

## **POLICY NOTE**

### **THE INSPIRE (SCOTLAND) AMENDMENT REGULATIONS 2012**

**S.S.I. 2012/284**

#### **Introduction**

1. The above instrument is made by the Scottish Ministers in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and all other powers enabling them to do so. The instrument is subject to negative resolution procedure.

#### **Policy objectives**

2. The INSPIRE (Scotland) Regulations 2009 (“the principal Regulations”) implement, in part, Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (“the Directive”). The aim of the Directive is to improve environmental policy making by providing better joining up of, and access to, location based information held by public authorities. The principal Regulations are therefore expected to improve the ability of public authorities to share spatial data and make information based on this data more widely available. They apply in relation to Scottish public authorities and certain third parties.

3. The principal Regulations did not transpose certain provisions of the Directive because implementing rules had not been adopted by the European Commission. Some 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 (as amended by Commission Regulation (EU) No 102/2011). These particular implementing rules apply only 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).

4. The new rules concern the interoperability of spatial data sets and services i.e. the requirements which will enable 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 value of the data sets and services is enhanced. In particular, Article 7 of the Directive requires spatial data sets to be available in conformity with the new rules according to a set timescale.

5. The above Regulations (“the Regulations”) amend the principal Regulations to transpose this requirement and to make ancillary provision regarding conformity with the interoperability requirements. In particular, they amend the principal Regulations to further transpose Articles 5(2)(a), 6(a), 7(3), and 11(2)(d) and (3) of the Directive. They also amend the principal Regulations to correct a date in regulation 7(5), clarify when regulation 8(1) applies, update the conditions in regulation 9(3), extend the meaning of relevant body in regulation 13(7)(b), and extend the enforcement duty in regulation 15(1)(a).

6. Further amendments to the principal Regulations will be needed when implementing rules are adopted by the European Commission for other kinds of spatial data sets.

7. A transposition note detailing how the principal Regulations, as amended by the Regulations, implement (in part) the Directive has been prepared. This will be published, with the Regulations and this accompanying policy note, on [www.legislation.gov.uk](http://www.legislation.gov.uk).

### **Consultation**

8. Further consultation was not considered necessary because a UK-wide public consultation was undertaken in 2009 in relation to the full transposition of the Directive, including the aspects of the Directive that are transposed by the amendments made to the principal Regulations. The Scottish Government partnered with the lead UK Government Department (Defra) to undertake a 12 week consultation between March and May 2009. The written consultation document was sent to nearly 250 public and private sector organisations.

### **Impact assessments**

9. The impact on business, charities or voluntary bodies is generally nil. A full assessment of the costs and benefits in relation to the transposition and implementation of the Directive was prepared in conjunction with the UK-wide consultation undertaken in 2009.

10. A separate impact assessment has not been prepared because an assessment of the costs and benefits of fully transposing and implementing the Directive was prepared in conjunction with the UK-wide consultation undertaken in 2009, and this included costs and benefits in relation to the interoperability requirements. That assessment is published, with the INSPIRE Regulations 2009, on [www.legislation.gov.uk](http://www.legislation.gov.uk).

### **Financial effects**

11. The Regulations are not considered to have any significant financial effect on the Scottish Government, local government or on business. The requirements mainly apply to data sets currently held by public authorities. The minimal costs relate to developing consistent metadata and standards. These costs are being met from existing budgets.

Scottish Government  
October 2012

**TRANSPOSITION NOTE FOR DIRECTIVE 2007/2/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING AN INFRASTRUCTURE FOR SPATIAL INFORMATION IN THE EUROPEAN COMMUNITY (INSPIRE)**

Directive 2007/2/EC is transposed in Scotland (in part) by the INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440 as amended by S.S.I 2012/284) and for the UK (in part) by the INSPIRE Regulations 2009 (S.I. 2009/3157 as amended by S.I 2012/1672).

This note details how each provision of the Directive is transposed in relation to Scotland (as from 23 November 2012). The provisions of the Directive that are further transposed (in part) by the INSPIRE (Scotland) Amendment Regulations 2012 are footnoted.

