
STATUTORY INSTRUMENTS

1995 No. 490

The Antarctic Regulations 1995

PART 2

PERMITS

Applications for permits under sections 3, 4, 5 and 6 of the Act

4.—(1) An application for a permit under section 3, 4, 5 or 6 of the Act shall be made to the Secretary of State in such form, and accompanied by such number of copies, as he may require.

(2) No later than 7 days after making the application, the applicant shall cause notice of the application to be published in the London Gazette in such form and containing such information as the Secretary of State may require.

(3) The applicant shall during the period the application is pending—

- (a) make available a copy of the application for inspection during normal office hours by any person who may so request; and
- (b) provide copies of the application to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

Initial Environmental Evaluation

5.—(1) If the Secretary of State considers that the activity for which an application has been made under regulation 4 is likely to have more than a negligible impact on the environment of Antarctica, he shall, unless he has required the applicant to submit a draft Comprehensive Environmental Evaluation in accordance with regulation 6(1), require the applicant to submit to him an Initial Environmental Evaluation.

(2) An Initial Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Secretary of State may require and shall contain sufficient information for the Secretary of State to be able to assess—

- (a) the scale of the impact which the proposed activity may have on the environment of Antarctica;
- (b) whether, in the light of existing and known planned activities, it may have a cumulative impact; and
- (c) whether there may be alternative ways of carrying out the proposed activity which might lessen the environmental impact or possible cumulative impact.

(3) The applicant shall during the period the application is pending—

- (a) make available a copy of the Initial Environmental Evaluation for inspection during normal office hours by any person who may so request; and
- (b) provide copies of the Initial Environmental Evaluation to any person on receipt of a request in writing, subject to payment of reasonable charges for supplying the copies, including postage.

(4) The Secretary of State shall cause to be published annually a list of the Initial Environmental Evaluations submitted to him in accordance with this regulation during the preceding 12 months.

Comprehensive Environmental Evaluation

6.—(1) If the Secretary of State at any time after the making of an application considers that the activity which is the subject of the application is likely to have more than a minor or transitory impact on the environment of Antarctica, he shall require the applicant to submit to him a draft Comprehensive Environmental Evaluation.

(2) Such draft Comprehensive Environmental Evaluation shall be in such form, and accompanied by such number of copies, as the Secretary of State may require and shall contain sufficient information for the Secretary of State to be able to consider or determine—

- (a) possible alternatives to the proposed activity, including the alternative of not proceeding with it;
 - (b) the initial environmental reference state with which predicted changes are to be compared, and the likely future environmental state in the absence of the proposed activity;
 - (c) whether the methods and data used to forecast the impacts of the proposed activity are satisfactory for that purpose;
 - (d) the nature, extent, duration and intensity of the likely direct impacts of the proposed activity;
 - (e) possible indirect or second order impacts of the proposed activity;
 - (f) any cumulative impacts of the proposed activity in the light of existing activities and other known planned activities;
 - (g) the measures which could be taken to minimize or mitigate impacts of the proposed activity, and whether a monitoring programme to verify foreseen impacts or detect unforeseen impacts, and provide early warning of any adverse effects of the activity, should be provided for;
 - (h) the measures which could be taken to deal promptly and effectively with accidents;
 - (i) whether there may be any unavoidable impacts of the proposed activity;
 - (j) the effects of the proposed activity on the conduct of scientific research and on other existing uses and values; and
 - (k) whether there are gaps in knowledge or uncertainties with regard to the possible impact of the proposed activity.
- (a) (3) (a) When so required by the Secretary of State, the applicant shall submit to him a final Comprehensive Environmental Evaluation in such form, and accompanied by such number of copies, as the Secretary of State may require.
- (b) When making such a requirement the Secretary of State shall provide the applicant with
- (i) any comments in writing on the draft Comprehensive Environmental Evaluation which have been received by the Secretary of State from any person in accordance with paragraph (5);
 - (ii) any comments on such Evaluation from another Contracting Party;
 - (iii) any advice in respect of such Evaluation from the Committee for Environmental Protection established under the Protocol; and
 - (iv) an account of the consideration by the Antarctic Treaty Consultative Meeting of such Evaluation in the light of such advice,

and the applicant shall, in preparing the final Comprehensive Environmental Evaluation, take into account such comments, advice and account and include or summarize them in the final Comprehensive Environmental Evaluation.

(4) The Secretary of State shall, while an application is pending and for one year thereafter, make available the draft and the final Comprehensive Environmental Evaluation for inspection during normal office hours by any person who may so request in writing, and shall provide any person with copies on request in writing subject to payment of reasonable charges for supplying the copies, including postage.

(5) The Secretary of State shall, by a notice published in the London Gazette, notify receipt by him of each draft Comprehensive Environmental Evaluation and each final Comprehensive Environmental Evaluation, draw attention to the provisions of paragraph (4), and invite comments in writing, in the case of a draft Comprehensive Environmental Evaluation, within 90 days of publication of the notice and, in the case of a final Comprehensive Environmental Evaluation, within 30 days of the publication of the notice.

(6) The Secretary of State in taking his decision whether to grant a permit shall take into account any comments in writing submitted to him by any person in accordance with paragraph (5), if the comments are received within the relevant period specified in that paragraph.

Refusal of Permits under sections 3, 4, 5 and 6 of the Act

7. If the Secretary of State decides not to grant a permit under section 3, 4, 5 or 6 of the Act he shall so inform the applicant in writing giving his reasons.

