

2015 No. 823

ANTARCTICA

**The Antarctic Act 1994 (Overseas Territories) (Amendment)
Order 2015**

Made - - - - - *19th March 2015*

Laid before Parliament *26th March 2015*

Coming into force

*Subject to the provisions of Article
1(2)* *30th July 2015*

At the Court at Buckingham Palace, the 19th day of March 2015

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers vested in Her by the Foreign Jurisdiction Act 1890(a), the British Settlements Acts 1887 and 1945(b), section 34(2) and (3) of the Antarctic Act 1994(c) and section 18(2) of the Antarctic Act 2013(d), and all of the other powers enabling Her to do so, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Antarctic Act 1994 (Overseas Territories) (Amendment) Order 2015 and, subject to the provisions of paragraph (2), comes into force on 30th July 2015.

(2) The Schedule to this Order comes into force in respect of each territory to which the Order extends on such day as the Governor of the territory may by order, published in the official gazette of the territory, appoint; and different days may be appointed for different provisions and different purposes.

(3) This Order extends to the territories listed in Schedule 2 to the principal Order.

(4) In this Order, “the principal Order” means the Antarctic Act 1994 (Overseas Territories) Order 1995(e).

Amendment of the principal Order

2. Schedule 1 of the principal Order is amended as set out in the Schedule to this Order.

(a) 1890 53 & 54 Vict. c. 37.
(b) 1887 50 & 51 Vict. c. 54 and 1945 9 & 10 Geo. 6 & 7.
(c) 1994 c. 15.
(d) 2013 c. 15.
(e) S.I. 1995/1030.

SCHEDULE

Article 2

Application of offences to non-nationals

1.—(1) In the following provisions, after “United Kingdom national” insert “, and no non-national on a British expedition,”—

- (a) section 7(1) (offence of damaging flora and fauna etc);
- (b) section 8(1) (offence of introducing non-native animals and plants);
- (c) section 9(1) (offence of entering or remaining in restricted areas);
- (d) section 10(1) (offence of damaging etc certain sites and monuments);
- (e) section 11(1) (offence of entering or remaining in protected place).

(2) In section 11 (protected places)—

- (a) in subsection (3) (permits), after “United Kingdom national” insert “, or any non-national on a British expedition,”;
- (b) after that subsection insert—

“(4) The Governor, with the consent of the Secretary of State, shall not grant a permit under this section in respect of a non-national on a British expedition unless he is satisfied that the activities authorised by the permit will be carried on only for the purposes of education or scientific research.”.

(3) In section 12 (permits for activities prohibited by sections 7, 8 and 9)—

- (a) the existing provision becomes subsection (1);
- (b) in that provision, after “United Kingdom national” insert “, or any non-national on a British expedition,”;
- (c) after that provision insert—

“(2) The Governor, with the consent of the Secretary of State, shall not grant a permit under this section in respect of a non-national on a British expedition unless he is satisfied that the activities authorised by the permit will be carried on only for the purposes of education or scientific research.”.

(4) In section 31(1) (interpretation), at the appropriate place insert—

““non-national” means an individual who is not a United Kingdom national;”.

Consequential

(5) In section 3(3) (permits for British expeditions), for “section” substitute “Act”.

(6) In section 31(1) (interpretation), at the appropriate place insert—

““British expedition” has the meaning given by section 3;”.

(7) In the first paragraph of Schedule 3 to the principal order, after “section 3” insert “(except subsections (3) and (4))”.

Historic Sites and Monuments: permits

2.—(1) In section 10 (Historic Sites and Monuments)—

- (a) in subsection (1), at the end insert “, except in accordance with a permit granted under this section or under the written authorisation of another Contracting Party”;
- (b) after subsection (2) insert—

“(3) The Governor, with the consent of the Secretary of State, may on the application of any person grant to him a permit authorising any United Kingdom national, or any non-national on a British expedition, who is specified or of a description specified in the permit to do anything specified or of a description specified in the permit that would otherwise constitute a contravention of subsection (1).

