PRESIDENT'S OFFICE

No. 1760.
1 November 1996

NO. 60 OF 1996: ANTARCTIC TREATIES ACT, 1996

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

ACT

To provide for the application of certain treaties relating to Antarctica; and to provide for matters connected therewith.

(English text signed by the President.)

(Assented to 24 October 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—

(i) "Antarctica" means the area to which a particular treaty applies; (i)

(ii) "Contracting Party" means a Contracting Party to any treaty, and "another Contracting Party" means a "Contracting Party" other than the Government of the Republic; (v)

(iii) "Department" means the Department of Environmental Affairs and Tourism; (ii)

(iv) "Director-General" means the Director-General: Environmental Affairs and Tourism; (iii)

(v) "Minister" means the Minister of Environmental Affairs and Tourism; (vi)

(vi) "regulation" means any regulation made under; this Act, (vii)

(vii) "this Act" includes the regulations; (iv)

(viii) "treaty" means an international agreement (howsoever described) relating to Antarctica which in terms of this Act and the Constitution forms part of the law of South Africa and which is mentioned in Schedule 1, and includes any annexure to such international agreement. (viii)

Application of Act

2. This Act shall apply in Antarctica to—

(a) a South African citizen;
(b) a person who is not a South African citizen, but who is ordinarily
resident in the Republic, except if that person is-

(i) on board any ship, vessel or aircraft that is operating, whether
exclusively or not, in support of any expedition organised by the
government of another Contracting Party; or

(ii) a citizen of another Contracting Party, while that person is in any
part of Antarctica for the purpose of exercising his or her
functions, whether as an inspector, observer or other official or
exchange scientist contemplated in a treaty;

(c) a citizen of another Contracting Party, if immunity of that person has
been waived by that Party;

(d) any person, whether a South African citizen or not, who is a member of
or is responsible for organising an expedition which has been organised
in the Republic to visit Antarctica, but not an expedition organised by
the government of another Contracting Party;

(e) companies, close corporations, or other juristic persons registered
as such under the laws of the Republic, operating or using any ship,
vessel or aircraft registered in the Republic.

Application and publication of treaty

3. (1) Subject to this Act, the treaties mentioned in Schedule I shall form
part of the law of the Republic.

(2) The Minister shall, as soon as practicable after the promulgation of
this Act, cause to be published in the Gazette the texts of the treaties
mentioned in Schedule 1.

(3) The Minister may by notice in the Gazette amend Schedule 1 to reflect
the number and date of a Gazette in which the treaties were published.

Powers of Minister where Antarctic environment is damaged, endangered or
detrimentally affected

4. (1) If any person to whom this Act applies performs any activity or
fails to perform any activity in contravention of a treaty as a result of
which the Antarctic environment is or may be seriously damaged, endangered or
detrimentally affected, the Minister may in writing direct that person, within
a period specified in the direction-

(a) to cease that activity; or

(b) to take such steps as the Minister may deem fit with a view to
eliminating, reducing or preventing the damage, danger or detrimental
effect.

(2) The Minister may in writing direct the person referred to in subsection
(1) to perform any activity or function, at the expense of that person, with a
view to repairing or rehabilitating any damage caused to the Antarctic
environment.

(3) If the person referred to in subsection (2) refuses or fails to comply
with the direction of the Minister, the Minister may take the necessary steps
in order to repair or rehabilitate the damage, and the Minister may authorise
any person to take all steps required for that purpose.

(4) The Minister may recover any expenditure incurred in the performance of
any function contemplated in subsection (3) from the person who refused or
failed to comply with a direction under subsection (2).
This section also applies, with the necessary changes, to acts relating to animals and plants in Antarctica.

Inspectors, observers and other officials

5. (1) The Minister may-

(a) subject to the Public Service Act, 1994 (Proclamation No. 103 of 1994), designate posts in the Department, the incumbents of which shall be inspectors, observers or other officials contemplated in any treaty;

(b) by notice in the Gazette and with the concurrence of the Minister of Defence designate a particular rank or ranks in the South African Navy, the incumbents of which shall be inspectors, observers or other officials contemplated in any treaty; and

(c) by notice in the Gazette designate any other person as an inspector, observer or other official contemplated in any treaty.

(2) The incumbent of any post or rank designated under subsection (1)(a) and (b), as well as any person designated under subsection (1)(c), shall be furnished by the Director-General, or any other officer designated by the Director-General for that purpose, with an identity card prescribed by regulation, and whenever the incumbent or designated person exercises any power or performs any duty in terms of this Act or any treaty, he or she shall, at the request of any person affected thereby, produce that identity card to that person for inspection.

