

POLICY NOTE

THE INSPIRE (EU EXIT) (SCOTLAND) (AMENDMENT) REGULATIONS 2019

S.S.I. 2019/XXX

The above instrument was made in exercise of the powers conferred by section 2(2) of the European Communities Act 1972, and paragraph 1(1) and (3) of schedule 2, and paragraph 21 of schedule 7, to the European Union (Withdrawal) Act 2018. The instrument is subject to the affirmative procedure.

Purpose of Instrument. This instrument makes minor and technical changes to the existing INSPIRE (Scotland) Regulations 2009 so that this legislation, which governs spatial data standards, will still work properly once the UK leaves the EU.

Policy Objectives

The main purpose of this instrument (“the Amending SSI”) is to correct deficiencies in the INSPIRE (Scotland) Regulations 2009 arising from EU exit. The amendments being made in Part 3 will maintain the legal operability of the INSPIRE (Scotland) Regulations after EU exit, ensuring the national spatial data infrastructure will continue to use common standards so that the interoperability of data and services is retained. This will also ensure that there is continuity in spatial data standards across the UK. In addition, the amendment in Part 2 will, before exit day, update an out-of-date reference to an EU instrument.

Explanation of the law being amended by the regulations

Directive 2007/02/EC established infrastructure for spatial information (“the INSPIRE Directive”). Member states are required to operate national spatial data infrastructures using common standards that make spatial data easy to find, use and reuse. The rationale for the Directive is to improve environmental policy making at all levels of government.

The INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440) implement (in part) the INSPIRE Directive in relation to Scottish public authorities and Scottish third parties, taking account of further implementing rules imposed by the Commission under Regulation (EU) No 1089/2010. Separate regulations (the INSPIRE Regulations 2009, S.I. 2009/3157) were made by the UK Government which apply to all parts of the United Kingdom (“the UK Regulations”), but these do not apply to Scottish public authorities and Scottish third parties.

The UK Government recently laid the INSPIRE (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1338). The purpose of this was to address deficiencies in the UK Regulations and the other associated retained EU law that will arise as a consequence of EU exit, and to ensure the legal operability of the UK Regulations and that retained EU law after EU exit.

Reasons for and effect of the proposed change or changes on retained EU law

On exit day, references in the INSPIRE (Scotland) Regulations 2009 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. The Amending SSI will amend these references so that they refer instead to equivalent provisions which will, on exit day, be inserted into the domestic law version of Commission Regulation by the INSPIRE (Amendment) (EU Exit)

Regulations 2018. They will also fix some other EU references and other deficiencies in relation to coordination, monitoring and reporting which arise on withdrawal.

It is appropriate to address these deficiencies in the INSPIRE (Scotland) Regulations 2009 which will otherwise arise from the withdrawal of the United Kingdom from the EU.

The amendments broadly mirror those made by the UK Government in the INSPIRE (Amendment) (EU Exit) Regulations 2018.

Statements required by European Union (Withdrawal) Act 2018

Statement that in their opinion Scottish Ministers consider that the regulations do no more than is appropriate

The Minister for Public Finance and Digital Economy has made the following statement: “In my view the INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019 do no more than is appropriate.”

Statement as to why the Scottish Ministers consider that there are good reasons for the regulations and that this is a reasonable course of action

The Minister for Public Finance and Digital Economy has made the following statement: “In my view there are good reasons for the provisions in this instrument, and I consider that this is a reasonable course of action. This is because the amendments made by it: will prevent, remedy or mitigate deficiencies arising from the withdrawal of the UK from the EU; are minor and technical; and are not intended to alter the underlying purpose and effect of the INSPIRE (Scotland) Regulations 2009 or impose any new liabilities or obligations.”

Statement as to whether the SSI amends, repeals or revokes any provision of equalities legislation, and, if it does, an explanation of that amendment, repeal or revocation

The Minister for Public Finance and Digital Economy has made the following statement: “In my view the INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019 do not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010

The Minister for Public Finance and Digital Economy has made the following statement: “In my view, in the preparing the INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019, the Scottish Ministers have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010.”

Additional information provided for EU Exit instruments in terms of the protocol agreed between the Scottish Government and the Scottish Parliament

Statement that Scottish Ministers have, in preparing the regulations, had due regard to the guidance principles on the environment and animal welfare

The Minister for Public Finance and Digital Economy has made the following statement: “In my view, in the preparing the INSPIRE (EU Exit) (Scotland) (Amendment) Regulations 2019, the Scottish Ministers have had due regard to the guidance principles on the environment and animal welfare.”

Statement explaining the effect (if any) of the regulations on rights and duties relating to employment and health and safety and matters relating to consumer protection (so far as is within devolved competence)

The Minister for Public Finance and Digital Economy has made the following statement: “In my view, the instrument has no effect on rights and duties relating to employment and health and safety matters relating to consumer protection (so far as is within devolved competence).”

An indication of how the regulations should be categorised in relation to the significance of the change proposed

The change proposed is considered to be of low significance. The amendments made by the instrument to prevent, remedy or mitigate deficiencies arising from the withdrawal of the UK from the EU are minor and technical, and do not seek to alter the underlying purpose and effect of the INSPIRE (Scotland) Regulations 2009 or impose any new liabilities or obligations.

Statement setting out the Scottish Ministers’ reasons for their choice of procedure

It is considered that the instrument is required to be subject to affirmative procedure by virtue of paragraph 1(6), as read with paragraph 1(2)(b), of schedule 7 of the European Union (Withdrawal) Act 2018. This is because the amendments made by the instrument to regulation 13 (data-sharing between public authorities etc.) of the INSPIRE (Scotland) Regulations 2009 relate to a fee in respect of a function exercisable by a public authority in the United Kingdom.

Further information

Consultation

The UK Government has been consulted on the proposed amendments to the INSPIRE (Scotland) Regulations 2009. These amendments (to prevent, remedy or mitigate deficiencies arising from the withdrawal of the UK from the EU) do not seek to alter the underlying purpose and effect of the INSPIRE (Scotland) Regulations 2009 or impose any new liabilities or obligations. It was not therefore not considered necessary to consult other stakeholders.

Impact Assessments

Full impact assessments have not been prepared for this instrument because the amendments do not alter Scottish Government's current environmental policies and priorities and, therefore, do not have a significant impact on the environment. The impact on business, charities or voluntary bodies is expected to be nil. In particular, the amendments made by the instrument to the INSPIRE (Scotland) Regulations 2009 will not change the way a public authority or third party collects, presents, reports on and uses data and meta-data about spatial information.

Financial Effects

The Minister for Public Finance and Digital Economy confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Digital Directorate

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