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# University of Pretoria Yearbook 2018

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## MPhil Extractive Industry Policy, Management and Regulation (Coursework) (04251027)

**Minimum duration of study** 1 year

**Total credits** 200

### Programme information

Closing date for applications: SA applicants – 30 November; non-SA applicants – 31 August.

This programme is structured to allow for one year of study; therefore, the programme may be completed within two semesters (1 year), subject to fulfilment of all the requirements for the degree and payment of the full amount prescribed for the MPhil degree.

Please contact the Faculty with regard to specific regulations pertaining to MPhil degree programmes.

### Admission requirements

In addition to at least an honours degree in an academic discipline relevant to natural resources management OR any other qualification in an academic discipline relevant to non-renewable natural resources (particularly mineral and/or hydrocarbon resources) that allows admission to a master's programme at the institution where the undergraduate qualification was obtained, the following requirements are set for admission of a prospective student to the MPhil Coursework programme:

A minimum average mark of 65% with respect to the prescribed final-year modules of the undergraduate programme is required for admission to an MPhil coursework programme.

Where an average of below 65% is achieved, the student may be admitted on recommendation of the relevant head of department after consultation with the programme coordinator and consideration of other merits (e.g. relevant professional experience; the applicant's performance in undergraduate/honours modules related to the particular MPhil; the candidate's performance in independent research essays or similar components) and/or an admission examination.

Linguistic competence, primarily in English; foreign applicants who did not complete undergraduate studies through the medium of English must show proof of competence in English at a minimum average level of 6 out of 10 for IELTS or a minimum total score of 83 in TOEFL calculated as follows: reading 21, listening 17, speaking 23 and writing 22. In any other instance where there is doubt as to the English linguistic competence of an applicant, the Dean may require the same proof as prescribed for foreign applicants.

Foreign qualifications are subject to SAQA evaluation. (Some LLM coursework programmes or modules as indicated in the yearbook may only be available to students who hold a relevant South African legal qualification.)



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Even though a student may comply with the above requirements, the Dean may, on the recommendation of the head of department presenting a specific degree or module, refuse to accept a prospective student for any MPhil programme if such a student's performance in the chosen modules or field of study during undergraduate study was not satisfactory. Alternatively, the Dean could set additional requirements with a view to admission.

An admission examination may also be required in respect of a particular programme or module.

## Other programme-specific information

This is a selection-based programme and only selected applicants will be admitted to the programme.

The mini-dissertation must comprise 13 000 to 15 000 words – including footnotes but excluding the table of contents and the bibliography. (The methodology and content of the mini-dissertation should reflect a multidisciplinary perspective on extractive industry policy, management and regulation.)

Any request for an extension of the period for the submission of the mini-dissertation may only be granted by the Dean on recommendation of the Postgraduate Committee.

## Research information

The relevant head of department must recommend a supervisor and title for a mini-dissertation and these must be approved by the Postgraduate Committee. The mini-dissertation must be assessed and finalised as set out in the Faculty Board-approved LLM Policy Document. Mini-dissertations, where required, must be submitted in the format determined by the supervisor and approved by the Postgraduate Committee. The supervisor may likewise and subject to the approval of the Postgraduate Committee determine the research topic and the scope of the proposed research.

## Pass with distinction

For the degree to be awarded with distinction a student must obtain an average of at least 75% for all the coursework modules together, as well as a minimum of 75% for the mini-dissertation. The modules must have been written for the first time.



## Curriculum: Year 1

Minimum credits: 200

### Core modules

#### Rights to and regulation of natural resources 801 (EIL 801)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Language of tuition</b>	Module is presented in English
<b>Department</b>	Public Law
<b>Period of presentation</b>	Semester 1

