

ANTARCTIC ACT 2013

EXPLANATORY NOTES

BACKGROUND

Antarctic Treaty

3. The Antarctic Treaty establishes a mechanism for international co-operation to protect and preserve Antarctica for peaceful purposes. The United Kingdom was the first country to ratify the Treaty, which came into force in 1961. There are currently 28 Consultative (executive) Parties and 20 non-Consultative Parties. The Antarctic Treaty Consultative Parties meet annually to exchange information and consult on matters relating to Antarctica and may adopt measures “in furtherance of the principles and purposes of the Treaty” which become effective when approved by the Governments of all Antarctic Treaty Consultative Parties. The full text of the Treaty can be found at: www.ats.aq/documents/ats/treaty_original.pdf.

Protocol on Environmental Protection to the Antarctic Treaty

4. The Protocol on Environmental Protection to the Antarctic Treaty (“the Protocol”) provides for the comprehensive protection of the Antarctic environment. It requires all human activities undertaken in Antarctica to be planned and conducted so as to limit adverse impacts on the Antarctic environment. Its Article 7 prohibits any activity relating to mineral resources other than scientific research. Until 2048 the Protocol can only be modified by unanimous agreement of all the Consultative Parties to the Treaty and, in addition, the prohibition on activity relating to mineral resources cannot be removed without a binding legal regime on Antarctic mineral resource activities being in force. There is therefore no foreseeable prospect of oil exploration or similar activity in the Antarctic. The Protocol, including its Annexes I–IV, was adopted in 1991 and entered into force in 1998. Annex V was adopted later in 1991 and entered into force in 2002. Provision is made in the Protocol for additional annexes to be adopted and incorporated into the Protocol following their entry into force. The text of the Protocol is available at: http://www.ats.aq/documents/recatt/Att006_e.pdf.

Liability Annex

Annex VI to the Protocol, “*Liability Arising from Environmental Emergencies*” (“the Liability Annex”), was adopted by the Antarctic Treaty Consultative Parties in 2005. It obliges States Parties to require their Antarctic operators (governmental and non-governmental) to take preventative measures to reduce the risk of environmental emergencies in Antarctica, to establish contingency plans and to take prompt and effective response action to environmental emergencies arising from their activities. It imposes financial liability on operators which fail to take such response action, effectively establishing a “polluter pays” mechanism. The primary aim of the Annex is to act as a deterrent for those who might operate irresponsibly in Antarctica. In accordance with the Provisions of Article 9(2) of the Protocol, and Article IX of the Antarctic Treaty, the Liability Annex will enter into force once it has been approved by all of the 28 Consultative Parties which adopted it in 2005. The approval of each Consultative Party takes place when it deposits a note signifying its approval of the

*These notes refer to the Antarctic Act 2013 (c.15)
which received Royal Assent on 26 March 2013*

Annex with the Depositary Government of the Antarctic Treaty. The text of the Liability Annex is available at: http://www.ats.aq/documents/recatt/Att249_e.pdf.

Antarctic Act 1994

5. The Antarctic Act 1994 (“the 1994 Act”) gives effect to obligations of the United Kingdom under the Antarctic Treaty and the Protocol (including its Annexes I–V). Under the 1994 Act, a permit is required for all British expeditions to Antarctica, for British vessels and aircraft entering Antarctica and for certain activities in Antarctica by United Kingdom nationals. The Act is administered by the Foreign and Commonwealth Office. It is available at: <http://www.legislation.gov.uk/ukpga/1994/15/contents>