. Both sides will adjoin the R666 road which crosses the Swallow at a public bridge between the two plants. The plants will be operated separately, but pigs may be moved between them from time to time. Waste will be disposed of by spreading it on the lands of nearby farmers. The rate of spreading will be in accordance with Teagasc guidelines for the use of pig slurry as a fertiliser in farming. Advise on the licensing and EIA implications.

In 1974, Fintona Urban District Council acquired a network of five worked-out quarries at a site on the edge of, but inside, its functional area. It began to use one of those quarries as a dump. Since then, it has dumped about 10,000 tonnes of waste per annum in that quarry. The quarry is now full, and Fintona UDC wants to begin to fill the remaining four quarries. It proposes to operate them as a "state of the art" water disposal facility and to accept up to 90,000 tonnes of municipal, commercial and domestic water per year from neighbouring local authorities and private operators as well as dumping 10,000 tonnes per year itself. Advise on the licensing and EIA implications.

p.t.o.

5. Holymount Inc. develops a genetically modified wheat seed. It files a notification with the Environmental Protection Agency, seeking consent to plant the seed in a field at the foot of Slievenanavc. Holymount publishes notice of the application in a local newspaper. Kerry Sherlocke and 320 others lodge objections. After the period for objection expires, a report is published in a scientific journal which suggests that the genetically modified wheat seed may cause mutation in laboratory rats. There is overwhelming scientific reaction against the report, and the research practices of the scientist involved are criticised for their poor controls. Ms Sherlocke seeks to submit the report to the Agency, together with a further submission on its contents. The Agency rejects the submission on the grounds that it is made out of time, and that nothing further can be added at this time. In fact, the Agency believes that there is no new information in the report which was not already before it. It issues a decision consenting to the planting, subject to conditions. The conditions require, inter alia, that the planting should be deferred for one year, and that Holymount should conduct research into the possible mutagenic effects of the seeds during this time.

The Agency believes its decision is likely to be challenged by Holymount and Ms Sherlocke. Advise it on what claims it is likely to face and how it can reply to them.