#### Module content

The objective of this module is to equip students with a thorough understanding of the legal and policy aspects of natural resources and the regulation of natural resources and industries to extract natural resources. Topics include: (a) Industry background such as the extractive industry value chain and the role of extractive industries in national, regional and global economies, basic extractive industry business and project feasibility metrics, typical national public policy priorities, the differences between the mining and oil and gas industries, gas industry specifics, the various downstream industries (smelters, refineries and petrochemical and energy industries and policy issues pertaining to renewable energy and unconventional extraction methods such as hydraulic fracturing ("fracking")); (b) Natural resource and extractive industry policy concepts and regulatory options; (c) Ownership of mineral rights dispensations (state versus private ownership of mineral rights), the legal position of the owner of the land and the owner of the products of extraction; (d) The advantages and disadvantages of the main granting methodologies applied by host governments including concessions, production sharing agreements, participation agreements, services agreements and hybrid methods; (e) Typical conditions to obtain, renew or transfer exploration or extraction rights and the veracity of the public policy basis of such requirements; (f) Agreements and transactions to transfer rights to prospect and/or to extract; (g) Constitutional and administrative law aspects of relevance in dealing with extractive industry legislation and regulation including the legality of administrative processes governed by an Act such as the MPRD Act and related regulation, the right of third parties to be heard in applications by resource companies under the MPRD Act and the constitutionality of the conversion of "old order mineral rights" to "new order mineral rights".

#### Sustainability aspects of extractive industries 802 (EIL 802)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Language of tuition</b>	Module is presented in English
<b>Department</b>	Public Law
<b>Period of presentation</b>	Semester 1 or Semester 2



## Module content

The objective of this module is to equip students with a thorough understanding of the sustainability aspects of extractive industries. Topics include: (a) A general introduction to sustainability, sustainable development, corporate social responsibility, good governance as it pertains to governments and good corporate governance; (b) International, regional and national instruments related to sustainability aspects of extractive industries such as the protection of human rights, forced labour, inappropriate security practices, "conflict minerals" and "blood diamonds" (including the Kimberley Process Certification Scheme and the US Dodd-Frank Act and SEC disclosure requirements); the Extractive Industry Transparency Initiative (EITI) and the UN Global Compact; [US Dodd-Frank Act; (c) Safety, health and environmental (SHE) aspects of extractive industries including emerging issues such as climate change and personal criminal liability of directors and officers for SHE contraventions; (d) Corporate governance and company law developments of relevance to sustainability including the King 3 Code and similar Codes internationally, Responsible Investment Codes, the role of Social and Ethics Committees as required by the Companies Act 2008, sustainability indexes of the stock exchanges such as the JSE SRI Index and the Dow Jones Sustainability Index, public reporting on sustainability and international reporting guidelines such as the Global Reporting Initiative

## The South Africa Mineral and Petroleum Resources Development Act 803 (EIL 803)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Language of tuition</b>	Module is presented in English
<b>Department</b>	Public Law
<b>Period of presentation</b>	Semester 1 or Semester 2

### Module content

The objective of this module is to equip students with a thorough understanding of conceptual and practical aspects of the South African Mineral and Resources Development Act and related jurisprudence.

## International law aspects of extractive industries 804 (EIL 804)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Language of tuition</b>	Module is presented in English
<b>Department</b>	Public Law
<b>Period of presentation</b>	Semester 1 or Semester 2



## Module content

The objective of this module is to equip students with a thorough understanding of the international law aspects of extractive industries. Topics include: (a) Sovereignty in respect of legal regimes and laws governing extractive industries including the act of state doctrine, the doctrine of sovereign immunity and waivers of immunity and compensation for expropriation; (b) An overview of the most relevant treaties and conventions of relevance to extractive industries including the Convention on the Continental Shelf, the OILPOL convention, the UN Convention on Contracts for the International Sale of Goods, the UN Conventions of the Law of the Sea, the New York Convention, the Convention on the Settlement on Investment Disputes between States and Nationals of Other States, the Energy Charter Treaty to protect international energy investment and trade; international environmental law treaties and conventions and the Guiding Principles on Business and Human Rights. (c) Relevant aspects pertaining to the World Trade Organisation including extractive industry subsidies, environmental labelling and confiscatory taxation; (d) Direct and indirect forms of resource nationalisation and investment treaties to protect natural resource investors; (e) The legal status of offshore petroleum and mining installations and vessels including production platforms, floating production, storage and offloading (FPSOs) vessels and subsea pipelines as well as state jurisdiction in respect of such installations. (f) International dispute resolution mechanisms including enforcement of arbitration awards.

## Civil law liability for extractive industry activities 805 (EIL 805)

<b>Module credits</b>	30.00
<b>Prerequisites</b>	No prerequisites.
<b>Language of tuition</b>	Module is presented in English
<b>Department</b>	Public Law
<b>Period of presentation</b>	Semester 1

## Module content

The objective of this module is to equip students with a thorough understanding of the legal and policy concepts shaping civil liability for activities pertaining to extractive industries. Topics include: (a) The general principles of the law of delict and specific areas of civil liability risk for extractive industries including general international civil liability trends, class actions, "piercing the corporate veil", civil liability for SHE incidents and for competition law contraventions; (b) Principles of product liability; (c) Evolving climate change civil liability concepts; (d) Civil liability dimensions of unconventional extraction methods such as hydraulic fracturing and coal bed methane extraction.

