1. Briefly set out the key environmental legislation and regulatory authorities in your jurisdiction both in the field of civil law as well as administrative law. Are their specialized courts (civil and/or administrative) that exclusively handle cases of environmental law?

The Danish system of environmental legislation is well-developed and in many aspects influenced by or based on EU legislation.

Environmental work is divided between central and regional administrations and municipal departments. The Environmental Protection Agency (EPA) is responsible for legislation and is the authority in charge of major national tasks as well as particularly complex tasks.

The Environmental Protection Agency prepares legislation and guidelines and grants authorisations in several areas. Further duties include the monitoring of chemicals and offshore platforms.

Decentralised units authorise and monitor approximately 400 enterprises and local waste handling facilities.

The municipalities are responsible for granting permits and inspection of other enterprises and also carry out the majority of specific public sector duties. The municipalities are typically the point of contact for the general public and for companies wishing to access information on the environment.

The Danish Regions are charged with the generation of regional development plans. They undertake special tasks in the areas of soil contamination and raw materials.

The Nature Protection and Environmental Board of Appeal deals with complaints within the remit of the Ministry of the Environment.

There are no specialised courts for cases of environmental law in Denmark. Cases of environmental law are handled by the court system in general.

2. a. To what extent are environmental requirements enforced by regulators in your jurisdiction.

Environmental requirements are generally enforced by local authorities by use of administrative sanctions or court sanctions.

b. What enforcement powers do environmental regulators have in connection with the violation of environmental regulation?

Violations can be enforced by administrative use of injunctions, prohibitions, clarifications or penalty for environmental damage or violation of regulation.
3. Is there an integrated permitting regime or are there separate environmental regimes for different types of emissions? Can companies apply for a single environmental permit for all activities on a site or do they have to apply for separate permits?

Many activities require separate environmental permits from the local or regional authorities. In general activities that have a significant effect on the environment require permits.

Due to EU legislation, activities, that require an integrated license, are listed.

4. What rights are there to appeal against the decision of an environmental regulator not to grant an environmental permit or in respect of the conditions contained in an environmental permit

Decisions of an environmental regulator not to grant an environmental permit can in many cases be appealed to The Environmental Board of Appeal, which is an independent complaints authority for administrative decisions in planning, nature and the environment. The decisions of the Board of Appeal can be tried in the court system.

5. a. What types of liabilities can arise where there is a breach of environmental laws and/or permits?

The liabilities could be duty to clean up, restoration or physical legalization. A breach of environmental law can also led to penalties in the court system.

The Danish Act on Liability for Environmental Damage is a civil tort liability act and does thus not set forth any provisions on measures under public law. However, if the authorities have incurred a loss due to any contamination covered by the Act, the expenses incurred by the authorities in investigating or remedying that contamination will be covered by the contaminator as a result of the strict liability imposed by the Act.

The Act on Liability for Environmental Damage stipulates strict liability in respect of environmental damage caused by certain listed activities. The activities are listed in the Act. The Act applies only if the contamination occurred after 1 July 1994. The Act on Liability for Environmental Damage is rarely used.

If the contamination not is covered by the Act on Liability for Environmental Damage, liability for such contamination is based on case law. The basic principle is that if the contamination was caused by the contaminator due to activities giving rise to liability under the rules of tort liability, the contaminator will be liable for the contamination.

According to Danish case law, the conduct of the contaminator has to be regarded as negligent based on the standards for good and reasonable conduct which applied at the time of the contamination.
b. Can an operator be liable for environmental damage notwithstanding that the polluting activity is operated within permit limits?

Yes. In some areas.

6. Are groups or class actions available for pursuing environmental claims, and are penal or exemplary damages available?

The rules regarding class actions were introduced in Denmark on January 1st 2008 as a supplement to the existing procedural rules. The background for introducing the rules was among other things to make it possible to process similar claims as class actions and thereby process similar claims more efficiently. In addition the rules made it easier to process similar claims which under normal circumstances might not be litigated because of lack of resources if they were to be made as individual claims.

When filing a class action there are a number of requirements that must be fulfilled in order for the Court to grant that the class action rules shall apply. The claims shall be made by more than one person, Denmark shall be the correct venue for all the claims and the Court, where the case is filed, shall have jurisdiction for one of the claims. In addition the Court shall be substantively competent regarding one of the claims and it shall be possible to appoint a representative of the group.

In addition to the abovementioned conditions the claims are required to be similar. It is up to the Court’s discretion to decide when a series of claims are to be regarded as similar. According to the preparatory work, claims can be regarded as similar when the claims are based on the same factual circumstances and legal grounds.

The class action rules are an alternative to the ordinary procedural rules and it is therefore also a requirement that the class action rules shall be deemed to be the best way to process the claims.

Penalties or exemplary damages are available within Danish law and also apply in cases of environmental law.

7. Do regulators keep public registers of environmental information? What is the procedure for a third party to search those registers?

In Denmark information on environmental matters is available to the public as a result of EU directives and international conventions. The information must be made available and covers many areas of environmental interest.

