



Antarctic Act 2013

2013 CHAPTER 15

PART 1

ENVIRONMENTAL EMERGENCIES

PROSPECTIVE

Civil liability for failure to respond to environmental emergency

2 Liability to Parties to Annex VI

- (1) This section applies in a case where—
 - (a) activities carried out in Antarctica directly or indirectly give rise to an environmental emergency,
 - (b) the person organising the activities does not take reasonable, prompt and effective response action, and
 - (c) reasonable response action is taken pursuant to Article 5(2) of Annex VI (action by Parties to Annex VI).
- (2) Where the reasonable response action referred to in subsection (1)(c) is taken by the Crown or a person specifically authorised by the Crown and—
 - (a) the person organising the activities is based in the United Kingdom, or
 - (b) the activities are connected with the United Kingdom,the person organising the activities is (subject to this Part) liable to pay to Her Majesty's Government an amount equal to the costs of the action.
- (3) Where the reasonable response action referred to in subsection (1)(c) is taken by another Party to Annex VI or a person specifically authorised by such a Party and—
 - (a) the person organising the activities is based in the United Kingdom, or
 - (b) that person is based in a State which is not a Party to Annex VI but the activities are connected with the United Kingdom,

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Antarctic Act 2013, Cross Heading: Civil liability for failure to respond to environmental emergency. (See end of Document for details)

the person organising the activities is (subject to this Part) liable to pay to that Party an amount equal to the costs of the action.

- (4) This section does not impose any liability on—
 - (a) the Crown or a contractor, sub-contractor or agent of the Crown, or
 - (b) another Party to Annex VI or a contractor, sub-contractor or agent of such a Party.
- (5) Proceedings pursuant to this section may be brought by any Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975).
- (6) Proceedings may not be brought pursuant to this section after—
 - (a) the end of the period of three years beginning with the day on which the reasonable response action referred to in subsection (1)(c) was commenced, or
 - (b) if later, the end of the period of three years beginning with the day on which Her Majesty's Government or the Party to Annex VI (as the case may be) ascertained, or ought reasonably to have ascertained, the identity of the person organising the activities.
- (7) Subsection (6)(b) does not permit the bringing of proceedings pursuant to this section after the end of the period of fifteen years beginning with the day on which the reasonable response action referred to in subsection (1)(c) was commenced.
- (8) Proceedings pursuant to this section are not subject—
 - (a) in England and Wales, to section 9(1) of the Limitation Act 1980 (time limit for actions for sums recoverable by statute);
 - (b) in Scotland, to section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of 5 years);
 - (c) in Northern Ireland, to Article 4(d) of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (time limit for actions for sums recoverable by virtue of any statutory provision).

3 Liability to Antarctic Environmental Liability Fund

- (1) This section applies in a case where—
 - (a) activities carried out in Antarctica directly or indirectly give rise to an environmental emergency,
 - (b) the person organising the activities does not take reasonable, prompt and effective response action, and
 - (c) no Party to Annex VI takes response action pursuant to Article 5(2) of Annex VI.
- (2) Where the person organising the activities is the Crown, the Secretary of State is (subject to this Part) liable to pay to the Antarctic Environmental Liability Fund an amount equal to the recoverable costs of the response action.
- (3) Where—
 - (a) the person organising the activities is based in the United Kingdom, or
 - (b) the activities are connected with the United Kingdom,
 the person organising the activities is (subject to this Part) liable to pay to the Antarctic Environmental Liability Fund an amount equal to the recoverable costs of the response action.

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Antarctic Act 2013, Cross Heading: Civil liability for failure to respond to environmental emergency. (See end of Document for details)

- (4) Subsection (3) does not impose any liability on—
 - (a) the Crown or a contractor, sub-contractor or agent of the Crown, or
 - (b) another Party to Annex VI or a contractor, sub-contractor or agent of such a Party.
- (5) For the purposes of this section, the “recoverable costs” of any response action relating to an environmental emergency arising from any activities are the costs that the person organising the activities would have incurred had the person taken reasonable, prompt and effective response action.
- (6) An amount payable under subsection (3) is recoverable by the Secretary of State as if it were a debt due to the Secretary of State.
- (7) If in any proceedings pursuant to subsection (6) a court determines that a person is required to pay all or any part of the amount referred to in subsection (3) to the Secretary of State, the Secretary of State may require the person to pay it to—
 - (a) the Antarctic Environmental Liability Fund, or
 - (b) such person as the Secretary of State considers appropriate for the purposes of securing that the amount is paid to that Fund.
- (8) Where in proceedings pursuant to subsection (6) the Secretary of State receives all or any part of the amount referred to in subsection (3), the Secretary of State must pay it to—
 - (a) the Antarctic Environmental Liability Fund, or
 - (b) such person as the Secretary of State considers appropriate for the purposes of securing that the amount is paid to that Fund.
- (9) Proceedings may not be brought pursuant to subsection (6) at any time after the end of the period of fifteen years beginning with the day on which the Secretary of State became aware, or ought to have become aware, of the environmental emergency.
- (10) Proceedings pursuant to subsection (6) are not subject—
 - (a) in England and Wales, to section 9(1) of the Limitation Act 1980 (time limit for actions for sums recoverable by statute);
 - (b) in Scotland, to section 6 of the Prescription and Limitation (Scotland) Act 1973 (extinction of obligations by prescriptive periods of 5 years);
 - (c) in Northern Ireland, to Article 4(d) of the Limitation (Northern Ireland) Order 1989 (S.I. 1989/1339 (N.I. 11)) (time limit for actions for sums recoverable by virtue of any statutory provision).

4 Civil liability: supplementary

The Schedule contains supplementary provision relating to civil liability under sections 2 and 3.

Status:

This version of this cross heading contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Antarctic Act 2013, Cross Heading:
Civil liability for failure to respond to environmental emergency.