Regulations

6. (1) The Minister may make regulations with regard to-

(a) the qualifications and functions of persons applying this Act or a treaty, including a person authorised in terms of section 4(3) and the incumbent of a post or rank or any other person designated in terms of section 5(1);

(b) the issuing of permits contemplated in any treaty; and

(c) generally, any matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act or any treaty.

(2) A regulation made under subsection (1), may provide that any person contravening a provision thereof or failing to comply with a provision thereof, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding five years.

Delegation

7. The Minister may on such conditions as he or she may deem fit, delegate or assign any power or duty conferred upon or assigned to him or her by this Act, excluding the power to make regulations, to any officer or employee of the Department.

Jurisdiction

8. For the purposes of the application of this Act, Antarctica shall be deemed to be situated within the magisterial district of Cape Town.

Offences

9. Any person who contravenes a provision of a treaty mentioned in Column I of Schedule 2 shall, subject to the particular treaty, be guilty of an offence
and on conviction liable to a fine or to imprisonment for a period not exceeding the period mentioned in Column 2 of that Schedule opposite the number of that provision.

Saving

10. Nothing in this Act shall affect the rights or the exercise of the rights of any country under international law with regard to the high seas within Antarctica.

Application of Act to Prince Edward Islands

11. Where, by virtue of the definition of "Antarctica", a treaty is applicable to the Prince Edward Islands, referred to in section I of the Prince Edward Islands Act, 1948 (Act No. 43 of 1948), this Act shall also apply to those islands.

Application of Act in event of conflict with certain other laws


State bound

13. This Act shall bind the State except in so for as criminal liability is concerned.

Short title

14. (1) This Act shall be called the Antarctic Treaties Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

(2) The date contemplated in subsection (1) shall be a date after the publication of the treaties in terms of section 3(2).

SCHEDULE 1

I Antarctic Treaty

II Protocol on Environmental Protection to the Antarctic Treaty

III Convention for the Conservation of Antarctic Seals

IV Convention on the Conservation of Antarctic Marine Living Resources

SCHEDULE 2

<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Antarctic Treaty</td>
<td></td>
</tr>
<tr>
<td>(a) Article I (Use of Antarctica for purposes other than peaceful purposes)</td>
<td>Five years</td>
</tr>
<tr>
<td>(b) Article V (Nuclear explosions and disposal of radioactive waste material)</td>
<td>Twenty years</td>
</tr>
<tr>
<td>II. 1. Protocol on Environmental Protection to the Antarctic Treaty</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>(a) Article 3 (Activities damaging the Antarctic environment)</td>
<td>Two years</td>
</tr>
<tr>
<td>(b) Article 7 (Mineral resource activities)</td>
<td>Five years</td>
</tr>
</tbody>
</table>

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<tbody>
<tr>
<td>(a) Article 3 (Taking of or harmful interference with animals or plants)</td>
</tr>
<tr>
<td>(b) Article 4 (Introducing foreign animals or plants into Antarctica)</td>
</tr>
</tbody>
</table>

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<tbody>
<tr>
<td>(a) Articles 2 to 6 (Disposal or storage of waste)</td>
</tr>
<tr>
<td>(b) Article 7 (Introducing a prohibited product in Antarctica)</td>
</tr>
</tbody>
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<tbody>
<tr>
<td>(a) Article 3 (Discharge of oil or oily mixture into the sea)</td>
</tr>
<tr>
<td>(b) Article 4 (Discharge of noxious liquid or chemical substance into the sea)</td>
</tr>
<tr>
<td>(c) Article 5 (Disposal of garbage into the sea)</td>
</tr>
<tr>
<td>(d) Article 6 (Discharge of sewage into the sea)</td>
</tr>
</tbody>
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<thead>
<tr>
<th>5. Annex V to the Protocol on Environmental Protection to the Antarctic Treaty: Area Protection and Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Article 3 (Entry into Antarctic Specially Protected Area)</td>
</tr>
<tr>
<td>(b) Article 8 (Damaging, removing or destroying a historic site or monument)</td>
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</tbody>
</table>

<table>
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<tr>
<th>III Convention On the Conservation of Antarctic Seals</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Article 2 (Capturing or killing of seals)</td>
</tr>
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</table>

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<tr>
<th>IV Convention on the Conservation of Antarctic Marine Living Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Article II (Harvesting of marine living resources)</td>
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