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Consultation on the transposition of EC INSPIRE Directive 2007/2/EC into UK law

March 2009



Land &
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Services



The Scottish
Government
Riaghaltas na h-Alba



Llywodraeth Cynulliad Cymru
Welsh Assembly Government



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Introduction

1. This document seeks your views on the way in which Defra and the Devolved Administrations of Northern Ireland, Scotland and Wales propose to transpose¹ the Infrastructure for Spatial Information² in the European Community (INSPIRE) Directive 2007/2/EC³ (the “Directive”) into UK law⁴.
2. INSPIRE is about electronic spatial data and services for environmental information. It aims to create a European Spatial Data Infrastructure, based on Member States’ infrastructures, to improve the interoperability of spatial information. These data and services will be delivered through initiatives across Europe, for example, the provision of a European Inspire geo-portal⁵.
3. Developing this initiative will require negotiation and adoption at a pan European level of a range of implementing rules⁶ covering for example metadata⁷, data specifications, network services, data and data service sharing, monitoring and reporting requirements. This work has begun but will continue beyond the transposition of the parent Directive. The adoption of new implementing rules may require further UK regulation and a preliminary timetable based on the latest available information is set out in Annex 3.
4. In implementing this Directive there will be a duty placed on all public authorities. However INSPIRE does not require the collection of new data sets and so for those public authorities already publishing environmental data this may be very much ‘business as usual’ but the overall impact will need to be assessed by all public authorities on a case by case basis. The implementation of this Directive may also create efficiencies through opportunities for better collaboration and faster access to data.
5. The scope of this Directive is very wide but is focused on the Environment for which Defra has the cross government policy lead. Defra, with the support of all relevant Government Departments and the Devolved Administrations, is coordinating this consultation and future management of this Directive. Separate Geographic Information Strategies and activities for place-related information in the Devolved Administrations are already in place. The impact of INSPIRE on these is currently being assessed, as well as their contribution to the overall implementation of the Directive by the UK.
6. The Directive has already been adopted and is therefore no longer open for debate. This consultation is about the transposition of that Directive and concerns the policy principles to be used when undertaking the detailed drafting of the transposition Statutory Instrument (SI). Defra, with the agreement of the Northern Ireland and Welsh Assemblies, is preparing to transpose this Directive in England, Wales and Northern Ireland. It is proposed that complementary regulations will be prepared by the Scottish Government. This joint consultation will inform the making of both sets of Regulations.
7. Annex 1 describes how we propose to apply the policy principles – see paragraph 12 – in developing the SIs. Many of the provisions in the Directive are straightforward and have the support of those stakeholders involved in the detailed negotiations that have

¹ See Annex 1

² A term often used interchangeably with ‘geographic’. It is information that relates to place or location. It can be referenced by postcode, grid reference etc.

³ See Annex 2

⁴ A Welsh language version is available on request from Robert Williams, Cartographics – Cartograffeg, Statistical Directorate: Y Gyfarwyddiaeth Ystadegol Welsh Assembly Government - Llywodraeth Cynulliad Cymru, Tel / Ffon 029 2080 1347, Fax / Ffacs 029 2082 3080, E mail / e-bost robert.williams2@wales.gsi.gov.uk

⁵ Defined in the Directive as meaning ‘an Internet site, or equivalent, providing access to the services referred to in the Directive.’

⁶ Articles 4.7, 5.4, 7.1, 8.4, 16, 17.8 and 20

⁷ The metadata rules were published on 24 December 2008

already taken place. There are discrete questions set out in the main body of this document that seek your views in areas where the UK has some discretion.

8. In line with normal regulatory practice we have developed a draft impact assessment for the UK which can be found as a separate document on the Defra website [ref]. The impact assessment seeks to estimate the costs and benefits of the transposition for the UK as a whole. The main body of this document contains questions on the impact assessment and invites views on any other issues raised by this consultation.

Transposing the INSPIRE Directive

9. This section briefly explains the organisations we have involved in developing our proposals so far and the policy principles we have used in that process. Annex 1 contains details of how we propose to undertake this transposition.

Stakeholder involvement

10. Defra has involved all major central government departments, representatives of local government and other public authority stakeholders in discussions throughout the negotiation of the Directive and there is a cross-government working group and a transposition project board advising on the latest stages of this process. These activities have included all the Devolved Administrations. Those organisations and government departments consulted so far are listed in Annex 4.

11. Defra has also taken part in a range of outreach activities to engage a wide community of stakeholders, including presentations at annual EC events on geospatial information systems, the annual conference of the Association of Geographic Information; and attendance at technical meetings such as the Digital National Framework programme⁸.

Policy Principles

12. The following policy principles have formed the basis for preparing the transposition:

- As far as possible the terminology and definitions of the subject matter present in the Directive will be utilised to ensure consistency and to minimise the risk of misinterpretation. These will be aligned as far as possible with existing UK law. See Annex 5;
- In future the SIs may need amendment to reflect the fact that the majority of the Implementing rules, which contain the detailed requirements and obligations to be imposed on Member States, are yet to be made at European level;
- The SIs should contain sufficient and meaningful content so as to make clear the obligations to be imposed on affected bodies.

13. Annex 1 sets out the detailed proposals for the transposition which as explained above will result initially in two SIs. In simple terms these will set out obligations on public authorities to:

- Create metadata for existing spatial data sets and services corresponding to the themes in Annexes I – III of the Directive. Implementing rules will determine the content and timing of when these metadata have to be created. The timeline at Annex 3 sets out the indicative implementation timeline. In practice some public

⁸ www.dnf.org

authorities may already have compliant metadata, some may need to adjust existing metadata, and others will need to create new metadata;

- Establish and operate a network of services for those data sets and services for which metadata has been created. These services include users being able to discover what data sets exist; as well as view, download and transform these data. Again, implementing rules will determine the content and timing implications. There are limits on the provision of these services which the UK is proposing to incorporate – see derogation questions below; and
- Access and share spatial data among public authorities in the UK, with Community, Member State and international organisations.

14. There are also obligations on Member States to, for example, facilitate the process of data sharing between its public authorities, between the public authorities of other Member States and provide the European Commission with monitoring reports and information. For the UK, Defra and the Devolved Administrations are proposing to create a Coordination Unit to bring all this work together see paragraphs 31 - 34 of Annex 1.

