

# ANTARCTIC ACT 2013

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – Environmental Emergencies**

##### **General**

##### *Section 11 – Offences*

45. This section contains various technical provisions relating to offences under the Act. It provides in *subsection (1)* that sections 17 (places where proceedings may be taken etc.), 19 (offences by bodies corporate and Scottish partnerships), 28 (consents required for institution of proceedings) and 29(1)(b) and (2) (power to make regulations about arrest) of the 1994 Act apply in relation to offences under the Act as if such offences were offences under Part 2 of the 1994 Act. *Subsections (2) to (5) and (7)* deal with offences committed by unincorporated associations and *subsection (6)* sets out the extent of a reference to an offence under the Act.

##### *Section 12 - Orders*

46. *Subsection (3)* requires that the exercise of any delegated powers by way of an order under Part 1 be subject to annulment in pursuance of a resolution of either House of Parliament (negative procedure). This is consistent with the procedure for exercising delegated powers contained in the 1994 Act (see section 32(3) of that Act).

##### *Section 13 – Interpretation*

47. This section defines certain terms used in Part 1.
48. The definition of “environmental emergency” in *subsection (3)* reflects Article 2(b) of the Liability Annex. The definitions of “response action” in *subsection (5)* and what constitutes “reasonable” response action in *subsections (6) and (7)* reflect Article 2(e) and (f) of the Liability Annex.
49. *Subsection (9)* sets out which activities are “connected with” the United Kingdom for the purposes of Part 1. This concept is relevant to the application of many of the provisions. Activities are “connected with” the United Kingdom if they are organised in the United Kingdom, the Channel Islands, the Isle of Man or a British overseas territory and if they are, or are to be, either carried out on a British expedition within the meaning of the 1994 Act, or, in all the circumstances in which they are or are to be carried out, the activities require a permit under any other provision of the 1994 Act. It does not matter for these purposes whether a permit has in fact been granted in respect of the activities under the 1994 Act. When a permit application is made, compliance with these requirements would be assessed prior to the grant of any permit by the Secretary of State.
50. *Subsection (10)* defines when a person will be considered to be “based” in the United Kingdom or elsewhere. In the case of an individual, the test is where that person has

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

their habitual place of residence; in the case of a body corporate it is where the body is incorporated or has its principal place of business. In any other case, the test is where that person has their principal place of business or where their activities (other than those that take place in Antarctica) are principally carried out.

51. These definitions are designed to secure that the provisions of the Act apply in the way required by the Liability Annex and reflect in particular the definitions in Article 2(c) and (d) of the Annex.