Applications for and refusals of permits under sections 11 and 12 of the Act

8.—(1) An application for a permit under section 11 or 12 of the Act shall be made to the Secretary of State in such form, and accompanied by such number of copies, as he may require.

(2) If the Secretary of State decides not to grant such a permit he shall so inform the applicant in writing giving his reasons.

Production of permits

9.—(1) Subject to the provisions of this regulation, when there is reason to believe that a person has carried out (or is carrying out or may be about to carry out) an activity for which a permit is required by section 3(1), 4(1), 5(1), 6(1), 7(1), 8(1), 9(1) or 11(1) of the Act, an authorised person may require that person to produce, or cause to be produced, within 5 days after the request has been made, a permit granted under the Act authorising that activity.

(2) Where a permit has been granted to a person in respect of another specified person or of persons of a specified description, the requirement in paragraph (1) to produce the permit shall apply also to such person or persons.

(3) The requirements of the preceding paragraphs may be satisfied by the production of a true photocopy of the permit.

(4) An authorised person shall have the power to inspect and copy any permit which he has the power pursuant to this regulation to require to be produced to him.

(5) For the purpose of this regulation—

“authorised person” means the Secretary of State and

(a) in the United Kingdom

(i) a justice of the peace or a sheriff;

(ii) a constable;

- (iii) a harbour master;
 - (iv) an aerodrome manager;
 - (v) a customs or immigration officer; or
 - (vi) any other person authorised by the Secretary of State in writing for the purpose of this regulation either generally or in a particular case,
- and for the purposes of sub-paragraph (iv) “aerodrome manager” means the aviation authority, local authority or any other person by whom the aerodrome is managed;
- (b) anywhere in Antarctica
 - (i) a station manager (that is to say any person who is for the time being running a station in Antarctica on behalf of the Director of the British Antarctic Survey);
 - (ii) any person authorised by the Secretary of State in writing for the purpose of this regulation either generally or in a particular case; or
 - (iii) in respect of permits granted under section 12 of the Act, any person designated as an observer by a party to the Antarctic Treaty in accordance with Article VII thereof;
 - (c) only in the British Antarctic Territory
 - (i) a magistrate of the British Antarctic Territory; or
 - (ii) a public officer of the British Antarctic Territory;
 - (d) south of the Antarctic Convergence: in respect of permits granted under section 11 of the Act, any person designated as an inspector by a Member of the Commission for the Conservation of Antarctic Marine Living Resources under Article XXIV of the Convention;
 - (e) in respect of a British vessel in the seas south of 60° South latitude
 - (i) a British naval officer; or
 - (ii) the master of a vessel operated by or on behalf of the British Antarctic Survey.

Revocation and suspension of permits

10.—(1) Subject to the provisions of this regulation, the Secretary of State may revoke or suspend wholly or in part any permit granted under the Act; and where a permit has been granted in respect of more than one specified person (or vessel or aircraft), or in respect of persons (or vessels or aircraft) of a description specified in the permit, the revocation or suspension may be limited to such persons (or such vessels or aircraft), or to persons (or vessels or aircraft) of such description, as may be specified by the Secretary of State in the notice of revocation or suspension.

(2) Save as provided in paragraph (3), the Secretary of State may exercise his powers under paragraph (1) only after giving 28 days notice to the permit-holder of his intention to do so and after due consideration of any representations made in writing by or on behalf of the permit-holder (or any person specified or of a description specified in the permit).

(3) If, by reason of the urgency of the matter, it appears to the Secretary of State to be necessary for him to do so he may provisionally suspend a permit without complying with the requirements of paragraph (2), but he shall in any such case comply with those requirements as soon thereafter as is reasonably practicable, and shall then either—

- (a) revoke the provisional suspension of the permit; or
- (b) substitute therefor a definitive revocation or suspension which, if a definitive suspension, may be for the same or a different period as the provisional suspension (if any).

(4) The powers vested in the Secretary of State by paragraph (1) and paragraph (3) may be exercised by him if it appears to him that—

- (a) the permit was procured by fraud or misrepresentation;
- (b) the application for the permit contained a material error or omission;
- (c) the holder of the permit, or a person or persons specified in it, or of a description specified in it, are not fit and proper persons to carry out an activity authorised by the permit;
- (d) there has been a material change in the circumstances under which an activity authorised by the permit would be or is being carried out (including receipt by the Secretary of State of information as to the environmental impact of the activity which was not previously available) such that the continuation of the activity would have an unacceptable impact on the Antarctic environment;
- (e) the carrying out or continuation of an activity authorised by the permit would be undesirable because of an emergency which has arisen subsequent to the grant of the permit;
- (f) the person to whom the permit was granted (or any person or persons specified in it or of a description specified in it) will not be able to comply with a material condition of the permit;
- (g) there has been a breach of a condition of the permit;
- (h) the holder of the permit has purported to transfer, or has given possession of, the permit (or a copy of it) to a person who is not entitled to hold it; or
- (i) the permit (or a copy of it) has been altered or defaced.

(5) The permit-holder or any person having possession or custody of any permit which has been revoked or suspended under this regulation shall surrender it and any copies of it to the Secretary of State within a reasonable time of being required by him to do so.

(6) References in this regulation to the “permit-holder” are references to the person to whom any permit to which this Part applies has been granted.