## Socio-economic development and management of non-renewable natural resources 812 (EIL 812)

<b>Module credits</b>	30.00
<b>Contact time</b>	30 contact hours per semester
<b>Language of tuition</b>	Module is presented in English
<b>Department</b>	Public Law
<b>Period of presentation</b>	Semester 2



## Module content

The aim of this module is to equip students, without a formal legal background, a thorough understanding of the various socio-economic aspects and challenges related to the sustainable development and management of mineral and hydrocarbon resources. The topics covered include:

- Historical, philosophical and foundational aspects of non-renewable natural resource development and regulation, with particular reference to development in an African context.
- Basic concepts relating to the sustainable use and development of mineral, oil and gas resources, in general, and with specific reference to sustainable development, economic viability of resource deposits, project operationalisation requirements, good governance in private and public sectors, regulatory burden and policy development.
- The specific interface between responsible resource development and foreign direct investment.

## Mini-dissertation 800 (MND 800)

**Module credits** 100.00

**Prerequisites** RHP 801 and RHP 803

**Language of tuition** Afrikaans and English are used in one class

**Department** Law Deans Office

**Period of presentation** Year

### Module content

- The student must submit a research proposal during his/her first year of registration for the LLM degree to the supervisor prior to commencing with the writing of the mini-dissertation.
- A mini-dissertation (MND 800) of 13 000 to 15 000 words inclusive of footnotes but excluding the list of contents and the bibliography, is required. The mini-dissertation must be submitted to the supervisor not later than August of the second year of registration for the LLM programme. The mini-dissertation must deal with the subject content of one of the modules or a combination of the modules registered for by the student for his/her LLM degree. Any request for an extension of the period for submission of the mini-dissertation may only be granted by the Dean on recommendation of the LLM Committee

## Research methodology 801 (RHP 801)

**Module credits** 5.00

**Prerequisites** No prerequisites.

**Contact time** 8 seminars

**Language of tuition** Module is presented in English

**Department** Jurisprudence

**Period of presentation** Semester 1 or Semester 2



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## Module content

- (a) Planning and organising a research project
- (b) Drafting a research proposal: Hypotheses and research question
- (c) Theory in research and methodological approaches to legal research
- (d) Language
- (e) Citation and ethics of citation
- (f) Drafting of chapters and presentation

## Research proposal 803 (RHP 803)

**Module credits** 5.00

**Prerequisites** No prerequisites.

**Language of tuition** Afrikaans and English are used in one class

**Department** Law Deans Office

**Period of presentation** Year

## Module content

Development and presentation of a research proposal. (A research proposal must be submitted to the supervisor and accepted in the first semester of the second year of study before the student will be allowed to register for the mini-dissertation.)



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## Curriculum: Final year

**Minimum credits: 200**

### Core modules

#### Mini-dissertation 800 (MND 800)

**Module credits** 100.00

**Prerequisites** RHP 801 and RHP 803

**Language of tuition** Afrikaans and English are used in one class

**Department** Law Deans Office

**Period of presentation** Year

#### Module content

- (a) The student must submit a research proposal during his/her first year of registration for the LLM degree to the supervisor prior to commencing with the writing of the mini-dissertation.
- (b) A mini-dissertation (MND 800) of 13 000 to 15 000 words inclusive of footnotes but excluding the list of contents and the bibliography, is required. The mini-dissertation must be submitted to the supervisor not later than August of the second year of registration for the LLM programme. The mini-dissertation must deal with the subject content of one of the modules or a combination of the modules registered for by the student for his/her LLM degree. Any request for an extension of the period for submission of the mini-dissertation may only be granted by the Dean on recommendation of the LLM Committee

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The information published here is subject to change and may be amended after the publication of this information. The [General Regulations \(G Regulations\)](#) apply to all faculties of the University of Pretoria. It is expected of students to familiarise themselves well with these regulations as well as with the information contained in the [General Rules](#) section. Ignorance concerning these regulations and rules will not be accepted as an excuse for any transgression.