

Draft Regulations laid before the Scottish Parliament under paragraph 2(2) of schedule 2 of the European Communities Act 1972 and paragraph 1(6) of schedule 7 of the European Union (Withdrawal) Act 2018, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

EXITING THE EUROPEAN UNION

ENVIRONMENTAL PROTECTION

PUBLIC SECTOR INFORMATION

**The INSPIRE (EU Exit) (Scotland) (Amendment) Regulations
2019**

Made - - - - - *2019*

Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a), paragraph 1(1) and (3) of schedule 2 and paragraph 21 of schedule 7 of the European Union (Withdrawal) Act 2018(b), and all other powers enabling them to do so.

In accordance with paragraph 2(2) of the European Communities Act 1972(c) and paragraph 1(6) of schedule 7 of the European Union (Withdrawal) Act 2018, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

PART 1

Introduction

Citation and commencement and extent

1.—(1) These Regulations may be cited as the INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019.

(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) 2018 c.16.

(c) Paragraph 2(2) has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10).

- (2) They come into force—
 - (a) as regards this Part and Part 2 on 28 March 2019, and
 - (b) as regards the remainder, on exit day.
- (3) These Regulations extend to Scotland only.

PART 2

Amendment to subordinate legislation to update a reference to an EU instrument

Amendment of the INSPIRE (Scotland) Regulations 2009

2. In the INSPIRE (Scotland) Regulations 2009(a), in regulation 9(3)(b), for the words from “Commission” to “Network Services”, substitute “Commission Regulation (EC) No 976/2009 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards the Network Services(b)”.

PART 3

Amendments to subordinate legislation to address deficiencies arising from the withdrawal of the United Kingdom from the European Union

Amendment of the INSPIRE (Scotland) Regulations 2009

3. The INSPIRE (Scotland) Regulations 2009 are amended in accordance with regulations 4 to 10.

Amendment of regulation 2 (interpretation)

4.—(1) Regulation 2 is amended as follows.

(2) In paragraph (1)—

(a) after the definition of “the Act”, insert—

““Commission Regulation (EU) No 1089/2010” means 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) omit the definition of “the Directive”, and

(c) in paragraph (b) of the definition of “spatial data set”, for “Annex I, II or III to the Directive” substitute “Annex 1, 2 or 3 of the Metadata Regulation”.

(3) Omit paragraph (2).

(4) Omit paragraph (4).

Amendment of regulation 7 (metadata)

5.—(1) Regulation 7 is amended as follows.

(2) In paragraph (2)(aa), for “Annex I to the Directive” substitute “Annex 1 of the Metadata Regulation”.

(a) S.S.I. 2009/440, amended by S.S.I. 2012/284 and the Data Protection Act 2018 (c.12), Schedule 19, paragraph 344.

(b) OJ L 274, 20.10.2009, p.9, as last amended by Commission Regulation (EU) No 1311/2014 (OJ L 354, 11.12.2014, p.6).

(3) For paragraph (4) substitute—

“(4) A Scottish public authority or a third party must, in relation to any spatial data set or spatial data service for which that authority or third party is responsible, have in place metadata relating to—

- (a) spatial data sets corresponding to the themes listed in Annexes 1 to 3 of the Metadata Regulation, and
- (b) spatial data services relating to those data sets.”.

(4) Omit paragraph (5).

Amendment of regulation 7A (interoperability)

6.—(1) Regulation 7A is amended as follows.

(2) In paragraph (1)(a), for “Annex I to the Directive” substitute “Annex 1 of the Metadata Regulation”.

(3) For paragraph (2) substitute—

“(2) The spatial data sets and spatial data services described in paragraph (1) must be available in conformity with the requirements as to the interoperability of spatial data sets and spatial data services set out in Commission Regulation (EU) No 1089/2010.”.

(4) Omit paragraph (4).

Amendment of regulation 8 (network services)

7.—(1) Regulation 8 is amended as follows.

(2) Omit paragraph (1A).

(3) In paragraph (3)(ca), for “Annex I to the Directive” substitute “Annex 1 of the Metadata Regulation”.

(4) In paragraph (3A), for “Annex I to the Directive” substitute “Annex 1 of the Metadata Regulation”.

Amendment of regulation 9 (linking to a network)

8. In regulation 9(3)(c), for “Annex I to the Directive” substitute “Annex 1 of the Metadata Regulation”.

Amendment of regulation 13 (data sharing between public authorities etc)

9.—(1) Regulation 13 is amended as follows.

