



Antarctic Act 2013

2013 CHAPTER 15

PART 1

ENVIRONMENTAL EMERGENCIES

PROSPECTIVE

General

11 Offences

- (1) The following provisions of the Antarctic Act 1994 apply in relation to offences under this Part as if they were offences under Part 2 of that Act—
 - (a) section 17 (places where proceedings may be taken etc);
 - (b) section 19 (offences by bodies corporate and Scottish partnerships);
 - (c) section 28 (consents required for institution of proceedings);
 - (d) section 29(1)(b) and (2) (power to make regulations about arrest etc).
- (2) Where an offence under this Part is committed by an unincorporated association and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
 - (a) in the case of an unincorporated association which is a partnership, a partner or a person purporting to be a partner, or
 - (b) in the case of any other unincorporated association, an officer of the association or any member of its governing body, or any person who was purporting to act in any such capacity,that person (as well as the association) shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (3) Proceedings for an offence under this Part alleged to have been committed by an unincorporated association are to be brought against it in its own name.

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Changes to legislation: There are currently no known outstanding effects for the Antarctic Act 2013, Cross Heading: General. (See end of Document for details)

- (4) For the purposes of such proceedings—
- (a) rules of court relating to the service of documents shall have effect as if the association were a body corporate;
 - (b) the following provisions shall apply as they apply in relation to a body corporate—
 - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;
 - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (5) Where a fine is imposed on an unincorporated association on its conviction for an offence under this Part, the fine shall be paid out of the funds of the association.
- (6) In this section, a reference to an offence under this Part includes—
- (a) an offence of conspiracy or attempting to commit an offence under this Part;
 - (b) in Scotland, an offence of incitement to commit an offence under this Part;
 - (c) in England and Wales and Northern Ireland, an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence under this Part.
- (7) In this section, references to an unincorporated association include a partnership which is not regarded as a legal person under the law of the country or territory under which it is formed.

12 Orders

- (1) An order under this Part may make—
- (a) different provision for different cases or circumstances, and
 - (b) incidental and supplementary provision.
- (2) An order under this Part must be made by statutory instrument.
- (3) A statutory instrument containing an order under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.

13 Interpretation

Antarctica and the Treaty

- (1) In this Part—
- “Antarctica” has the same meaning as in the Antarctic Act 1994 (see section 1 of that Act);
- “the Antarctic Treaty” means the Antarctic Treaty signed at Washington on 1 December 1959;
- “the Protocol” means the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on 4 October 1991;
- “Annex VI” means Annex VI to the Protocol (liability arising from environmental emergencies);
- “Party to Annex VI” means any party to the Protocol for which Annex VI has become effective in accordance with Article 9 of the Protocol;

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“another Party to Annex VI” means a Party to Annex VI other than the United Kingdom;

“the Antarctic Environmental Liability Fund” means the Fund maintained and administered by the Secretariat of the Antarctic Treaty pursuant to Article 12 of Annex VI.

- (2) For the purposes of any proceedings under this Part—
- (a) a certificate signed by or on behalf of the Secretary of State and stating that, at the time of the certificate, a State was or was not a Party to Annex VI is conclusive evidence of the facts stated in it, and
 - (b) a document purporting to be such a certificate is to be deemed to be one unless the contrary is proved.

Environmental emergencies etc

- (3) In this Part, “environmental emergency” means an accidental event that results in, or imminently threatens to result in, any significant harmful impact on the environment of Antarctica.
- (4) In this Part, references to the environment of Antarctica include any concentration in Antarctica of native mammals, birds, plants or invertebrates (within the meaning of the Antarctic Act 1994).

Response action

- (5) In this Part, “response action”, in relation to an environmental emergency, means measures taken after the emergency to prevent, minimise or contain its impact.
- (6) For the purposes of this Part, response action relating to an environmental emergency is “reasonable” if it is—
- (a) appropriate,
 - (b) practicable,
 - (c) proportionate, and
 - (d) based on objective criteria and available information.
- (7) The criteria referred to in subsection (6)(d) include in particular—
- (a) risks to the environment of Antarctica and the rate of its natural recovery,
 - (b) risks to human life and safety, and
 - (c) technological and economic feasibility.
- (8) For the purposes of this Part, taking reasonable response action in relation to an emergency—
- (a) always includes determining the extent and impact of the emergency;
 - (b) may include cleaning up after it.

Activities “connected with” the UK

- (9) For the purposes of this Part, 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—
- (a) they are, or are to be, carried out on a British expedition, within the meaning of the Antarctic Act 1994 (see section 3(3) of that Act), or

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- (b) in all the circumstances in which they are or are to be carried out, they require a permit under any provision of that Act.

Persons “based in” the UK etc

- (10) For the purposes of this Act a person is “based in” the United Kingdom or another State—
- (a) in the case of an individual, if the individual's habitual place of residence is there;
 - (b) in the case of a body corporate, if the body is incorporated there or the body's principal place of business is there;
 - (c) in any other case, if the person's principal place of business is there or the person's activities (other than activities in Antarctica) are principally carried out there.

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