Impact Assessment

15. A draft Impact Assessment for the UK has been prepared in line with Government good practice. It summarises the available evidence on costs and benefits and other impacts and can be found at <http://www.defra.gov.uk/corporate/consult/inspire/index.htm> and. At earlier stages in the development of the Directive, a Community-wide Impact Assessment was undertaken. The UK also developed an assessment of the Directive's final proposals. In looking at transposition, two options have been considered: a business as usual (do nothing) approach and an implementation option reflecting the proposals in this consultation document. In summary the impact assessment concludes that the benefits of implementation outweigh the costs, although further work needs to be done to develop this assessment. As part of the consultation process you are invited to provide us with evidence to help in that development.

Costs

16. It is believed that the provision of the underpinning infrastructure for INSPIRE can be accommodated within current planned expenditure under business as usual conditions and that future investments and activities will be aligned with the emerging technical standards and implementing rules. The assessment shows that one-off costs of implementation over 10 years are estimated to be some £55 - £60m for the UK.

Benefits

17. Implementation of the Directive is expected to result in substantial benefits. At this stage it is difficult to provide precise estimates as to their quantum and timing given that many of the implementing rules have yet to be agreed. Nevertheless, the assessment shows that the average annual benefits of implementation, excluding one off benefits, are estimated to be some £70 - £130m across the UK

How the Directive fits with the UK's Location Strategy and Spatial Data Infrastructure

18. Implementation of the INSPIRE Directive is a component part of the wider UK Location Strategy⁹, which has wide cross-government and Devolved Administration support. Because of this relationship, implementation will be through a joint work programme which will cover the “environmental” requirements of INSPIRE and requirements for other policy areas that are also covered in the wider Strategy. This work programme will be governed by a Location Council made up of senior government officials and chaired by Defra. Ancillary governance and stakeholder groups will be established to work out the details of implementation and ensure key interests are considered. The programme has been given the working title of the UK Spatial Data Infrastructure Programme. This will also build on the contribution that will be made by the Devolved Administration GI Strategies/SDIs

19. Details of the implementation will emerge as the programme progresses. The programme will need to consider amongst other things:

- How will delivery of INSPIRE and broader requirements be co-ordinated and assured? (see discussion on proposed Co-ordination Unit at paragraphs 31 - 34 of Annex 1);
- What data will be made available and in what timeframes?
- How will the UK spatial data infrastructure be formed and what will be its relationship with the spatial data infrastructures created by the Devolved Administrations?
- How will data providers publish data and what support will they receive?
- How will citizens, businesses and government gain access to the data and services?
- Whether there will be a UK geoportal to act as the “shop window” for the data and services that are being provided on a UK basis.

20. The proposed actions of the joint programme will seek to maximise the potential and business benefit of exploiting spatial information through enhanced knowledge of what data is available, the use of common reference data, a common infrastructure of standards, technology, and business relationships and the development of appropriate skills.

Consultation Questions

Transposition

21. We have set out in Annex 1 our approach to transposition to give you an understanding of what the SIs will contain. In line with our first policy principle (paragraph 12) we have made extensive use of the definitions contained in the Directive. In particular:

- (1) Annex 1 Paragraph 2. We propose on grounds of consistency to adopt the definitions of ‘public authority’ already used in the Environmental Information Regulations (EIR) and Environmental Information (Scotland) Regulations

⁹ “Place Matters: the Location Strategy for the United Kingdom”
<http://www.communities.gov.uk/publications/communities/locationstrategy>

(EIR(Scotland)), rather than the definition in the INSPIRE Directive. We would welcome your views.

(2) Derogations

- (a) Annex 1 Paragraph 9(c)(i) concerns the limit we propose to put on the application of INSPIRE to local authorities. The Directive generally applies to public authorities but by way of derogation¹⁰ covers the lowest level of government only if there are national laws or regulations requiring the collection of spatial data sets. We intend to limit the scope of this SIs so that they apply only to District Councils or above in England and their equivalents in Northern Ireland, Scotland and Wales; and then only in circumstances in which such local authorities are legally required to collect or disseminate spatial data sets. We would welcome your views.
 - (b) Annex 1 Paragraph 25 sets out the derogations on the provision of Network Services. For example, public access to spatial data sets and discovery services may be limited where this would adversely affect international relations, public security or national defence. The Directive proposes wider limitations for public access to spatial data sets and view, download, transformation services and services allowing spatial data services to be invoked which are also set out in paragraph 25. We propose to adopt these when drafting the SIs and would welcome your views.
 - (c) Annex 1 Paragraph 29 sets out the derogations on data access and sharing between public authorities when this would compromise the course of justice, public security, national defence or international relations. We propose to adopt these when drafting the SIs and would welcome your views.
- (3) We would like to hear from you if you have any other issues about the way we propose to transpose this Directive or the content of the SIs

Impact Assessment

- (4) We would welcome from you detailed information about the costs and benefits of INSPIRE and in particular how information about costs and benefits might be collected following transposition.

Other Issues

- (5) Are there any other matters in this Consultation Document on which you would like to comment?

Your replies should be sent, to arrive no later than 26 May 2009, to:

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¹⁰ Article 4.6

Code of Practice on Consultation¹¹

This consultation will follow the seven criteria in the Code of Practice on Consultation and in the Scottish Government's Consultation: Good Practice Guide (May 2008)

¹¹ See <http://www.berr.gov.uk/files/file47158.pdf>

Annex 1: Transposition of the Directive in the UK

Definitions¹²

What organisations are covered?

1. The Directive covers spatial data and services relating to environmental information provided by ‘public authorities’, or delivered on their behalf by other organisations. ‘Third parties’, who are not public authorities, to whom the INSPIRE network has been made available, are also within scope.
2. ‘Public authorities’ are defined in the Directive¹³. However they have already defined in UK regulation from previous Directives¹⁴ and so as an aid to consistency and general public understanding we propose to adopt the existing legal definitions – see Appendix 1- when transposing the Directive into the SI.
3. ‘Third parties’ are defined in the Directive as meaning ‘any natural or legal person other than a public authority’¹⁵.
4. Public authorities will be obliged to produce and keep up to date ‘metadata’ (see paragraph 6); to ensure ‘interoperability’ (see paragraph 7) and where practical harmonisation of ‘spatial data sets’ (see paragraphs 9 - 11) and ‘services’ (see paragraph 12), provide network services (see paragraph 15) and adopt measures for sharing spatial data sets and services (see paragraphs starting at 28). These obligations, other than sharing data sets and services, will apply also to third parties joining INSPIRE.

What spatial information and services are covered?