(2) In paragraph (6)—

- (a) for “EU legislation” substitute “retained EU law”, and
- (b) for “an institution or body of the EU” substitute “a relevant body”.

(3) In paragraph (7)—

- (a) omit sub-paragraphs (b) and (c), and
- (b) in sub-paragraph (d), for “EU and the United Kingdom are parties” substitute “United Kingdom is a party”.

Substitution of regulation 15 (coordination and monitoring)

10. For regulation 15 substitute—

“Coordination, monitoring and reporting

15.—(1) The Scottish Ministers must, for the purposes of ensuring compliance with these Regulations, ensure that appropriate structures and mechanisms are put in place for coordinating, across the different levels of government, the contributions of all persons with an interest in infrastructures for spatial information.

(2) In performing the function described in paragraph (1), the Scottish Ministers must coordinate the contributions of, in particular, users, producers, added-value service providers and coordinating bodies, concerning the identification of relevant data sets, user needs, the provision of information on existing practices and the provision of feedback on the implementation of these Regulations and the Implementing Rules.

(3) The Scottish Ministers must—

- (a) ensure that Scottish public authorities and third parties comply with these Regulations and the Implementing Rules,
- (b) monitor the implementation and use of the infrastructure for spatial information for the purposes of these Regulations, and make the findings available to the public in accordance with Commission Decision 2009/442/EC implementing Directive 2007/2/EC of the European Parliament and of the Council as regards monitoring and reporting (“Commission Decision 2009/442/EC”), and
- (c) issue guidance to Scottish public authorities and third parties which are responsible for spatial data sets or spatial data services about the implementation of these Regulations.

(4) Guidance issued under paragraph (3)(c) must include provision relating to the internal complaints procedure which Scottish public authorities and third parties are required to establish under regulation 14.

(5) In performing their functions under these Regulations, Scottish public authorities and third parties must have regard to guidance issued under paragraph (3)(c).

(6) Scottish public authorities and third parties must provide such information to the Scottish Ministers as the Scottish Ministers may require in order to perform the functions described in paragraphs (1) to (3).

(7) In this regulation—

- (a) “Implementing Rules” means the requirements of the Metadata Regulation, Commission Decision 2009/442/EC, Commission Regulation (EC) No 976/2009 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards the Network Services, and Commission Regulation (EU) 1089/2010,
- (b) “infrastructure for spatial information” means metadata, spatial data sets and spatial data services; network services and technologies; agreements on sharing, access and use; and coordination and monitoring mechanisms, processes and procedures, established, operated or made available in accordance with, and for the purposes of, these Regulations and the Implementing Rules.”.

Name

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the INSPIRE (Scotland) Regulations 2009 (“the 2009 Regulations”).

The amendments in Part 3 are made in exercise of the powers conferred by paragraph 1(1) and (3) of schedule 2, and paragraph 21 of schedule 7, of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively and other deficiencies (as described in section 8(2)(a), (b), (d) and (g) of that Act) arising from the withdrawal of the United Kingdom from the European Union. Part 2 also updates a reference in the 2009 Regulations to EU law, in exercise of powers conferred by section 2(2) of the European Communities Act 1972.

The 2009 Regulations implement (in part) Directive 2007/2/EC of the European Parliament and of the Council establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p.1), taking account of Commission Regulation (EU) No 1089/2010 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards the interoperability of spatial data sets and services (OJ L 323, 8.12.2010, p.11). The Directive and the Commission Regulation both concern 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.

On exit day, references in the 2009 Regulations to provisions of the Directive will no longer be appropriate, whereas the Commission Regulation will form part of the domestic law of the United Kingdom. Part 3 of these Regulations therefore amends the 2009 Regulations so that they refer instead to equivalent provisions which will, on exit day, be inserted into the domestic law version of the Commission Regulation by the INSPIRE (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1338). They also fix some other deficiencies in relation to coordination, monitoring and reporting which arising from the withdrawal of the United Kingdom from the European Union.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

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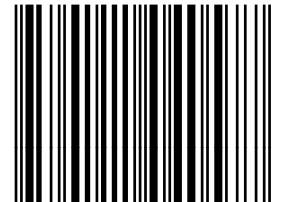
Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, the Queen’s Printer for Scotland.

£4.90

S201901221000 01/2019 19585

<http://www.legislation.gov.uk/id/sdsi/2019/9780111040577>

ISBN 978-0-11-104057-7



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