(4) The Governor, with the consent of the Secretary of State, shall not grant a permit under this section unless he is satisfied that the activities authorised by the permit will be carried on only for the purposes of conservation or repair of—

- (a) the Antarctic Historic Site or Monument to which the permit relates, or
- (b) any object within it.”.

Consequential

(2) In section 15 (duty to have regard to Protocol), after “5”, insert “, 10”.

(3) In section 30 (3) (evidence) for “or 9(1)” substitute “, 9(1) or 10(1)”.

Conservation of animals and plants

3.—(1) In section 7 (Conservation of Antarctic fauna and flora), in subsection (1)(e), after “native plant” insert “or native invertebrate”.

(2) In that section, after subsection (1) insert—

“(1A) Accidental harm occurring in the course of—

- (a) normal operations of a vessel, or
- (b) the activity of fishing for profit,

shall not be regarded as a contravention of subsection (1)(e), (f) or (g).”.

(3) In section 8 (Permits required for introducing non-native animals and plants into Antarctica) for subsection (2) substitute—

“(2) The keeping of—

- (a) a recognised assistance dog on board a vessel in Antarctica,
- (b) another animal on board such a vessel where the vessel is travelling to an immediate destination outside Antarctica, or
- (c) a plant on board a vessel in Antarctica,

shall not be regarded as a contravention of subsection (1).”.

(4) In that section, after subsection (3), insert—

“(4) Nothing in this section prohibits the introduction of a microscopic organism.

(5) In this section—

“plant” means any terrestrial, marine or freshwater vegetation, including bryophytes, lichen, fungi and algae, and includes such vegetation at any stage of its life cycle (including seeds and other propagules of such vegetation):

“recognised assistance dog” means a dog which has been trained to assist a disabled person by a person, or a person of a description, prescribed in regulations.”.

(5) After section 8 insert—

“8A Introduction of microscopic organisms

(1) No United Kingdom national, and no non-national on a British expedition, may introduce into any part of Antarctica any microscopic organism of a species which is not indigenous to Antarctica, except in accordance with a permit granted under section 12 or under written authorisation of another Contracting Party.

(2) Subsection (1) does not apply to a person if the person took reasonable precautions to prevent the introduction of the organism.

(3) Subsection (1) does not apply in relation to an organism inhabiting the human body or the body of an animal.

(4) Any person who contravenes subsection (1) shall be guilty of an offence.”

(6) In section 12 (Grant of permits for activities prohibited by sections 7, 8 and 9)—

(a) in the heading, for “sections 7, 8 and 9” substitute “sections 7 to 9”;

(b) after “8(1)” insert “, 8A(1)”.

(7) After section 8A (as inserted by paragraph (5) above) insert—

“8B Introduction of non-sterile soil

(1) No United Kingdom national, and no non-national on a British expedition, may introduce non-sterile soil into any part of Antarctica.

(2) Subsection (1) does not apply to a person if the person took reasonable precautions to prevent the introduction of the non-sterile soil.

(3) Any person who contravenes subsection (1) shall be guilty of an offence.”

(8) In section 31 (Interpretation), in subsection (1)—

(a) in the definitions of “native bird” and “native mammal” omit “or occurring there seasonally through natural migrations”;

(b) in the definition of “native invertebrate” after “terrestrial” insert “, marine”;

(c) in the definition of “native plant” after “terrestrial” insert “, marine”.

(9) In that section, after subsection (1) insert—

“(1A) In this Act, references to a species “indigenous to Antarctica” include a species occurring in Antarctica through natural migration.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order modifies the Antarctic Act 1994 (Overseas Territories) Order 1995 in order to implement the amendments made to the Antarctic Act 1994 by the Antarctic Act 2013. Part II of the Antarctic Act 2013 made a number of minor changes to the permit regime set out in the Antarctic Act 1994. The changes bring non-UK nationals on British expeditions into the scope of the permit regime; allows the UK to permit conservation work on historic sites and monuments in Antarctica; and creates new offences of introducing non-sterile soil or microscopic organisms into Antarctica, damaging native invertebrates, or having an animal on board a vessel (except recognised assistance dogs or if the vessel is only transiting Antarctic waters).

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