5. The Directive does not require the collection of new spatial data¹⁶ but it includes the elements of ‘infrastructure for spatial information’, each of which is separately defined (see below). It includes: ‘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 the Directive’¹⁷.
6. ‘Metadata’ is defined in the Directive as meaning ‘information describing spatial data sets and spatial data services and making it possible to discover, inventory and use them’¹⁸. Metadata also includes information on the conformity of spatial data sets with the implementing rules; conditions applying to access to and use of spatial data sets and services and where applicable, corresponding fees; quality and validity of spatial data sets; the public authorities responsible for the establishment, maintenance and distribution of spatial data sets and services; and limitations on public access and the reasons for such limitations¹⁹. Assessing the completeness and quality of such metadata²⁰ will be a matter for the co-ordination unit described in paragraph 32 below.

¹² NB Transposition will follow the first policy principle – see paragraph 12 : “As far as possible the terminology and definitions of the subject matter present in the Directive will be utilised to ensure consistency and to minimise the risk of misinterpretation. These will be aligned as far as possible with existing UK law. “

¹³ Article 3.9

¹⁴ See Environmental Information Regulations 2004 <http://www.opsi.gov.uk/si/si2004/20043391.htm> and the Environmental Information (Scotland) Regulations 2004.

<http://www.opsi.gov.uk/legislation/scotland/ssi2004/20040520.htm> See also Annex 5

¹⁵ Article 3.10

¹⁶ Article 4.4

¹⁷ Article 3.1

¹⁸ Article 3.6

¹⁹ Article 5.2

²⁰ Article 5.3

7. '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'²¹. Consultees should note that the SIs will say nothing more about interoperability (Article 7) until implementing rules are adopted by the EC²².

8. 'Spatial data' are defined in the Directive as meaning 'any data with a direct or indirect reference to a specific location or geographical area'²³.

9. A 'spatial data set' is defined in the Directive as meaning: 'an identifiable collection of spatial data'²⁴. Spatial data sets are also defined in the Directive as fulfilling a number of conditions²⁵:

- (a) they relate to an area where the UK has and/or exercises jurisdictional rights;
- (b) they are in electronic format;
- (c) they are held by or on behalf of any of the following:
 - (i) a public authority, having been produced or received by a public authority, or being managed or updated by that authority and falling within the scope of its public tasks;

Consultees will wish to note that in the case of local authorities, we intend to limit the scope of this condition to apply only to District Councils or above in England and their equivalents in Northern Ireland, Scotland and Wales; and only then in circumstances in which such local authorities are legally required to collect or disseminate spatial data sets²⁶.

- (ii) a third party to whom the INSPIRE network has been made available;
- (d) they relate to one or more of the themes listed in Annexes I, II or III of the Directive.

10. Consultees will wish to note that the Directive requires that a public authority can only take action over spatial data sets in which a third party holds the intellectual property rights with the consent of that third party²⁷.

11. The Directive also recognises that multiple copies of the same spatial data set may exist and that it should apply only to the reference (source) version from which copies have been derived²⁸.

12. A 'spatial object' is defined in the Directive to mean 'an abstract representation of a real-world phenomenon related to a specific location or geographical area'²⁹.

13. 'Spatial data services' are defined in the Directive to mean 'the operations which may be performed, by invoking a computer application, on the spatial data contained in spatial

²¹ Article 3.7

²² The Implementing rules for Theme I are due to be adopted by 15 May 2009; those for Themes II and III by 15 May 2012. However, the Implementing rules for Theme I are not due to go to the INSPIRE Committee for its opinion (approval) until 15 May 2009.

²³ Article 3.2

²⁴ Article 3.3

²⁵ Article 4.1

²⁶ Article 4.6

²⁷ Article 4.5

²⁸ Article 4.2

²⁹ Article 3.5

data sets or on the related metadata³⁰. They cover the data contained in the spatial data sets referred to in paragraph 9 above³¹.

Metadata

14. The Directive sets out a timetable for the creation of metadata for existing data sets and services. In the case of spatial data sets corresponding to the themes listed in Annex I and II of the Directive [see page 25] it is no later than 2 years after the implementing rules are adopted by the EC; and no later than 5 years for themes listed in Annex III [see pages 25 - 26]³². The Metadata Regulations No 1205/2008³³ came into effect on 24 December 2008, hence the metadata service for the data sets corresponding to themes in Annex I and II must be available by 24 December 2010.

Network Services

15. The Directive describes 'network services' for the spatial data sets and services for which metadata have been created³⁴. Such services will be provided by public authorities and those third parties to whom the network has been made available. Implementing rules for network services are being developed by the EC and, once they are completed, we will consider whether the SIs will need to be amended in the future. A number of derogations are set down in the Directive and our proposals for these are contained in paragraph 25 below.

16. Network services include:

- (a) discovery services making it possible for the public to search free of charge³⁵, for spatial data sets and services on the basis of the content of the corresponding metadata and to display the content of the metadata;
- (b) view services making it possible, as a minimum, to display, navigate, zoom in/out, pan, or overlay viewable spatial data sets and to display legend information and any relevant content of metadata;
- (c) download services, enabling copies of spatial data sets, or parts of such sets, to be downloaded and, where practicable, accessed directly;
- (d) transformation services, enabling spatial data sets to be transformed into a standard meeting appropriate standards with a view to achieving interoperability;
- (e) services allowing spatial data services to be invoked. [This could involve for example, chaining services from different organisations together to produce a totally new service.]

17. As a minimum, the following combination of search criteria will be adopted for discovery services³⁶:

- (i) keywords;
- (ii) classification of spatial data and services;
- (iii) the quality and validity of spatial data sets;
- (iv) geographical location;
- (v) conditions applying to the access to and use of spatial data sets and services;

³⁰ Article 3.4

³¹ Article 3.3

³² Article 6

³³ See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:326:0012:0030:EN:PDF>

³⁴ Article 11

³⁵ Article 14.1

³⁶ Article 11.2

(vi) the public authorities responsible for the establishment, management, maintenance and distribution of spatial data sets and services

18. Compatible with Government policy on charging, the Directive provides that view services shall generally be available to the public free of charge³⁷ but that public authorities may apply charges where such charges secure the maintenance of spatial data sets and corresponding data services, especially in cases involving very large volumes of frequently updated data³⁸. The new SIs will give individual public authorities the discretion to exercise this derogation. Where charges are made e-commerce services must be available³⁹ and charges must not exceed the costs of maintaining spatial data sets and services. We do not propose to prescribe what is meant by 'very large volumes of frequently used data' in the SIs.

19. Article 14(3) of the Directive states that the data made available through view services may be in a form preventing re-use for commercial purposes. However there is a balance to be struck and this provision should be interpreted in a way that implies a presumption in favour of public access. This may be an issue on which the proposed Co-ordination Unit – see below - issues guidance.

