SCOTTISH STATUTORY INSTRUMENTS

2012 No. 284

ENVIRONMENTAL PROTECTION

PUBLIC SECTOR INFORMATION

The INSPIRE (Scotland) Amendment Regulations 2012

Made - - - -	*23rd October 2012*
Laid before the Scottish Parliament	*25th October 2012*
Coming into force - -	*23rd November 2012*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**a**) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the INSPIRE (Scotland) Amendment Regulations 2012 and come into force on 23rd November 2012.

Amendment of the INSPIRE (Scotland) Regulations 2009

2. The INSPIRE (Scotland) Regulations 2009(**b**) are amended in accordance with regulations 3 to 9.

Amendment of regulation 2

3. In regulation 2 (interpretation), in paragraph (1), after the definition of "discovery service" insert—

> ""interoperability" means 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;".

(**a**) 1972 c.68. Section 2(2) was amended by the Scotland Act 1998 (c.46) ("the 1998 Act"), Schedule 8, paragraph 15(3) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) ("the 2006 Act")). Section 2(2) was also amended by section 27(1)(a) of the 2006 Act and by the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1. The functions conferred upon the Minister of the Crown under section 2(2), insofar as within devolved competence, were transferred to the Scottish Ministers by virtue of section 53 of the 1998 Act.

(**b**) S.S.I. 2009/440.

Amendment of regulation 7

4. In regulation 7 (metadata)—

(a) in paragraph (2), after sub-paragraph (a) insert—

"(aa) (where the metadata relates to a spatial data set corresponding to the themes listed in Annex I to the Directive or to a spatial data service relating to such a data set) the conformity of that data set or data service with the requirements as to interoperability set out in regulation 7A;";

(b) after paragraph (2) insert—

"(2A) The information in paragraph (2)(aa) regarding conformity with requirements as to interoperability must be included from the date by which the requirements in question apply."; and

(c) in paragraph (5), for "24th December" substitute "3rd December".

Insertion of regulation 7A

5. After regulation 7 insert—

"**Interoperability**

7A.—(1) A Scottish public authority or a third party must ensure that the following are available in accordance with paragraph (2)—

(a) any spatial data set for which that authority or third party is responsible and which corresponds to the themes listed in Annex I to the Directive; and

(b) any spatial data service for which that authority or third party is responsible and which relates to a data set described in sub-paragraph (a).

(2) The spatial data sets and spatial data services described in paragraph (1) must be available as follows—

(a) newly collected or extensively restructured spatial data sets and spatial data services relating to those data sets—

(i) must be available in conformity with the interoperability requirements (Annex I, original) by 23rd November 2012; and

(ii) must be available in conformity with the interoperability requirements (Annex I, including new list code requirements) by 4th February 2013; and

(b) spatial data sets and spatial data services not described in sub-paragraph (a) and still in use—

(i) must be available in conformity with the interoperability requirements (Annex I, original) by 23rd November 2017; and

(ii) must be available in conformity with the interoperability requirements (Annex I, including new code list requirements) by 4th February 2018.

(3) Spatial data sets may be made available in conformity through—

(a) the adaptation of existing data sets; or

(b) the transformation services specified in regulation 8(2)(d).

(4) In this regulation—

(a) "the interoperability requirements (Annex I, original)" means the requirements of Commission Regulation (EU) No 1089/2010 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards interoperability of spatial

data sets and services(**a**), in its original form as adopted on 23rd November 2010; and

(b) "the interoperability requirements (Annex I, including new code list requirements)" means the requirements of Commission Regulation (EU) No 1089/2010 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards interoperability of spatial data sets and services(**b**).".

Amendment of regulation 8

6. In regulation 8 (network services)—

(a) after paragraph (1) insert—

"(1A) The requirement in paragraph (1) applies from 3rd December 2013 in relation to spatial data sets corresponding to the themes listed in Annex III to the Directive and to spatial data services relating to those data sets (even if metadata relating to those data sets or data services have been created before that date).";

(b) after paragraph (2) insert—

"(2A) Discovery services must enable a search according to the criterion in paragraph (3)(ca) regarding conformity with requirements as to interoperability from the date by which the requirements in question apply.";

(c) in paragraph (3), after sub-paragraph (c) insert—

"(ca) (in the case of a spatial data set corresponding to the themes listed in Annex I to the Directive or a spatial data service relating to such a data set) the degree of conformity with the requirements as to interoperability set out in regulation 7A;";

(d) after paragraph (3) insert—

"(3A) In the case of a spatial data set corresponding to the themes listed in Annex I to the Directive or a spatial data service relating to such a data set, from the date by which any particular requirements as to interoperability set out in regulation 7A apply, the transformation services specified in sub-paragraph (d) of paragraph (2) must be combined with the other services specified in that paragraph in such a way as to enable all those services to be operated in conformity with those requirements."; and

(e) omit paragraph (5).

