

ANTARCTIC ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – Environmental Emergencies

Duty to take response action

Section 1 – Duty to take response action

9. This section requires those who organise activities carried out in Antarctica, where those activities are connected with the United Kingdom, to take reasonable, prompt and effective response action in relation to any environmental emergency arising directly or indirectly from those activities. This obligation reflects Article 5(1) of the Liability Annex. ‘Response action’ and what constitutes ‘reasonable’ response action are defined in section 13(5) to (8). These definitions reflect Article 2(e) and (f) of the Liability Annex.
10. *Subsection (2)* makes it an offence to fail to comply with the requirement in subsection (1) to take response action.
11. *Section 1* is subject to the general exclusions set out at section 9. The effect of these is to limit the extent to which liability in the event of a failure to take response action to an environmental emergency will be imposed.
12. The penalties for this offence are set out in *subsection (3)*. *Subsection (4)* and *subsection (5)* require the court, in determining the amount of a fine, to take into account the amount that the offender would have spent had the obligations in this section been complied with (to the extent that those costs are not recovered from the offender under the civil liability provisions of this Part, namely, sections 2 and 3). See Article 6 of the Liability Annex.