20. The new SIs will require that where charges are levied for download services e-commerce services shall be available⁴⁰.

21. The Directive says that transformation services shall be combined with discovery, view, download and services allowing spatial data services to be invoked in such a way as to enable all services to be operated in conformity with the interoperability implementing rules⁴¹.

22. The new SIs will require that where charges are levied for download or transformation services, e-commerce services shall be available⁴².

23. The Directive says⁴³ that the network services shall take into account relevant user requirements and be easy to use, available to the public and accessible via the Internet or any other appropriate means of telecommunication. The SIs will set out these principles but given the rich diversity of user and technical issues involved this will in due course be supplemented by detailed guidance from the Co-ordination Unit.

24. The new SIs created by this transposition should also be seen against the backdrop of the existing framework for information sharing. In particular:

- Members of the public should not need to make a formal request for data they wish to view; and the 'discovery' service should tell them what is already published and available.
- If they can't find what they want then they can make a request, as they would do already using the EIR, EIR(Scotland), the Freedom of Information Act or Freedom of Information (Scotland) Act for release of the data.
- There are in INSPIRE several reasons why data may be withheld, see paragraph 25 below. These are very similar to existing provisions in the EIR and EIR(Scotland).

³⁷ Article 14.1

³⁸ Article 14.2

³⁹ Article 14.4

⁴⁰ Article 14.4

⁴¹ Article 11.3

⁴² Article 14.4

⁴³ Article 11.1

25. The Directive proposes that public access to spatial data sets and services through discovery services may be limited where this would adversely affect international relations, public security or national defence⁴⁴. Similarly, public access to spatial data sets and view, download, transformation services and services allowing spatial data services to be invoked, together with any associated e-commerce services may be limited where such access would:

- adversely affect the lawful confidentiality of the proceedings of public authorities;
- international relations, public security or national defence;
- the course of justice;
- confidentiality of commercial or industrial information;
- intellectual property rights;
- the confidentiality of personal data;
- the interests or protection of any person supplying information on a voluntary basis;
or
- the protection of the environment⁴⁵.

26. The Directive goes on to say that the grounds for limiting access shall be interpreted in a restrictive way, taking account of the public interest served by providing access; and this shall not generally limit access to information on emissions into the environment⁴⁶.

27. These provisions are broadly consistent with those already contained in the EIR and EIR (Scotland)⁴⁷ and we intend to take advantage of these derogations.

Data access and sharing

28. The Directive will facilitate the publication and sharing of data between public authorities. The Directive will enable public authorities to gain access to spatial data sets and services for the purposes of public tasks that may have an impact on the environment. Data sharing will be open similarly to other Member States and EU institutions; and the sharing of spatial data sets and services will also be open on a reciprocal and equivalent basis to international bodies to which the UK is a party

29. The Directive allows current arrangements to continue whereby public authorities⁴⁸ supply, at a charge or under licence, other public authorities or EU institutions with spatial data sets and services. Where charges are made these shall be kept to the minimum to ensure the necessary quality and supply of data sets and services and a reasonable return on investment. Data sets and services shall be provided free of charge to institutions and bodies to fulfil Community reporting obligations

30. The Directive provides for limits on the sharing of data⁴⁹ when this would compromise the course of justice, public security, national defence or international relations and we would propose to include these limits in the SIs.

⁴⁴ Article 13.1

⁴⁵ The full definitions are set out in Article 13.1

⁴⁶ Article 13.2

⁴⁷ Regulations 12, 13 and 14 of the EIR see <http://www.opsi.gov.uk/si/si2004/20043391.htm> and Regulations 11, 12 and 13 of EIR(Scotland) <http://www.opsi.gov.uk/legislation/scotland/ssi2004/20040520.htm>.

⁴⁸ Article 17.3

⁴⁹ Article 17.7

Monitoring and Reporting - a unit to co-ordinate implementation of the SIs on a UK basis

31. This section describes what we are proposing to do by creating a Co-ordination Unit to address the UK's reporting and monitoring requirements of the Directive.

32. The Directive places a number of responsibilities on Member States to coordinate and report outcomes to the EC. Defra has considered alternative arrangements but in conjunction with the Devolved Administrations proposes that the 'UK Spatial Data Infrastructure Co-ordination Unit' will have responsibility for monitoring and reporting on prescribed matters to the EC⁵⁰. An overview of the Unit's functions would be to:

- (a) Co-ordinate implementation and ongoing operations⁵¹;
- (b) Operate a UK portal including metadata registration service⁵²;
- (c) Act as contact point for the European Commission⁵³;
- (d) Compile and submit monitoring reports to the EC, and make them publicly available⁵⁴;
- (e) Co-ordinate UK representation to EC working groups⁵⁵;
- (f) Collate material on costs and benefits to the UK of the implementing rules³⁴;
- (g) Ensure compliance with Directive⁵⁶, working with/through the Devolved Administrations where appropriate;
- (h) Provide central communications, marketing and guidance;
- (i) Promote skills development.

33. Central communications, marketing and skills development are central to realising the benefits from the central coordination unit and these costs have been factored into the Impact Assessment.

34. A key function of this unit, working closely with the Devolved Administrations, will be to ensure effective compliance with the new Regulations. Beyond its scope are access compliance under the EIR and EIR(Scotland) (the granting of access to and supply of spatial information). These will continue to be the responsibility of the Information Commissioners in England/Wales/Northern Ireland and in Scotland; and re-use compliance (agreement to grant licences, licensing terms and fees) will continue to be the responsibility of the Office of Public Sector Information. Access and re-use compliance are governed by existing powers.

⁵⁰ Article 18

⁵¹ Article 10.1 places an obligation on Member States to ensure that any information needed for compliance with the interoperability implementing rules is made available to public authorities and third parties

⁵² Article 5.1

⁵³ Article 19.2

⁵⁴ For example Article 7.2 places an obligation on Member States to provide information to help it undertake feasibility and cost benefit analyses for developing the interoperability of data sets and services implementing rules

⁵⁵ Article 7.5

⁵⁶ For example, Article 7.3 places an obligation on Member States to ensure that all newly collected and extensively restructured spatial data sets and corresponding services are available within 2 years of the adoption of implementing rules

Annex 2: The INSPIRE Directive 2007/2/EC

DIRECTIVES

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 EUROPEAN PARLIAMENT AND THE
COUNCIL OF THE
EUROPEAN UNION,

Having regard to the Treaty establishing the
European Community, and in particular Article 175(1)
thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European
Economic and Social Committee⁵⁷,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in
Article 251 of the Treaty, in the light of the joint text
approved by the Conciliation Committee on 17
January 2007⁵⁸,

Whereas:

(1) Community policy on the environment must aim at a high level of protection taking into account the diversity of situations in the various regions of the Community. Moreover, information, including spatial information, is needed for the formulation and implementation of this policy and other Community policies, which must integrate environmental protection requirements in accordance with Article 6 of the Treaty. In order to bring about such integration, it is necessary to establish a measure of coordination between the users and providers of the information so that information and knowledge from different sectors can be combined.

