



# Antarctic Act 1994

## 1994 CHAPTER 15

### PART II

#### ENVIRONMENTAL PROTECTION

##### *Permits for entering and remaining in Antarctica*

VALID FROM 14/01/1998

### **3 Permits required for British expeditions to Antarctica.**

- (1) No person who is on a British expedition may enter or remain in Antarctica except in accordance with a permit granted under this section.
- (2) Subsection (1) does not apply—
  - (a) to a person travelling through, on or above the high seas to an immediate destination outside Antarctica, or
  - (b) to a person entering or remaining in Antarctica for the sole purpose of fishing for profit.
- (3) Subject to subsection (4), for the purposes of this section an expedition is a British expedition if—
  - (a) it was organised in the United Kingdom, or
  - (b) the place of final departure for Antarctica of the persons on the expedition was in the United Kingdom.
- (4) An expedition organised in and authorised in writing by another Contracting Party shall not be regarded as a British expedition.
- (5) Any person who contravenes subsection (1) shall be guilty of an offence.
- (6) If subsection (1) is contravened by a person who—

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- (a) is on an expedition in respect of which a permit has been granted under this section to another person, and
  - (b) is specified or of a description specified in that permit,
- that other person shall be guilty of an offence.
- (7) If a person whose place of final departure for Antarctica was in the United Kingdom enters Antarctica in contravention of subsection (1)—
- (a) the operator of the vessel or aircraft on which he enters Antarctica, and
  - (b) the master of that vessel or the commander of that aircraft,
- shall each be guilty of an offence.
- (8) The Secretary of State may on the application of any person grant to him a permit authorising any person specified or of a description specified in the permit to enter and remain in Antarctica on a British expedition.

VALID FROM 14/01/1998

#### **4 Permits required for British stations in Antarctica.**

- (1) No person may remain on a British station in Antarctica except in accordance with a permit granted under this section.
- (2) For the purposes of this section a station is a British station if it is maintained by or on behalf of a United Kingdom national.
- (3) Any person who contravenes subsection (1) shall be guilty of an offence.
- (4) If subsection (1) is contravened by a person who—
  - (a) is on a station in respect of which a permit has been granted under this section to another person, and
  - (b) is specified or of a description specified in that permit,
 that other person shall be guilty of an offence.
- (5) The Secretary of State may on the application of any person grant to him a permit authorising any person specified or of a description specified in the permit to remain on any British station in Antarctica specified in the permit or of a description specified in the permit.

#### **5 Permits required for British vessels and aircraft entering Antarctica.**

- (1) No British vessel or British aircraft may enter Antarctica except in accordance with a permit granted under this section or under the written authorisation of another Contracting Party.
- (2) Subsection (1) does not apply—
  - (a) to a vessel or aircraft travelling to an immediate destination outside Antarctica, or
  - (b) to a vessel entering Antarctica for the sole purpose of fishing for profit.
- (3) In this section—

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“British vessel” means a United Kingdom ship within the meaning of section 21(1) of the <sup>M1</sup>Merchant Shipping Act 1979, and

“British aircraft” means a British-controlled aircraft within the meaning of section 92 of the <sup>M2</sup>Civil Aviation Act 1982.

- (4) If subsection (1) is contravened—
- (a) the operator of the vessel or aircraft, and
  - (b) the master of the vessel or the commander of the aircraft,
- shall each be guilty of an offence.
- (5) The Secretary of State may on the application of any person grant to him a permit authorising any British vessel or aircraft of which he is the operator and which is specified or of a description specified in the permit to enter Antarctica on occasions or in circumstances specified in the permit.

#### Marginal Citations

**M1** 1979 c. 39.

**M2** 1982 c. 16.

### *Mineral resources*

## **6 Mineral resource activities.**

- (1) No United Kingdom national may in Antarctica—
- (a) drill, dredge or excavate for mineral resources,
  - (b) collect any samples of mineral resources, or
  - (c) do anything for the purpose of identifying specific mineral resource occurrences or deposits, or areas where such occurrences or deposits may be found,
- except in accordance with a permit granted under this section.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence.
- (3) The Secretary of State may on the application of any person grant to him a permit authorising any United Kingdom national who is specified or of a description specified in the permit to do anything so specified or of a description so specified that would otherwise constitute a contravention of subsection (1).
- (4) 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—
- (a) only for the purposes of scientific research, or
  - (b) only for purposes connected with the construction, maintenance or repair in Antarctica of a British station within the meaning of section 4 or of any other structure, road, runway or jetty maintained by or on behalf of a United Kingdom national.
- (5) In this section “mineral resource” means any natural resource that is neither living nor renewable.

