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STATUTORY INSTRUMENTS

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**2009 No. 3157**

**The INSPIRE Regulations 2009**

**Enforcement and appeals in relation to public access**

**11.**—(1) The enforcement and appeals provisions of the Act apply for the purposes of regulations 7(4)(c) and 9 as they apply for the purposes of the Act, but with the modifications specified in paragraphs (3) to (11) of this regulation.

(2) In this regulation “the enforcement and appeals provisions of the Act” means—

- (a) section 50 (application for decision by Commissioner);
- (b) section 51 (information notices);
- (c) section 52 (enforcement notices);
- (d) section 54 (failure to comply with notice);
- (e) section 55 and Schedule 3 (powers of entry and inspection);
- (f) section 56 (no action against public authority);
- (g) section 57 (appeal against notices served under Part IV);
- (h) section 58 (determination of appeals);

<sup>F1</sup>(i) . . . . .

<sup>F2</sup>(j) section 61 (appeal proceedings).]

(3) In the enforcement and appeals provisions of the Act—

- (a) after each reference to “public authority” or “authority”, insert “or third party”;
- (b) any reference to “public authority” or “authority” is a reference to a public authority as defined in these Regulations; and
- (c) any reference to “third party” is a reference to a third party as defined in these Regulations.

(4) In section 50 of the Act—

(a) in subsection (1), for “a request for information” to the end, substitute “a public authority or a third party has acted or is acting in a way which is not compatible with regulation 7(4)(c) or 9 of the INSPIRE Regulations 2009.”;

(b) for paragraph (a) of subsection (2) substitute—

“(a) that the complainant has not exhausted the complaints procedure provided by the public authority or third party under regulation 13 of the INSPIRE Regulations 2009.”;

(c) for subsection (4) substitute—

“(4) Where the Commissioner decides that a public authority or a third party has acted or is acting in a way which is not compatible with regulation 7(4)(c) or 9 of the INSPIRE Regulations 2009, the decision notice must specify the steps which must be taken by the authority or third party for rectifying the incompatibility, and the period within which they must be taken.”; and

(d) omit subsection (7).

- (5) In section 51 of the Act—
- (a) in subsection (1)—
    - (i) for paragraph (b)(i) substitute—

“(i) for the purpose of determining whether a public authority or a third party has acted or is acting in a way which is not compatible with regulation 7(4)(c) or 9 of the INSPIRE Regulations 2009,”,
    - (ii) omit paragraph (b)(ii), and
    - (iii) in the tailpiece, for “application” to the end substitute “application, or to the purpose specified in paragraph (b), as is so specified.”; and
  - (b) in paragraph (b)(i) of subsection (2), for “either of the purposes” substitute “the purpose”.
- (6) In section 52 of the Act—
- (a) for subsection (1) substitute—

“(1) If the Commissioner is satisfied that a public authority or a third party has acted in a way which is not compatible with regulation 7(4)(c) or 9 of the INSPIRE Regulations 2009, the Commissioner may serve the authority or third party with a notice (in this Act referred to as “an enforcement notice”) requiring the authority or third party to take, within such time as may be specified in the notice, such steps as may be so specified to rectify that incompatibility.”;
  - (b) for subsection (2)(a) substitute—
    - “(a) a statement of the provision of the INSPIRE Regulations 2009 with which the Commissioner is satisfied that the public authority or third party’s actions are not compatible and his reasons for reaching that conclusion, and”; and
  - (c) omit subsection (5).
- (7) In section 56(1) of the Act, for “failure to comply with any duty imposed by or under this Act” substitute “action which is not compatible with regulation 7(4)(c) or 9 of the INSPIRE Regulations 2009”.
- (8) In section 57 of the Act, omit subsection (3).
- (9) In Schedule 3 to the Act—
- (a) for sub-paragraph (1) of paragraph 1 (issue of warrants) substitute—

“(1) If a circuit judge or a District Judge (Magistrates’ Courts) is satisfied by information on oath supplied by the Commissioner that there are reasonable grounds for suspecting that a public authority or a third party—

    - (a) has acted or is acting in a way which is not compatible with regulation 7(4)(c) or 9 of the INSPIRE Regulations 2009,
    - (b) has failed or is failing to comply with so much of a decision notice as requires steps to be taken, or
    - (c) has failed or is failing to comply with an information notice or an enforcement notice,

and that evidence of such actions or such a failure to comply is to be found on any premises specified in the information, the circuit judge or District Judge may, subject to paragraph 2, grant a warrant to the Commissioner.”; and
  - (b) in paragraph 8 (matters exempt from inspection and seizure), for “information which is exempt information by virtue of section 23(1) or 24(1)” (bodies and information relating to national security) substitute “information to which public access may be limited under

regulation 9(5)(a) of the INSPIRE Regulations 2009 on the ground that such access would adversely affect national security”.

<sup>F3</sup>(10) .....

(11) Section 76(1) of the Act (disclosure of information between Commissioner and ombudsmen) applies to any information obtained by, or furnished to, the Information Commissioner under or for the purposes of regulation 7(4)(c) or 9.

(12) A person found guilty of an offence under paragraph 12 of Schedule 3 to the Act (offences relating to obstruction of the execution of a warrant) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(13) A government department or the Welsh Assembly Government is not liable to prosecution in relation to an offence under paragraph 12 of Schedule 3 to the Act, but that provision applies to a person in the public service of the Crown and to a person acting on behalf of either House of Parliament, the Northern Ireland Assembly or the National Assembly for Wales as it applies to any other person.

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**Textual Amendments**

- F1** Reg. 11(2)(i) omitted (1.8.2012) by virtue of [The INSPIRE \(Amendment\) Regulations 2012 \(S.I. 2012/1672\)](#), regs. 1, **8(a)(i)**
- F2** Reg. 11(2)(j) substituted (1.8.2012) by [The INSPIRE \(Amendment\) Regulations 2012 \(S.I. 2012/1672\)](#), regs. 1, **8(a)(ii)**
- F3** Reg. 11(10) omitted (1.8.2012) by virtue of [The INSPIRE \(Amendment\) Regulations 2012 \(S.I. 2012/1672\)](#), regs. 1, **8(b)**

**Changes to legislation:**

There are currently no known outstanding effects for the The INSPIRE Regulations 2009, Section 11.