(2) The Sixth Environment Action Programme adopted by Decision No 1600/2002/EC of the European Parliament and of the Council of 22 July 2002⁵⁹ requires full consideration to be given to ensuring that the Community's environmental policy-making is undertaken in an integrated way, taking into account regional and local differences. A number

of problems exist regarding the availability, quality, organisation, accessibility and sharing of spatial information needed in order to achieve the objectives set out in that programme.

(3) The problems regarding the availability, quality, organisation, accessibility and sharing of spatial information are common to a large number of policy and information themes and are experienced across the various levels of public authority. Solving these problems requires measures that address exchange, sharing, access and use of interoperable spatial data and spatial data services across the various levels of public authority and across different sectors. An infrastructure for spatial information in the Community should therefore be established.

(4) The Infrastructure for Spatial Information in the European Community (Inspire) should assist policy-making in relation to policies and activities that may have a direct or indirect impact on the environment.

(5) Inspire should be based on the infrastructures for spatial information that are created by the Member States and that are made compatible with common implementing rules and are supplemented with measures at Community level. These measures should ensure that the infrastructures for spatial information created by the Member States are compatible and usable in a Community and transboundary context.

(6) The infrastructures for spatial information in the Member States should be designed to ensure that spatial data are stored, made available and maintained at the most appropriate level; that it is possible to combine spatial data from different sources across the Community in a consistent way and share them between several users and applications; that it is possible for spatial data collected at one level of public authority to be shared between other public authorities; that spatial data are made available under conditions which do not unduly restrict their extensive use; that it is easy to discover available spatial data, to evaluate their suitability for the purpose and to know the conditions applicable to their use.

(7) There is a degree of overlap between the spatial information covered by this Directive and the information covered by Directive 2003/4/EC of the European Parliament and of the Council of 28

⁵⁷ OJ C 221, 8.9.2005, p. 33.

⁵⁸ Opinion of the European Parliament of 7 June 2005 (OJ C 124 E, 25.5.2006, p. 116), Council Common Position of 23 January 2006 (OJ C 126 E, 30.5.2006, p. 16) and Position of the European Parliament of 13 June 2006 (not yet published in the Official Journal). Decision of the Council of 29 January 2007 and legislative resolution of the European Parliament of 13 February 2007 (not yet published in the Official Journal).

⁵⁹ OJL 242, 10.9.2002, p. 1

January 2003 on public access to environmental information⁶⁰. This Directive should be without prejudice to Directive 2003/4/EC.

(8) This Directive should be without prejudice to Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information⁶¹, the objectives of which are complementary to those of this Directive.

(9) This directive should not affect the existence or ownership of public authorities' intellectual property rights.

(10) The establishment of INSPIRE will represent significant added value for — and will also benefit from — other Community initiatives such as Council Regulation (EC) No 876/2002 of 21 May 2002 setting up the Galileo Joint Undertaking⁶² and the Communication from the Commission to the European Parliament and the Council 'Global Monitoring for Environment and Security (GMES): Establishing a GMES capacity by 2008 — (Action Plan (2004 to 2008))'. Member States should consider using the data and services resulting from Galileo and GMES as they become available, in particular those related to the time and space references from Galileo.

(11) Many initiatives are taken at national and Community level to collect, harmonise or organise the dissemination or use of spatial information. Such initiatives may be established by Community legislation, such as Commission Decision 2000/479/EC of 17 July 2000 on the implementation of a European pollutant emission register (EPER) according to Article 15 of Council Directive 96/61/EC concerning integrated pollution prevention and control (IPPC)(4) and Regulation (EC) No 2152/2003 of the European Parliament and of the Council of 17 November 2003 concerning monitoring of forests and environmental interactions in the Community (Forest focus)(5), in the framework of Community funded programmes (for example Corine land cover, European Transport Policy Information System) or may emanate from initiatives taken at national or regional level. This Directive will not only complement such initiatives by providing a framework that will enable them to become interoperable, but it will also build upon existing experience and initiatives rather than duplicate the work that has already been done.

(12) This Directive should apply to spatial data held by or on behalf of public authorities and to the use of spatial data by public authorities in the performance of their public tasks. Subject to certain conditions, however, it should also apply to spatial data held by

natural or legal persons other than public authorities, provided that those natural or legal persons request this.

(13) This Directive should not set requirements for the collection of new data, or for reporting such information to the Commission, since those matters are regulated by other legislation related to the environment.

(14) The implementation of the national infrastructures should be progressive and, accordingly, the spatial data themes covered by this Directive should be accorded different levels of priority. The implementation should take account of the extent to which spatial data are needed for a wide range of applications in various policy areas, of the priority of actions provided for under Community policies that need harmonised spatial data and of the progress already made by the harmonisation efforts undertaken in the Member States.

(15) The loss of time and resources in searching for existing Spatial data or establishing whether they may be used for a particular purpose is a key obstacle to the full exploitation of the data available. Member States should therefore provide descriptions of available spatial data sets and services in the form of metadata.

(16) Since the wide diversity of formats and structures in which spatial data are organised and accessed in the Community hampers the efficient formulation, implementation, monitoring and evaluation of Community legislation that directly or indirectly affect the environment, implementing measures should be provided for in order to facilitate the use of spatial data from different sources across the Member States. Those measures should be designed to make the spatial data sets interoperable, and Member States should ensure that any data or information needed for the purposes of achieving interoperability are available on conditions that do not restrict their use for that purpose. Implementing rules should be based, where possible, on international standards and should not result in excessive costs for Member States.

(17) Network services are necessary for sharing spatial data between the various levels of public authority in the Community. Those network services should make it possible to discover, transform, view and download spatial data and to invoke spatial data and e-commerce services. The services of the network should work in accordance with commonly agreed specifications and minimum performance criteria in order to ensure the interoperability of the infrastructures established by the Member States. The network of services should also include the technical possibility to enable public authorities to make their spatial data sets and services available.