<b>Article of Directive</b>	<b>Subject matter</b>	<b>Transposing provision(s)</b>
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 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 defines key terms.	Regulation 2(1) defines interoperability <sup>1</sup> , metadata, spatial data, spatial data service and spatial data set; regulation 3 defines Scottish public authority; regulation 4 defines third party; and regulation 15(6) defines infrastructure for spatial information.
4(1), (2), (3) and (6)	This describes the spatial data sets and spatial data services to which the Directive applies.	Regulation 5.
4(4)	This clarifies that the Directive does not require the collection of new spatial data.	Not necessary to transpose.

<sup>1</sup> The definition of interoperability was moved to regulation 2(1) from regulation 8(5) by S.S.I. 2012/284.

<b>Article of Directive</b>	<b>Subject matter</b>	<b>Transposing provision(s)</b>
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 6.
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 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 7 <sup>2</sup> (see also regulations 14 and 15(1)(a)(i)).
5(4)	This makes provision for the adoption of implementing rules which set out further details regarding metadata.	Not necessary to transpose (as this is an obligation on the Commission).
7(1), (2), (4) and (5), 8 and 9	These make provision for the adoption of implementing rules which set out details regarding the interoperability and harmonisation of spatial data sets and services.	Not necessary to transpose (as these are obligations on the Commission).
7(3)	This requires spatial data sets and services to conform with the implementing rules regarding interoperability by specified deadlines.	Regulation 7A <sup>3</sup> (see also regulation 15(1)(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 (as this 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 necessary to transpose (as this is decided by mutual consent).

<sup>2</sup> Article 5(2)(a) is transposed by regulation 7(2)(aa) inserted by regulation 4(a) of S.S.I. 2012/284, and Article 6(a) is transposed (in so far as it applies to Article 5(2)(a)) by regulation 7(2A), inserted by regulation 4(b) of S.S.I. 2012/284.

<sup>3</sup> Article 7(3) is transposed by regulation 7A, inserted by regulation 5 of S.S.I. 2012/284; and regulation 15(a)(ii) (as amended by regulation 9 of S.S.I. 2012/284) confers on the Scottish Ministers the function of ensuring compliance with regulation 7A.

<b>Article of Directive</b>	<b>Subject matter</b>	<b>Transposing provision(s)</b>
11	This requires 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 8 <sup>4</sup> (see also regulations 12, 14 and 15(1)(a)(iii)).
12	This 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 9 (see also regulation 5(3) and (4)).
13	This 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 10 (see also regulations 12 and 14).
14	This 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 11 (see also regulation 14).
15	This concerns the creation by the Commission of an EU INSPIRE geo-portal.	Not necessary to transpose (as the Commission has established a geo-portal and UK has provided necessary access).
16	This makes provision for the adoption of implementing rules to lay down technical specifications for the network services referred to in article 11 of the Directive.	Not necessary to transpose (as this is an obligation on the Commission).
17	This 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 13 (see also regulation 3(2) and 14).

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<sup>4</sup> Article 11(1) is transposed by regulation 8, as modified by regulation 8(1A) which was inserted by regulation 6(a) of S.S.I. 2012/284; Article 11(2)(d) is transposed by regulation 7(2A) and (3)(ca), inserted by regulation 6(b) and (c) of S.S.I. 2012/284; and Article 11(3) is transposed by regulation 7(3A), inserted by regulation 6(d) of S.S.I. 2012/284.

<b>Article of Directive</b>	<b>Subject matter</b>	<b>Transposing provision(s)</b>
18	This concerns the coordination of contributions of those with an interest in infrastructures for spatial information.	Transposed for the UK by regulation 14(1) of the INSPIRE Regulations 2009.
19(1)	This relates to the Commission's coordination activity.	Not necessary to transpose (as this is an obligation on the Commission).
19(2)	This requires member States to designate a contact point in relation to the Directive.	Transposed for the UK by regulation 14(2) of the INSPIRE Regulations 2009.
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 15(1)(b).
21(2), (3) and (4)	This requires 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 concern comitology, transposition, Commission reporting and relevant dates.	Not necessary to transpose.
Annexes I, II and III	These list spatial data themes: a spatial data set is only covered by the Directive if it relates to one or more of these themes.	The spatial data themes are transposed by virtue of paragraph (b) of the definition of spatial data set in regulation 2(1).