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## *Fauna and flora*

### **7 Conservation of Antarctic fauna and flora.**

- (1) No United Kingdom national may in Antarctica—
- (a) intentionally kill, injure, capture, handle or molest any native mammal or native bird,
  - (b) while on foot intentionally disturb a breeding or moulting native bird, or a concentration of native mammals or native birds,
  - (c) use a vehicle, vessel or aircraft in a manner that disturbs a concentration of native mammals or native birds,
  - (d) use explosives or firearms in such a manner,
  - (e) remove or damage such quantities of any native plant that its local distribution or abundance will be significantly affected,
  - (f) significantly damage a concentration of native plants, or
  - (g) do anything that is likely to cause significant damage to the habitat of any native mammal, bird, plant or invertebrate,
- except in accordance with a permit granted under section 12 or under the written authorisation of another Contracting Party.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence.

### **8 Permits required for introducing non-native animals and plants into Antarctica.**

- (1) No United Kingdom national may introduce into any part of Antarctica any animal of a species that is not indigenous to Antarctica, or any plant that is not a native plant, except in accordance with a permit granted under section 12 or under the written authorisation of another Contracting Party.
- (2) The keeping of an animal or plant on board a vessel in Antarctica shall not be regarded as a contravention of subsection (1).
- (3) Any person who contravenes subsection (1) shall be guilty of an offence.

## *Special areas*

### **9 Areas restricted under the Protocol.**

- (1) No United Kingdom national may enter or remain in an area in Antarctica designated by regulations as an area restricted under the Protocol except in accordance with a permit granted under section 12 or under the written authorisation of another Contracting Party.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence.

### **10 Historic Sites and Monuments.**

- (1) No United Kingdom national may damage, destroy or remove any part of a site or monument designated by regulations as an Antarctic Historic Site or Monument.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence.

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## **11 Places protected under the Convention.**

- (1) No United Kingdom national may enter or remain in a place that is in the area south of the Antarctic Convergence and that has been designated by regulations as a place protected under the Convention (in this section referred to as a “protected place”) except in accordance with a permit granted under this section.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence.
- (3) The Secretary of State may on the application of any person grant to him a permit authorising any United Kingdom national specified or of a description specified in the permit to enter and remain in any protected place specified in the permit.

*Permits under Part II: further provisions*

## **12 Grant of permits for activities prohibited by sections 7, 8 and 9.**

The Secretary of State may on the application of any person grant to him a permit authorising any United Kingdom national 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 section 7(1), 8(1) or 9(1).

## **13 Conditions attached to permits under Part II.**

- (1) The Secretary of State may on granting a permit under this Part attach to it such conditions as he thinks fit, including—
  - (a) conditions to be complied with by persons doing anything authorised by the permit,
  - (b) in the case of a permit granted under section 5, conditions to be complied with by the master and crew of any vessel to which the permit relates or by the commander and crew of any aircraft to which the permit relates, and
  - (c) conditions requiring the person to whom the permit is granted to provide information to the Secretary of State.
- (2) If any person contravenes a condition attached to a permit under subsection (1)—
  - (a) he shall be guilty of an offence, and
  - (b) if the permit was granted to another person, that other person shall be guilty of an offence.

## **14 Permits: applications, production, revocation and suspension.**

- (1) Regulations may make provision—
  - (a) as to the procedure for making applications for permits under this Part,
  - (b) as to the circumstances in which, the persons to whom, and the persons by whom, permits may be required to be produced,
  - (c) as to the circumstances in which permits are liable to be revoked or suspended by the Secretary of State,
  - (d) as to the notice to be given before permits are revoked or suspended, and as to the other procedure to be followed in relation to the revocation or suspension of permits, and

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- (e) for appeals against the revocation or suspension of permits, and as to the procedure to be followed in relation to such appeals (including provision in accordance with which such procedure is to be determined).
- (2) Any person who without reasonable excuse fails to produce a permit in compliance with a requirement made in accordance with regulations under subsection (1)(b) shall be guilty of an offence.

