EXPLANATORY MEMORANDUM TO

THE INSPIRE (AMENDMENT) REGULATIONS 2012

2012 No. 1672

1. This explanatory memorandum has been prepared by the Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument continues the transposition of the INSPIRE Directive [2007/2/EC] by amending the INSPIRE Regulations 2009 [S.I. 2009/3157] to take account of recent technical Implementing Rules made by the European Commission. The aim of the INSPIRE Directive is to improve environmental policy making in the European Union by providing better joining up of, and better access to existing location based information held by public authorities across the European Union at a local, regional, national and international level.

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

3.1 None

4. Legislative Context

4.1 Transposition of the INSPIRE Directive [2007/2/EC] commenced with the INSPIRE Regulations 2009 [S.I. 2009/3157] and continues with this instrument.

4.2 In particular this instrument makes amendments to the INSPIRE Regulations 2009 to take account of two developments: firstly the adoption by the EU of Commission Regulation (EU) No 1089/2010 regarding the interoperability of spatial data sets and services, and secondly the abolition of the Information Tribunal.

4.3 It will be necessary to make a further instrument in due course amending the INSPIRE Regulations 2009 when the EU makes further implementing rules under the INSPIRE Directive.

5. Territorial Extent and Application

5.1 This instrument extends to all of the United Kingdom, but has no application in relation to public authorities in Scotland. A Scottish Statutory Instrument will make equivalent amendments in relation to such authorities.

5.2 The INSPIRE Directive applies also to Gibraltar where separate arrangements have been made to transpose it. In the same way as this instrument, arrangements will be made by Gibraltar to take account of Implementing Rules made since 2009.

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 detailed policy background for transposition is set out in the Explanatory Memorandum that accompanies the INSPIRE Regulations 2009 which is available at www.legislation.gov.uk.

7.2 Commission Regulation (EU) No 1089/2010, as amended by Commission Regulation (EU) No 102/2011 covers 'Interoperability', which is the possibility for spatial data sets to be combined, and for services to interact, without repetitive manual intervention, in such a way that the result is coherent and the added value of the data sets and services is enhanced. Article 7 of the INSPIRE Directive requires spatial data sets to be available in conformity with that Regulation according to a specified timescale. The INSPIRE Regulations 2009 are amended to provide for this requirement and to make ancillary provision regarding conformity with the interoperability requirements.

7.3 The EU Regulation mentioned in paragraph 7.2 currently covers only spatial data sets which relate to the themes listed in Annex I to the INSPIRE Directive, and a further amendment to the INSPIRE Regulations 2009 will be needed when the EU Regulation is extended to cover other kinds of spatial data sets.

7.4 Other matters addressed in this instrument are to update the provision relating to enforcement and appeals in accordance with amendments made to the Freedom of Information Act 2000; and to add provision that the Secretary of State must review every 5 years the operation of the INSPIRE Regulations as amended as required by the Better Regulation Executive.

No media interest is foreseen.

Consolidation

An informal consolidated text will be made available in summer 2012 for free at http://data.gov.uk/location/.

8. Consultation outcome

8.1 A consultation on the transposition of the INSPIRE Directive took place in 2009, in relation to the INSPIRE Regulations 2009, coordinated by Defra, in cooperation with the devolved administrations. No separate formal consultation was required for this instrument.

8.2 However, key stakeholders and the devolved administrations have been consulted informally during the preparation of this instrument and their views have been taken into account.

9. Guidance

9.1 A guide to the regulations is available to duty holders [copies of which are in the libraries of both Houses]. The guide is published on the UK Location website http://data.gov.uk/location/inspire and is available free of charge. Other detailed guidance on the operation of the spatial data infrastructure including technical guidance has been published at http://location.defra.gov.uk [note it will be migrated to this address http://data.gov.uk/location/ by January 2013].

Defra will continue to work in close collaboration with the main geographic information associations to ensure that users and duty holders are aware of and can contribute to the development of future guidance. The UK Location website is frequently updated. In addition, Defra via the UK Location Programme, has a strategy for engagement with data publishers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is generally nil.

10.2 An Impact Assessment dealing with costs and benefits to the public sector was prepared for the INSPIRE Regulations 2009, which covered the whole transposition and implementation. No further separate Impact Assessment is needed for this amending SI.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 As the EU adopts further Implementing Rules under the Directive additional improvements will be made to the information infrastructure and further amendments may be needed to the INSPIRE Regulations 2009. The EU's timetable extends to 2019.

12.2 The European Commission has set in place a mandatory monitoring regime beginning in 2010 and reporting every 3 years thereafter. Defra will lead for the UK on this.

12.3 Defra plans to review the INSPIRE Regulations 2009 within 5 years in accordance with the government's policy on the review of legislation.

13. Contact

John Dixon at the Department for Environment Food and Rural Affairs Tel 07827 980471 or e-mail: john.dixon@defra.gsi.gov.uk can answer any queries regarding the Instrument.

TRANSPOSITION NOTE FOR DIRECTIVE 2007/2/EC OF 14TH MARCH 2007 ESTABLISHING AN INFRASTRUCTURE FOR SPATIAL INFORMATION IN THE EUROPEAN COMMUNITY (INSPIRE)

Updated 28th June 2012

Directive 2007/2/EC is transposed, in relation to public authorities and other bodies in England, Wales and Northern Ireland, by the INSPIRE Regulations 2009, S.I. 2009/3157, as amended by the INSPIRE (Amendment) Regulations 2012, S.I. 2012/1672. The Directive is transposed separately in relation to Scottish public authorities and other bodies by the INSPIRE (Scotland) Regulations 2009, S.S.I. 2009/440.