8. Briefly describe any proposals of new policy/national plans/regulation/ or reform?

The National climate policy in Denmark under the current government:

- The long-term goal for Danish energy policy is: the entire energy supply – electricity, heating, industry and transport – is to be covered by renewable energy by 2050.
In March 2012 a historic new Energy Agreement was reached in Denmark. The Agreement contains a wide range of ambitious initiatives, bringing Denmark a good step closer to the target of 100% renewable energy in the energy and transport sectors by 2050.

In many ways, Denmark has started the green transition well. However the Agreement moves us up a gear, with large investments up to 2020 in energy efficiency, renewable energy and the energy system. Results in 2020 include approximately 50% of electricity consumption supplied by wind power, and more than 35% of final energy consumption supplied from renewable energy sources.

Energy savings

- Energy savings and energy efficiency are important components of Danish energy policy and contribute to limiting energy consumption to ensure significant and cost-effective energy savings within all areas. We need to spend less energy in our homes; enterprises need to be made more energy-efficient; and we need to aim special efforts at public institutions.
- The initiatives agreed on in the energy agreement will result in a reduction of almost 7.6% in 2020 relative to 2010.

Renewable energy in Denmark

- Along with security of supply, energy savings and green growth, expanding the use of renewable energy in Denmark is at the core of the Danish energy policy.
- As a result of the energy agreement, Denmark will have more than 35% renewable energy in final energy consumption in 2020. This is a major step towards the long-term goal for a green-growth economy with 100% renewable energy in energy and transport sectors.
- It is a binding target in the EU that at least 30% will be renewable energy in Denmark's final energy consumption by 2020. This is stipulated in the EU climate and energy package from 2008. In addition, there is a binding target of 10% renewable energy in the transport sector by 2020.

Climate Policy

- Denmark has committed to meeting an ambitious and binding target for reducing greenhouse gases by 2020. This target is the most ambitious in the EU: By 2020, Denmark must have reduced the greenhouse gas emissions from Danish non-ETS sectors by 20% relative to 2005.
- Denmark’s international commitment to a significant reduction in the greenhouse gas emissions not covered by the ETS in the period 2013-2020 poses a special challenge.
- The government's climate target is to cut greenhouse gas emissions by 40% by 2020 in relation to 1990. Read about the general greenhouse gas reduction principals in the Danish Climate Policy Plan
- The high level of ambition underpins the need for a Danish policy that will give Denmark the highest return on climate and energy investments. The Catalogue of Danish Climate Change Mitigation Measures describes a number of possible policies and measures to mitigation climate change.
• Good examples of mitigation policies in Denmark is the use of wind power and the electric car.
• The current investments in expanding the infrastructure to accommodate electric cars are a relatively cheap way to reduce CO2 emissions from the transport sector. The electric car solves three problems in one, since it also provides energy savings and opportunities for increasing the share of renewable energy in our energy system.

Security of supply

• Long-term security of supply reduction of energy consumption through energy savings, increased use of renewables, and closer collaboration in Europe.

9. a. Are there any national targets or legal requirements for reducing greenhouse gas emissions, increasing the use of renewable energy and/or increasing energy efficiency? Is there a national strategy on climate change, renewable energy and/or energy efficiency?

See above the answer to question 8.

b. Is your jurisdiction party to the United Nations Framework Convention on Climate Change (UNFCCC) and/or the Kyoto Protocol? How have the requirements under those international agreements been implemented?

Yes, see above the answer to question 8.

10. Do the usual rules of causation and statute of limitation apply in toxic tort cases?

In some cases regarding environmental damage such as soil contamination the rules of causation does not apply and there is a special statute of limitation up to 30 years after the polluting act or production is ended.

11. Can an individual bring legal action against a polluter, owner or occupier?

Yes. An individual can bring legal action against a polluter, owner or occupier, if the individual has a legal interest in the matter.

12. a. In what circumstances can a buyer inherit pre-acquisition environmental liability in an asset sale or sale of a company (share sale)?

Injunctions are binding for a buyer of a company, if the injunction is known. A buyer can inherit environmental liability, if he becomes legal owner.

Before the sale, due diligence should assess the environmental risk for the buyer.
b. In what circumstances can a seller retain environmental liability after an asset sale or a share sale?

Se above.

Before the sale, due diligence should assess the environmental risk for the buyer.

c. Does a seller have to disclose environmental information to the buyer in an asset sale/a share sale?

Yes. Buyer beware applies, and the due diligence process should disclose environmental liabilities for the buyer.

13. What is the environmental liability of a company after it dissolved?

It may be possibly for directors or board members of a company to face criminal liability or the remediation costs for acts of pollution, if they are responsible for the polluting activity. Although the dissolution of a company could easily lead to environmental liability and costs for the State and not the company.

14. Could you please briefly indicate whether in your jurisdiction landmark judgments have been rendered by the (supreme or highest) courts (please just one example per issue) in which

a. the principle known as “the polluter pays” is accepted

Yes, by the Danish Supreme Court.

b. class actions have been successful in cases of infringement of environmental law and in which compensations has been awarded to the persons who sustained the damage

The rules regarding class actions were introduced in 2008, and there has not yet been cases using the rules of class action regarding environmental law.

c. in cross border cases problems of identification of the applicable law have been solved.

No.