## **15 Duty to have regard to the Protocol and to measures implementing the Protocol.**

The Secretary of State shall have regard to the provisions of the Protocol and to any measures for the implementation of the Protocol that have become effective by virtue of paragraph 4 of Article IX of the Antarctic Treaty—

- (a) in considering in any case whether to grant a permit under section 3, 4, 5 or 12,
- (b) in any case where he grants a permit under section 3, 4, 5 or 12, in considering whether to attach any conditions to it under section 13(1), and
- (c) in exercising his power to make regulations under section 14(1)(c) in relation to a permit granted under section 3, 4, 5 or 12.

## **16 Delegation of powers under sections 11 and 12 etc.**

- (1) Any of the Secretary of State's powers relating to the granting of permits under section 11 or 12, or the revocation or suspension of permits granted under section 11 or 12, may be delegated by him to any person—
  - (a) who holds office as Administrator of the British Antarctic Territory (or who holds an appointment, by whatever name called, having functions similar to those performed by the person holding that office on the date of the passing of this Act),
  - (b) who holds office as Director of the British Antarctic Survey (or who holds an appointment, by whatever name called, having functions similar to those performed by the person holding that office on the date of the passing of this Act), or
  - (c) who is for the time being running a station in Antarctica on behalf of a person such as is mentioned in paragraph (b).
- (2) Where any powers have been delegated under subsection (1) to a person such as is mentioned in paragraph (a) or (b) of that subsection, they may be exercised by any person who—
  - (a) is for the time being exercising the functions of the person to whom the powers have been delegated, and
  - (b) is authorised (whether generally or specially) for the purposes of this section by that person or by the Secretary of State.
- (3) References in sections 13 to 15 to the Secretary of State include references to any person exercising any powers by virtue of this section.
- (4) Any person to whom powers have been delegated under subsection (1) shall, as soon as practicable after the end of—
  - (a) the period ending with the first 30th June after the delegation took effect, and
  - (b) every subsequent period of twelve months ending with 30th June during any part of which the delegation has effect,
give a report to the Secretary of State in respect of that period.

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- (5) A report given under subsection (4) in respect of a period shall contain such particulars as the Secretary of State may require of—
- (a) any permits granted, revoked or suspended during that period by the person giving the report (or by any other person exercising the powers delegated to that person), and
  - (b) any information received during that period by the person giving the report (or by any other person exercising the powers delegated to that person) in accordance with conditions attached to permits.
- (6) The Secretary of State may from time to time by notice in writing to a person to whom powers have been delegated substitute a different period for any period in respect of which that person is required to give a report under subsection (4).

### *Offences under Part II*

#### **17 Proceedings for offences under Part II.**

Proceedings for an offence under this Part may be taken, and the offence may for incidental purposes be treated as having been committed, in any place in the United Kingdom.

#### **18 Defences.**

- (1) Where a person is charged with an offence under section 3(5), (6) or (7), 4(3) or (4), 5(4) or 13(2) it shall be a defence to prove that the contravention in question occurred by reason of matters outside his control and that he took all reasonable precautions to avoid such a contravention.
- (2) Subject to subsection (3), where a person is charged with an offence under this Part it shall be a defence to prove that the contravention in question occurred in a case of emergency relating to—
- (a) the safety of human life, vessels or aircraft,
  - (b) the safety of equipment and facilities of high value, or
  - (c) the protection of the environment.
- (3) Subsection (2) does not apply where the contravention in question is a contravention of section 6(1) or of a condition attached to a permit granted under section 6(3).
- (4) Where a person is charged with an offence under section 7(2) in respect of a contravention of section 7(1)(a), it shall be a defence to prove that the act in question was done for the relief of the suffering of the mammal or bird in question.

#### **19 Offences committed by bodies corporate and Scottish partnerships.**

- (1) Where an offence under this Part has been committed by a body corporate and the contravention in question is proved to have occurred with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) a director, manager, secretary or other similar officer of the body corporate, or
  - (b) any person who was purporting to act in any such capacity,
- he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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- (2) In subsection (1) “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.
- (3) Where an offence under this Part has been committed by a Scottish partnership and the contravention in question is proved to have occurred with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

## **20 Penalties.**

Any person who is guilty of an offence under this Part shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both, and on summary conviction to a fine not exceeding the statutory maximum.



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