Article of Directive	**Subject matter**	**Transposition in the INSPIRE Regulations 2009 (as amended)**
1	This states the purpose of the Directive: it aims to establish an Infrastructure for Spatial Information in the EU for the purposes of environmental policies and other policies which may have an impact on the environment.	Not necessary to transpose.
2	This provision states that the Directive is without prejudice to Directive 2003/4/EC (the environmental information Directive) and Directive 2003/98/EC (the re-use of public sector information Directive), and does not affect public authorities' intellectual property rights.	Not necessary to transpose.
3	This article contains definitions of key terms.	Regulation 2(1) contains definitions of interoperability, metadata, spatial data, spatial data service, spatial data set and third party; regulation 14(8) contains a definition of infrastructure for spatial information. Public authority is defined in regulation 3.
4(1), (2), (3) and (6)	These provisions describe the spatial data sets and spatial data services to which the Directive applies.	Regulation 4 describes the scope of application of the Regulations to spatial data sets and services; see also the definition of spatial data set in regulation 2(1).
4(4)	This clarifies that the Directive does not require the collection of new spatial data.	Not necessary to transpose.

4(5)	This provides that where a third party holds intellectual property rights over a spatial data set, a public authority may take action under the Directive only with that party's consent.	Regulation 5.
4(7)	This concerns the procedure for modifying the data themes referred to in Annexes I, II and III to the Directive.	Not necessary to transpose.
5(1), (2) and (3), and 6	These provisions require that complete metadata must be created and kept up to date in relation to spatial data sets and services; they describe what information metadata must contain and give deadlines for metadata creation.	Regulation 6; see also regulation 13, which provides for authorities to establish a complaints procedure, and regulation 14(3)(a)(i).
5(4)	This provides for implementing rules which set out further details regarding metadata.	Not transposed as this is an obligation on the Commission to produce implementing rules.
7(1), (2), (4) and (5), 8 and 9	These provide for implementing rules which set out details regarding the interoperability and harmonisation of spatial data sets and services.	Not transposed as this is an obligation on the Commission to produce implementing rules.
7(3)	This provision requires spatial data sets and services to conform with the implementing rules regarding interoperability by specified deadlines.	Regulation 6A. See also regulation 14(3)(a)(ii).
10(1)	This requires member States to ensure that information needed for compliance with the implementing rules under article 7(1) is available to public authorities.	Not necessary to transpose; such information is made available.
10(2)	This relates to the depiction of spatial data relating to a geographical feature which spans two or more member States.	Not transposed; member States are to decide by mutual consent how to deal with such features.

11	These provisions require the establishment and operation of a network of services such as discovery, view and download services, including the required characteristics of these services; and they require the services to be available to the public by means of, for example, the internet.	Regulation 7. See also regulation 13, which provides for authorities to establish a complaints procedure, and regulation 11, which provides for enforcement procedures in relation to public access complaints. See also regulation 14(3)(a)(iii).
12	Article 12 relates to the linkage of spatial data sets and services to a network of related spatial data sets and services, and describes when the network is to be made available to third parties as well as to public authorities.	Regulation 8; see also regulation 4(3) and (4).
13	Article 13 allows member States to limit public access to spatial data sets and services through the network services described in article 11, on specified grounds.	Regulation 9. See also regulations 11 and 13.
14	This article provides that, although certain network services should be available to the public free of charge, there are circumstances in which a charge may be made.	Regulation 10. See also regulation 13.
15	This article concerns the creation by the Commission of an EU Inspire geo-portal.	Not necessary to transpose; the Commission has established a geo-portal and the UK has provided the necessary access.
16	Article 16 provides for implementing rules to lay down technical specifications for the network services referred to in article 11 of the Directive.	Not transposed as this is an obligation on the Commission to produce implementing rules.
17	This provision concerns data-sharing between public authorities, both within member States and between member States and EU institutions. The article allows for charges and licences which meet specified conditions.	Regulation 12; see also regulation 3(2). See also regulation 13.

18	This concerns the coordination of contributions of those with an interest in infrastructures for spatial information.	Regulation 14(1).
19(1)	This provision relates to the Commission's coordination activity.	Not necessary to transpose.
19(2)	This requires member States to designate a contact point in relation to the Directive.	Regulation 14(2).
20	This relates to implementing rules under the Directive.	Not necessary to transpose.
21(1)	This requires member States to monitor the implementation and use of their infrastructures for spatial information.	Regulation 14(3)(b).
21(2), (3) and (4)	These provisions require member States to send to the Commission a report concerning the implementation of the Directive, and provide for implementing rules to set out further details.	Not necessary to transpose.
22, 23, 24, 25 and 26	These are general provisions concerning comitology, transposition, Commission reporting and relevant dates.	Not necessary to transpose.
Annexes I, II and III	These Annexes list relevant spatial data themes: a spatial data set is only covered by the Directive if it relates to one or more of these themes.	The relevant spatial data themes are transposed by means of paragraph (b) of the definition of spatial data set: see regulation 2(1).