

**EXPLANATORY MEMORANDUM TO**  
**THE ANTARCTIC ACT 1994 (OVERSEAS TERRITORIES) (AMENDMENT)**  
**ORDER 2017**

**2017 No. 779**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Foreign and Commonwealth Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 This Order makes amendments to the Antarctic Act 1994 (Overseas Territories) Order 1995 (“the 1995 Order”) to clarify the circumstances in which a Governor may issue a permit under sections 10 and 11 of the Antarctic Act 1994 as extended to eleven Overseas Territories by virtue of the Antarctic Act 1994 (Amendment) Order 2015 (“the 2015 Order”). This Order also amends the penalties for breach of Part II of the 1995 Order to reflect the different sentences available in the Falkland Islands, South Georgia and the South Sandwich Islands, St Helena, Ascension and Tristan da Cunha. It also updates Schedule 2 of the 1995 Order to reflect the modern terminology used for St Helena, Ascension and Tristan da Cunha.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This Order is made to correct a defect in the drafting of sections 1(2)(b), 1(3)(c) and 2(b) of the Schedule to the 2015 Order. This Order will be issued free of charge to all known recipients of the 2015 Order.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The 1994 Act established a permit regime for authorising and controlling the activities of British nationals, vessels and aircraft operating in Antarctica. The 1994 Act has been extended to eleven Overseas Territories by the 1995 Order, as amended.
- 4.2 Sections 14 to 16 of the Antarctic Act 2013 made a number of minor amendments to the permit regime set out in the 1994 Act. The 2015 Order extended those modifications to each of the Overseas Territories to which the 1994 Act applies.

**5. Extent and Territorial Application**

- 5.1 The territorial application of this instrument is the eleven Overseas Territories to which the 1994 Act applies: Anguilla, Bermuda, British Antarctic Territory, Cayman

Islands, Falkland Islands, Gibraltar, Montserrat, St Helena, Ascension and Tristan da Cunha, South Georgia & the South Sandwich Islands, Turks and Caicos Islands and the Virgin Islands.

## **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**

### *What is being done and why*

- 7.1 The United Kingdom is a Party to the Antarctic Treaty 1959, the international agreement for the governance of the continent of Antarctica, and to the 1991 Environmental Protocol to the Antarctic Treaty (“the Environmental Protocol”), which provides for the comprehensive protection of the Antarctic environment and which entered into force in 1998.
- 7.2 The 1994 Act implements the United Kingdom’s obligations arising under the Environmental Protocol, including the requirement to authorise and control activities of its nationals, vessels and aircraft operating in Antarctica. The 1994 Act was extended, with modifications, to certain Overseas Territories by the 1995 Order.
- 7.3 Sections 14 to 16 of the Antarctic Act 2013 made a number of changes to the permit regime set out in the 1994 Act. The changes bring non-UK nationals on British expeditions into the scope of the permit regime; allow the UK to permit conservation work on historic sites and monuments in Antarctica; and create new offences of introducing non-sterile soil or microscopic organisms into Antarctica, damaging native invertebrates, or having an animal on board a vessel (except recognised assistance dogs or if the vessel is only transiting Antarctic waters). These changes have been incorporated into the permit procedures operated by the Polar Regions Department of the Foreign and Commonwealth Office.
- 7.4 The Polar Regions Department also receives and processes a number of applications for permits to visit or operate in Antarctica from individuals or vessels connected with, based or registered in, or departing from the Overseas Territories. The Polar Regions Department received 26 applications in 2014, of which 5 were connected to an Overseas Territory. The purpose of the 2015 Order was to ensure such applicants are operating under the same legal framework as those connected with the UK itself by extending, with modifications, sections 14 to 16 of the Antarctic Act 2013 to all the Overseas Territories to which the 1994 Act applies.

## **8. Consultation outcome**

- 8.1 No formal consultation was conducted given the very small impact of the regulations. However we have agreement from the Overseas Territories to implement the provisions of the Order.

## **9. Guidance**

- 9.1 Guidance on visiting Antarctica and applying for permits is published by the Foreign and Commonwealth Office on the government’s website (<https://www.gov.uk/visits-to-antarctica-how-to-apply-for-a-permit>). This guidance applies to those departing from the Overseas Territories listed in paragraph 5 above.

**10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies in the United Kingdom.
- 10.2 There is no impact on the public sector in the United Kingdom.
- 10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses in the United Kingdom.

**12. Monitoring & review**

- 12.1 As the operator of the permit regime, the Polar Regions Department of the Foreign and Commonwealth Office will monitor this legislation.

**13. Contact**

- 13.1 Stuart Doubleday at the Polar Regions Department, Foreign and Commonwealth Office (Telephone: 020 7008 2616 or email: [stuart.doubleday@fco.gov.uk](mailto:stuart.doubleday@fco.gov.uk)) can answer any queries regarding the instrument.