⁶⁰ OJ L 41, 14.2.2003, p. 26. (4) OJ L 192, 28.7.2000, p. 36.

⁶¹ OJ L 345, 31.12.2003, p. 90. (5) OJ L 324, 11.12.2003, p. 1. Regulation as amended by Regulation

⁶² OJ L 138, 28.5.2002, p. 1. (EC) No 788/2004 (OJ L 138, 30.4.2004, p. 17).

(18) Certain spatial data sets and services relevant to Community policies that directly or indirectly affect the environment are held and operated by third parties. Member States should therefore offer third parties the possibility of contributing to the national infrastructures, provided that the cohesion and ease of use of the spatial data and spatial data services covered by those infrastructures is thereby not impaired.

(19) Experience in the Member States has shown that it is important, for the successful implementation of an infrastructure for spatial information, that a minimum number of services be made available to the public free of charge. Member States should therefore make available, as a minimum and free of charge, the services for discovering and, subject to certain specific conditions, viewing spatial data sets.

(20) In order to assist the integration of the national infrastructures into Inspire, Member States should provide access to their infrastructures through a Community geoportal operated by the Commission, as well as through any access points they themselves decide to operate.

(21) In order to make information from various levels of public authority available, Member States should remove the practical obstacles faced in that regard by public authorities at national, regional and local level when performing their public tasks that may have a direct or indirect impact on the environment.

(22) Public authorities need to have smooth access to relevant spatial data sets and services during the execution of their public tasks. Such access can be hindered if it depends on individual ad hoc negotiations between public authorities every time access is required. Member States should take the necessary measures to prevent such practical obstacles to the sharing of data, using for example prior agreements between public authorities.

(23) Where a public authority supplies another public authority in the same Member State with spatial data sets and services required for the fulfilment of reporting obligations under Community legislation relating to the environment, the Member State concerned should be free to decide that those spatial data sets and services shall not be subject to any charging. The mechanisms for sharing spatial data sets and services between government and other public administrations and natural or legal persons performing public administrative functions under national law should take into account the need to protect the financial viability of public authorities, in particular those that have a duty to raise revenue. In any event, any charges applied should not exceed the cost of collection, production, reproduction and dissemination together with a reasonable return on investment.

(24) The provision of network services should be carried out in full compliance with the principles relating to the protection of personal data in accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data⁶³.

(25) Frameworks for the sharing of spatial data between public authorities upon whom the Directive imposes a duty to share should be neutral in respect of such public authorities within a Member State, but also in respect of such public authorities in other Member States and of the Community institutions. Since the Community institutions and bodies frequently need to integrate and assess spatial information from all the Member States, they should be able to gain access to and use spatial data and spatial data services in accordance with harmonised conditions.

(26) With a view to stimulating the development of added-value services by third parties, for the benefit of both public authorities and the public, it is necessary to facilitate access to spatial data that extend over administrative or national borders.

(27) The effective implementation of infrastructures for spatial information requires coordination by all those with an interest in the establishment of such infrastructures, whether as contributors or users. Appropriate coordination structures which extend to the various levels of government and take account of the distribution of powers and responsibilities within the Member States should therefore be established.

(28) In order to benefit from the state of the art and actual experience of information infrastructures, it is appropriate that the measures necessary for the implementation of this Directive should be supported by international standards and standards adopted by European standardisation bodies in accordance with the procedure laid down in Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations⁶⁴.

(29) Since the European Environment Agency set up by Council Regulation (EEC) No 1210/90 of 7 May 1990 on the establishment of the European Environment Agency and the European Environment Information and Observation Network⁶⁵ has the task of providing the Community with

⁶³ OJ L 281, 23.11.1995, p. 31. Directive as amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

⁶⁴ OJ L 204, 21.7.1998, p. 37. Directive as last amended by the 2003 Act of Accession.

⁶⁵ OJ L 120, 11.5.1990, p. 1. Regulation as last amended by Regulation (EC) No 1641/2003 of the European Parliament and of the Council (OJ L 245, 29.9.2003, p. 1).

objective, reliable and comparable environmental information at Community level, and aims inter alia to improve the flow of policy-relevant environmental information between Member States and the Community institutions, it should contribute actively to the implementation of this Directive.

(30) In accordance with point 34 of the Inter institutional Agreement on better law-making,⁶⁶ Member States are Encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

(31) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁶⁷.

(32) In particular, the Commission should be empowered to Adapt the description of the existing data themes referred to in Annexes I, II and III. Since such measures are of general scope and are designed to amend non-essential elements of this Directive, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(33) The Commission should also be empowered to adopt implementing rules laying down technical arrangements for the interoperability and harmonisation of spatial data sets and services, rules governing the conditions concerning access to such sets and services, as well as rules concerning the technical specifications and obligations of network services. Since such measures are of general scope and are designed to supplement this Directive by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.

(34) Preparatory work for decisions concerning the implementation of this Directive and for the future evolution of Inspire requires continuous monitoring of the implementation of the Directive and regular reporting.

(35) Since the objective of this Directive, namely the establishment of Inspire, cannot be sufficiently achieved by the Member States because of the transnational aspects and the general need within the Community to coordinate the conditions of access to, exchange and sharing of spatial

information, and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

GENERAL PROVISIONS

Article 1

1. The purpose of this Directive is to lay down general rules aimed at the establishment of the Infrastructure for Spatial Information in the European Community (hereinafter referred to as Inspire), for the purposes of Community environmental policies and policies or activities which may have an impact on the environment.

2. Inspire shall build upon infrastructures for spatial information established and operated by the Member States.

Article 2

1. This Directive is without prejudice to Directives 2003/4/EC and 2003/98/EC.

2. This Directive does not affect the existence or ownership of public authorities' intellectual property rights.

Article 3

For the purposes of this Directive, the following definitions shall apply:

1. '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 this Directive;

2. 'spatial data' means any data with a direct or indirect reference to a specific location or geographical area;

3. 'spatial data set' means an identifiable collection of spatial data;

4. 'spatial data services' means the operations which may be performed, by invoking a computer application, on the spatial data contained in spatial data sets or on the related metadata;

5. 'spatial object' means an abstract representation of a real- world phenomenon related to a specific location or geographical area;

6. 'metadata' means information describing spatial data sets and spatial data services and making it possible to discover, inventory and use them;

7. '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;

⁶⁶ OJC 321, 31.12.2003, p. 1.

⁶⁷ OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJL 200, 22.7.2006, p. 11).

