EXPLANATORY MEMORANDUM TO

THE ANTARCTIC (AMENDMENT) REGULATIONS 2008

2008 No. 3066

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 schedule of historic sites and monuments in Antarctica.

2.2 They also end the requirement for permit applicants to publish notice of their application in the London Gazette. Notices will instead be posted on the Foreign and Commonwealth web site to increase visibility among the general public.

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

3.1 None.

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. It also prohibits British nationals from damaging, destroying or removing any part of a site or monument designated under the Environmental Protocol as an Antarctic historic site or monument. 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.

4.4 This instrument reflects the additions and revisions agreed at ATCMs XXVII (Cape Town, 2004), XXVIII (Stockholm, 2005), XXIX (Edinburgh, 2006) and XXX (New Delhi, 2007). It amends the Antarctic Regulations 1995, as amended in 1998, 2000, 2002 2003 and 2004.

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 those 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).

8. Consultation outcome

Informal consultation on proposed Protected Areas is undertaken both prior to and during the ATCM. The British Antarctic Survey (BAS) is consulted in advance of the ATCM and are also part of the UK delegation at the meeting itself. The UK Antarctic Heritage Trust (UKAHT) are also consulted if any of the proposed sites are near to their areas of interest. At the ATCM Non-Governmental Organisations (NGOs) 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

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/fco-in-action/global-network/antarctica/).

10. Impact

10.1.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.1.2 There is no impact on the Exchequer

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, we propose to remove the requirement to advertise in the London Gazette so reducing costs associated with applying for permits. The Measures relating to protected areas and historic sites and monuments 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 at which the Measures were adopted.

12. Monitoring and review

12.1 The primary aim of these Measures is to enhance the protection of the Antarctic environment and listed historic sites and monuments. 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, that these Regulations implement, are subject to detailed review every five years. Following such review the legislation may be amended accordingly.

13. Contact

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