

**EXPLANATORY MEMORANDUM TO  
THE ANTARCTIC (AMENDMENT) REGULATIONS 2009  
2009 No. 2354**

1. This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the Instrument**
  - 2.1 These Regulations amend the Antarctic Regulations 1995 made under the Antarctic Act 1994, by adding further protected areas and updating the descriptions of existing protected areas in Antarctica.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 This instrument was made on 23 August 2009 and came into force on 22 September 2009. It was the intention of the Foreign and Commonwealth Office to lay it on 1 September 2009. It was sent to Parliament on that date, but, although copies were delivered to the Clerk to the Joint Committee and to the Clerk to the Merits Committee, due to clerical error no copies were delivered to the proper officers of the House of Lords and the House of Commons for laying. Upon discovery of this error the Foreign and Commonwealth Office took immediate remedial action. The instrument was laid on 27 October 2009. The laying date shown on the first page of the instrument has been corrected accordingly. Arrangements are being made with the OPSI to correct the date on all published copies. The Foreign and Commonwealth Office is writing to the Speaker of the House of Commons and to the Speaker of the House of Lords in accordance with the proviso to section 4(1) of the Statutory Instruments Act 1946. Internal procedures are being revised to prevent any recurrence of this type of error.
  - 3.2 The Foreign and Commonwealth Office deeply regrets the delay in the laying of this instrument and any inconvenience thereby caused to Parliament.
4. **Legislative Context**
  - 4.1 This instrument updates the legislation for the environmental protection of Antarctica, in line with the United Kingdom's obligations as a State Party to the Protocol on Environmental Protection to the Antarctic Treaty 1991 ("the Environmental Protocol").
  - 4.2 The Antarctic Act 1994 requires British nationals to obtain a permit before entering any area in Antarctica designated as protected under the Protocol, and to act in accordance with its conditions. This is to ensure full compliance with the Protocol, including controlling visits to sites designated as protected areas for historical or ecological reasons.

- 4.3 The annual meeting of Treaty Parties (the Antarctic Treaty Consultative Meeting, or “ATCM”) regularly agrees new sites in Antarctica that should be designated as protected areas and updates the designations and descriptions of existing sites. It does so by adopting binding “Measures” under the Environmental Protocol to the Antarctic Treaty.
- 4.4 This instrument reflects the additions and revisions agreed at the thirtyfirst ATCM held in Kiev in June 2008. It amends the Antarctic Regulations 1995, as amended in 1998, 2000, 2002 2003, 2004 and 2008.

## **5. Territorial Extent and Application**

- 5.1 The instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy Background**

- 7.1 The United Kingdom is one of the twelve original signatories to the Antarctic Treaty and is a Consultative Party. The United Kingdom is also a State Party to the Environmental Protocol, which provides for the comprehensive protection of the Antarctic Environment and which entered force in 1998.
- 7.2 The Protocol substantially strengthens the binding nature of provisions on conservation and environmental protection in Antarctica. Annex V to the Protocol, on area protection and management, extends protected area designations. Antarctic Specially Protected Areas (“ASPAs”) may be created to protect marine, terrestrial, aquatic and glacial ecosystems, areas of particular biological, scientific, historical, environmental, aesthetic and wilderness values, and areas that are the only known habitat of any species. Under the Protocol, entry into ASPAs requires prior authorisation and activities within them are subject to a management plan.
- 7.3 The United Kingdom supports the strengthening of measures to protect the Antarctic environment, including the designation of these new protected areas, and actively participated in the development of the management plans for these areas.
- 7.4 The Foreign and Commonwealth Office is the UK competent authority responsible for granting authorisation to visit Antarctica, ensuring that the terms of the Environmental Protocol are abided by in any British visit to Antarctica.

- 7.5 Public interest in the UK's Antarctic policy is generally limited to those interested in travelling to Antarctica.
- 7.6 No consolidation is required at the present time. Further amendments to the Antarctic Regulations are likely to be necessary in the near future, due to ongoing work by the ATCM on extending protected areas. Plans for consolidation will be made when the ATCM has completed that work. Those interested in travelling to the Antarctic are able to find up to date details of all ASPAs and historic sites and monuments in consolidated form on the Antarctic Treaty Secretariat website ([www.ats.aq](http://www.ats.aq)).

## **8. Consultation outcome**

- 8.1 Informal consultation on proposed Protected Areas is undertaken both prior to and during the ATCM. The British Antarctic Survey are consulted in advance of the ATCM and are also part of the UK delegation at the meeting itself. The UK Antarctic Heritage Trust are also consulted if any of the proposed sites are near to their areas of interest. At the ATCM Non-Governmental Organisations have the opportunity to debate these matters alongside the Antarctic Treaty Consultative Parties. These include environmental and scientific experts and representatives of tourist and other industry associations.

## **9. Guidance**

- 9.1 Guidance to those wishing to visit the Antarctic and how to apply for permits can be found on the FCO website ([www.fco.gov.uk/en/fcoin-action/global-network/antarctica/](http://www.fco.gov.uk/en/fcoin-action/global-network/antarctica/)).
- 9.2 It is also recommended that readers of the Regulations consult the Measures adopted by the ATCM at its thirty-first Consultative Meeting which these Regulations implement. Appended to each Measure is the full management plan for the relevant ASPA. Each management plan contains a set of maps showing the location, boundaries and characteristics of the ASPA. The full texts of the Antarctic Treaty Measures adopted at the Thirty-first Consultative Meeting were presented to Parliament in Command Paper Cm 7527 (March 2009) and may also be viewed on the Antarctic Treaty Secretariat website ([www.ats.aq](http://www.ats.aq)).
- 9.3 Since it is now the practice of the ATCM to provide more detailed textual information about the location, boundaries and characteristics of each ASPA than was the case in the past, the Government has decided to include this additional information in the Regulations together with references to the maps, instead of printing the maps within the text of the Regulations. The maps may be consulted in the Command Paper referred to above, and are best viewed in the context of the full management plan of which they form a part.

## **10 Impact**

- 10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the Exchequer

## **11. Regulating small business**

- 11.1 The legislation applies to small business.
- 11.2 The addition of new ASPAs and modifications to existing ASPAs will involve no additional costs or impacts.
- 11.3 The businesses most likely to be affected are those in the Antarctic tourism sector. These tend to be specialist operators and generally fall under the umbrella of the International Association of Antarctic Tour Operators (IAATO). IAATO participated in the ATCM meeting which adopted the Measures to which these Regulations give effect.

## **12. Monitoring and review**

- 12.1 These Regulations implement Antarctic Treaty Measures whose primary aim is to enhance the protection of the Antarctic environment. These Regulations will help ensure compliance and deter unauthorised entry to protected areas or damage to historic sites or monuments. The protected areas (ASPAs) introduced by these Measures are subject to detailed review every five years. Following such review the legislation may be amended accordingly.

## **13. Contact**

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Telephone 020 7008 2616; Rob.Bowman@fco.gov.uk can answer any queries regarding the instrument.