8. 'Inspire geo-portal' means an Internet site, or equivalent, providing access to the services referred to in Article 11(1);

9. 'public authority' means:

- (a) any government or other public administration, including public advisory bodies, at national, regional or local level;
- (b) any natural or legal person performing public administrative functions under national law, including specific duties, activities or services in relation to the environment; and
- (c) any natural or legal person having public responsibilities or functions, or providing public services relating to the environment under the control of a body or person falling within (a) or (b).

Member States may provide that when bodies or institutions are acting in a judicial or legislative capacity, they are not to be regarded as a public authority for the purposes of this Directive;

10. 'third party' means any natural or legal person other than a public authority

Article 4

1. This Directive shall cover spatial data sets which fulfil the following conditions:

- (a) they relate to an area where a Member State has and/or exercises jurisdictional rights;
- (b) they are in electronic format;
- (c) they are held by or on behalf of any of the following:
 - (i) a public authority, having been produced or received by a public authority, or being managed or updated by that authority and falling within the scope of its public tasks;
 - (ii) a third party to whom the network has been made available in accordance with Article 12;

(d) they relate to one or more of the themes listed in Annex I, II or III.

2. In cases where multiple identical copies of the same spatial data set are held by or on behalf of various public authorities, this Directive shall apply only to the reference version from which the various copies are derived.

3. This Directive shall also cover the spatial data services relating to the data contained in the spatial data sets referred to in paragraph 1.

4. This Directive does not require collection of new spatial data

5. In the case of spatial data sets which comply with the condition set out in paragraph 1(c), but in respect of which a third party holds intellectual property rights, the public authority may take action under this Directive only with the consent of that third party.

6. By way of derogation from paragraph 1, this Directive shall cover spatial data sets held by or on behalf of a public authority operating at the lowest level of government within a Member State only if the Member State has laws or regulations requiring their collection or dissemination.

7. The description of the existing data themes referred to in Annexes I, II and III may be adapted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3), in order to take into account the evolving needs for spatial data in support of Community policies that affect the environment.

CHAPTER II

METADATA

Article 5

1. Member States shall ensure that metadata are created for the spatial data sets and services corresponding to the themes listed in Annexes I, II and III, and that those metadata are kept up to date.

2. Metadata shall include information on the following:

- (a) the conformity of spatial data sets with the implementing rules provided for in Article 7(1);
- (b) conditions applying to access to, and use of, spatial data sets and services and, where applicable, corresponding fees;
- (c) the quality and validity of spatial data sets;
- (d) the public authorities responsible for the establishment, management, maintenance and distribution of spatial data sets and services;
- (e) limitations on public access and the reasons for such limitations, in accordance with Article 13.

3. Member States shall take the necessary measures to ensure that metadata are complete and of a quality sufficient to fulfil the purpose set out in point (6) of Article 3.

4. Rules for the implementation of this Article shall be adopted by 15 May 2008 in accordance with the regulatory procedure referred to in Article 22(2). These rules shall take account of relevant, existing international standards and user requirements, in particular with relation to validation metadata.

Article 6

Member States shall create the metadata referred to in Article 5 in accordance with the following timetable:

- (a) not later than two years after the date of adoption of implementing rules in accordance with article 5(4) in the case of the spatial data sets corresponding to the themes listed in Annexes I and II;
- (b) not later than five years after the date of adoption of implementing rules in accordance with Article 5(4) in the case of the spatial data sets corresponding to the themes listed in Annex III.

CHAPTER III

INTEROPERABILITY OF SPATIAL DATA SETS AND SERVICES

Article 7

1. Implementing rules laying down technical arrangements for the interoperability and, where practicable, harmonisation of spatial data sets and services, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). Relevant user requirements, existing initiatives and international standards for the harmonisation of spatial data sets, as well as feasibility and cost-benefit considerations shall be taken into account in the development of the implementing rules. Where organisations established under international law have adopted relevant standards to ensure interoperability or harmonisation of spatial data sets and services, these standards shall be integrated, and the existing technical means shall be referred to, if appropriate, in the implementing rules mentioned in this paragraph.

2. As a basis for developing the implementing rules provided for in paragraph 1, the Commission shall undertake analyses to ensure that the rules are feasible and proportionate in terms of their likely costs and benefits and shall share the results of such analyses with the committee referred to in Article 22(1). Member States shall, on request, provide the Commission with the information necessary to enable it to undertake such analyses.

3. Member States shall ensure that all newly collected and extensively restructured spatial data sets and the corresponding spatial data services are available in conformity with the implementing rules referred to in paragraph 1 within two years of their adoption, and that other spatial data sets and services still in use are available in conformity with the implementing rules within seven years of their adoption. Spatial data sets shall be made available in conformity with the implementing rules either through the adaptation of existing spatial data sets or through the transformation services referred to point (d) of Article 11(1).

4. Implementing rules referred to in paragraph 1 shall cover the definition and classification of spatial objects relevant to spatial data sets related to the themes listed in Annex I, II or III and the way in which those spatial data are geo-referenced.

5. Representatives of Member States at national, regional and local level as well as other natural or legal persons with an interest in the spatial data concerned by virtue of their role in the infrastructure for spatial information, including users, producers, added value service providers or any coordinating body shall be given the opportunity to participate in preparatory discussions on the content of the implementing rules referred to in paragraph 1, prior to consideration by the Committee referred to in Article 22(1).

Article 8

1. In the case of spatial data sets corresponding to one or more of the themes listed in Annex I or II, the implementing rules provided for in Article 7(1) shall meet the conditions laid down in paragraphs 2, 3 and 4 of this Article.

2. The implementing rules shall address the following aspects of spatial data:

- (a) a common framework for the unique identification of spatial objects, to which identifiers under national systems can be mapped in order to ensure interoperability between them;
- (b) the relationship between spatial objects;
- (c) the key attributes and the corresponding multilingual thesauri commonly required for policies which may have an impact on the environment;
- (d) information on the temporal dimension of the data;
- (e) updates of the data.

3. The implementing rules shall be designed to ensure consistency between items of information which refer to the same location or between items of information which refer to the same object represented at different scales.

4. The implementing rules shall be designed to ensure that information derived from different spatial data sets is comparable as regards the aspects referred to in Article 7(4) and in paragraph 2 of this Article.

Article 9

The implementing rules provided for in Article 7(1) shall be adopted in accordance with the following timetable:

- (a) no later than 15 May 2009 in the case of the spatial data sets corresponding to the themes listed in Annex I;
- (b) no later than 15 May 2012 in the case of the spatial data sets corresponding to the themes listed in Annex II or III.