Amendment of regulation 9

7. In regulation 9 (linking to a network), for paragraph (3) substitute—

"(3) The conditions are—

(a) metadata have been created in accordance with regulation 7 and the Metadata Regulation (if on the date in question metadata were required to be created by regulation 7);

(b) services have been established and are operated in accordance with regulation 8 and Commission Regulation (EC) No 976/2009 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards the Network Services(**c**); and

(c) (in the case of a spatial data set corresponding to the themes listed in Annex I to the Directive or a spatial data service relating to such a data set) there is conformity with the applicable requirements as to interoperability set out in regulation 7A (if on the date in question conformity with those requirements is required by that regulation).".

(**a**) OJ L 323, 8.12.2010, p.11.
(**b**) As amended by Commission Regulation (EU) No 102/2011 (OJ L 31, 5.2.2011, p.13).
(**c**) OJ L 274, 20.10.2009, p.9, as amended by Commission Regulation (EU) No 1088/2010 (OJ L 323, 8.12.2010, p.1).

Amendment of regulation 13

8. In regulation 13 (data-sharing between public authorities etc.) in paragraph (7)(b), for "member State" substitute "EEA state"(**a**).

Amendment of regulation 15

9. In regulation 15 (enforcement and monitoring), for paragraph (1)(a) substitute—

"(a) ensuring compliance with the requirements of—

(i) regulation 7;

(ii) regulation 7A; and

(iii) regulation 8, except paragraph (4)(c); and".

JOHN SWINNEY
A member of the Scottish Government

St Andrew's House,
Edinburgh
23rd October 2012

(**a**) Directive 2007/2/EC (OJ L 108, 25.4.2007, p.1) is incorporated into the Agreement on the European Economic Area (OJ L 1, 3.1.94, p.3) by Decision of the EEA Joint Committee No 55.2010 (OJ L 143, 10.6.2010, p.20).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the INSPIRE (Scotland) Regulations 2009 ("the principal Regulations"). The principal Regulations implement (in part) Directive 2007/2/EC (OJ L 108, 25.4.2007, p.1) ("the Directive") which concerns the creation and operation of national and EU infrastructures relating to spatial information for the purposes of EU environmental policies and other policies or activities which may have an impact on the environment.

The principal Regulations did not transpose Articles 5(2)(a), 6(b) (in so far as it applied in relation to Article 5(2)(a)), 7(3), and 11(2)(d) and (3) of the Directive because implementing rules for the purposes of those Articles had not been adopted by the European Commission at that time.

Implementing rules have since been adopted by virtue of Commission Regulation (EU) No 1089/2010 implementing Directive 2007/2/EC as regards interoperability of spatial data sets and services (OJ L 323, 8.12.2010, p.11) as amended by Commission Regulation (EU) No 102/2011 (OJ L 31, 5.2.2011, p.13). These rules apply in respect of spatial data sets in relation to the themes listed in Annex I to the Directive (and spatial data services relating to such data sets).

In consequence of the adoption of those implementing rules, these Regulations amend the principal Regulations to further implement the Directive as follows—

- regulation 4(a) implements Article 5(2)(a) by inserting regulation 7(2)(aa);
- regulation 4(b) implements Article 6(a) (in so far as it applies in relation to Article 5(2)(a)) by inserting regulation 7(2A);
- regulation 5 implements Article 7(3) by inserting regulation 7A;
- regulation 6(b) and (c) implements Article 11(2)(d) by inserting regulations 8(2A) and (3)(ca); and
- regulation 6(d) implements Article 11(3) by inserting regulation 8(3A).

These Regulations also amend the principal Regulations as follows—

- regulations 3 and 6(e) move the definition of "interoperability" to regulation 2(1), in consequence of the insertion of regulation 7A;
- regulation 4(c) adjusts the date in regulation 7(5) so that the metadata referred to therein must be created by 3rd December 2013 in accordance with Article 6(b) of the Directive;
- regulation 6(a) inserts regulation 8(1A) to clarify when regulation 8(1) applies in relation to metadata created in accordance with Article 6(b) of that Directive;
- regulation 7 makes further provision in relation to Article 12 of the Directive in so far as it substitutes the conditions in regulation 9(3) with the new conditions so as to clarify when the first condition applies and to take account of the requirements of Commission Regulation (EC) No 976/2009 (OJ L 274, 20.10.2009, p.9) and those of regulation 7A;
- regulation 8 extends the meaning of relevant body in regulation 13(7)(b) to include a public body in another EEA State in consequence of the incorporation of Directive 2007/2/EC into the Agreement in the EEA (OJ L 1, 3.1.94, p.3); and
- regulation 9 amends regulation 15(1)(a) to ensure compliance with new regulation 7A.

A transposition note, detailing how the principal Regulations (as amended by these Regulations) implement (in part) the Directive, is published with these Regulations on www.legislation.gov.uk.

A further impact assessment has not been prepared for these Regulations because a previous assessment by the UK Government's Department for Environment and Rural Affairs considered the full cost of implementing the Directive, including the interoperability requirements. That assessment is published with the INSPIRE Regulations 2009 on www.legislation.gov.uk.

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ISBN 978-0-11-101816-3

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£4.00

S5679 10/2012 325679T 19585