EXPLANATORY MEMORANDUM TO

THE ANTARCTIC ACT 1994 (OVERSEAS TERRITORIES) (AMENDMENT) ORDER 2015

2015 No. 823

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

The Antarctic Act 2013 made a number of minor amendments to the UK's Antarctic permit regime as established by the Antarctic Act 1994. This Order extends those modifications through amendment of the Antarctic Act 1994 (Overseas Territories) Order 1995 to the eleven Overseas Territories to which the 1994 Act applies.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1. The Antarctic Act 1994 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 Antarctic Act 1994 (Overseas Territories) Order 1995, 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 Antarctic Act 1994. This Order extends those modifications to each of the Overseas Territories to which the 1994 Act applies.

5. Territorial Extent and Application

This instrument applies to the eleven Overseas Territories to which to 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

As the instrument is not subject to Parliamentary procedure and does not amend primary legislation, no statement is required.

7. Policy background

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 Antarctic Act 1994 implements the United Kingdom's obligations arising under the 1991 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 in 1995.

7.3. Sections 14 to 16 of the Antarctic Act 2013 made a number of minor changes to the permit regime set out in the Antarctic Act 1994. 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 are now in force in England and Wales, Scotland and Northern Ireland and have been incorporated into the permit procedures operated by the Polar Regions Department of the Foreign and Commonwealth Office.

7.4. 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 this Order is to ensure such applicants are operating under the same legal framework as those connected with the UK itself by extending, with modifications, sections 14 to16 of the 2013 Act to all the Overseas Territories to which the 1994 Act applies.

8. Consultation outcome

No formal consultation was conducted given the very small impact of the Order. However, we have the agreement from the Overseas Territories to amend the legislation to which the Order extends.

9. Guidance

Guidance on visiting Antarctica and applying for permits is already 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

An impact assessment has not been prepared for this instrument as it imposes negligible costs on businesses, voluntary bodies or the public sector. As the number of expeditions that will be affected by this measure is small, the overall

impact is negligible. There is no impact on the UK from this Order, which only applies to Overseas Territories.

11. Regulating small business

The legislation does not apply to small business in the United Kingdom.

12. Monitoring & review

As the operator of the permit regime, the Polar Regions Department of the Foreign and Commonwealth Office will monitor this legislation and review the need for any further amendments.

13. Contact

Paul Stansfield at the Foreign and Commonwealth Office, tel: 020 7008 2750 or email: paul.stansfield @fco.gsi.gov.uk, can answer any queries regarding the instrument.