Article 10

1. Member States shall ensure that any information, including data, codes and technical classifications, needed for compliance with the implementing rules provided for in Article 7(1) is made available to public authorities or third parties in accordance with conditions that do not restrict its use for that purpose.

2. In order to ensure that spatial data relating to a geographical feature, the location of which spans the frontier between two or more Member States, are coherent, Member States shall, where appropriate, decide by mutual consent on the depiction and position of such common features.

CHAPTER IV

NETWORK SERVICES

Article 11

1. Member States shall establish and operate a network of the following services for the spatial data sets and services for which metadata have been created in accordance with this Directive:

- (a) discovery services making it possible to search for spatial data sets and services on the basis of the content of the corresponding

- metadata and to display the content of the metadata;
- (b) view services making it possible, as a minimum, to display, navigate, zoom in/out, pan, or overlay viewable spatial data sets and to display legend information and any relevant content of metadata;
- (c) download services, enabling copies of spatial data sets, or parts of such sets, to be downloaded and, where practicable, accessed directly;
- (d) transformation services, enabling spatial data sets to be transformed with a view to achieving interoperability;
- (e) services allowing spatial data services to be invoked.

Those services shall take into account relevant user requirements and shall be easy to use, available to the public and accessible via the Internet or any other appropriate means of telecommunication.

2. For the purposes of the services referred to in point (a) of paragraph 1, as a minimum the following combination of search criteria shall be implemented:

- (a) keywords;
- (b) classification of spatial data and services;
- (c) the quality and validity of spatial data sets;
- (d) degree of conformity with the implementing rules provided for in Article 7(1);
- (e) geographical location;
- (f) conditions applying to the access to and use of spatial data sets and services;
- (g) the public authorities responsible for the establishment, management, maintenance and distribution of spatial data sets and services.

3. The transformation services referred to in point (d) of paragraph 1 shall be combined with the other services referred to in that paragraph in such a way as to enable all those services to be operated in conformity with the implementing rules provided for in Article 7(1).

Article 12

Member States shall ensure that public authorities are given the technical possibility to link their spatial data sets and services to the network referred to in Article 11(1). This service shall also be made available upon request to third parties whose spatial data sets and services comply with implementing rules laying down obligations with regard, in particular, to metadata, network services and interoperability.

Article 13

1. By way of derogation from Article 11(1), Member States may limit public access to spatial data sets and services through the services referred to in point (a) of Article 11(1) where such access would adversely affect international relations, public security or national defence.

By way of derogation from Article 11(1), Member States may limit public access to spatial data sets and services through the services referred to in points (b) to (e) of Article 11(1), or to the e-commerce services referred to in Article 14(3), where such access would adversely affect any of the following:

- (a) the confidentiality of the proceedings of public authorities, where such confidentiality is provided for by law;
- (b) international relations, public security or national defence;
- (c) the course of justice, the ability of any person to receive a fair trial or the ability of a public authority to conduct an enquiry of a criminal or disciplinary nature;
- (d) the confidentiality of commercial or industrial information, where such confidentiality is provided for by national or Community law to protect a legitimate economic interest, including the public interest in maintaining statistical confidentiality and tax secrecy;
- (e) intellectual property rights;
- (f) the confidentiality of personal data and/or files relating to a natural person where that person has not consented to the disclosure of the information to the public, where such confidentiality is provided for by national or Community law;
- (g) the interests or protection of any person who supplied the information requested on a voluntary basis without being under, or capable of being put under, a legal obligation to do so, unless that person has consented to the release of the information concerned;
- (h) the protection of the environment to which such information relates, such as the location of rare species.

2. The grounds for limiting access, as provided for in paragraph 1, shall be interpreted in a restrictive way, taking into account for the particular case the public interest served by providing this access. In every particular case, the public interest served by disclosure shall be weighed against the interest served by limiting or conditioning the access. Member States may not, by virtue of points (a), (d), (f), (g) and (h) of paragraph 1, limit access to information on emissions into the environment.

3. Within this framework, and for the purposes of the application of point (f) of paragraph 1, Member States shall ensure that the requirements of Directive 95/46/EC are complied with.

Article 14

1. Member States shall ensure that the services referred to in points (a) and (b) of Article 11(1) are available to the public free of charge.

2. By way of derogation from paragraph 1, Member States may allow a public authority supplying a service referred to in point (b) of Article 11(1) to apply charges where such charges secure the maintenance of spatial data sets and corresponding data services,

especially in cases involving very large volumes of frequently updated data.

3. Data made available through the view services referred to in point(b) of Article 11(1) may be in a form preventing their reuse for commercial purposes.

4. Where public authorities levy charges for the services referred to in points (b), (c) or (e) of Article 11(1), Member States shall ensure that e-commerce services are available. Such services may be covered by disclaimers, click-licences or, where necessary, licences.

Article 15

1. The Commission shall establish and operate an Inspire geoportal at Community level.

2. Member States shall provide access to the services referred to in Article 11(1) through the Inspire geo-portal referred to in paragraph 1. Member States may also provide access to those services through their own access points.

Article 16

Rules for implementation designed to amend non-essential elements of this Chapter by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3), and shall in particular lay down the following:

- (a) technical specifications for the services referred to in Articles 11 and 12 and minimum performance criteria for those services, taking account of existing reporting requirements and recommendations adopted within the framework of Community environmental legislation, existing e-commerce services and technological progress;
- (b) the obligations referred to in Article 12.

CHAPTER V

DATA-SHARING

Article 17

1. Each Member State shall adopt measures for the sharing of spatial data sets and services between its public authorities referred to in point (9)(a) and (b) of Article 3. Those measures shall enable those public authorities to gain access to spatial data sets and services, and to exchange and use those sets and services, for the purposes of public tasks that may have an impact on the environment.

2. The measures provided for in paragraph 1 shall preclude any restrictions likely to create practical obstacles, occurring at the point of use, to the sharing of spatial data sets and services.

3. Member States may allow public authorities that supply spatial data sets and services to license them to, and/or require payment from, the public authorities or institutions and bodies of the Community that use these spatial data sets and services. Any such charges and licenses must be fully compatible with the general aim of facilitating the sharing of spatial data sets and services between

public authorities. Where charges are made, these shall be kept to the minimum required to ensure the necessary quality and supply of spatial data sets and services together with a reasonable return on investment, while respecting the self-financing requirements of public authorities supplying spatial data sets and services, where applicable. Spatial data sets and services provided by Member States to Community institutions and bodies in order to fulfil their reporting obligations under Community legislation relating to the environment shall not be subject to any charging.

4. The arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 shall be open to public authorities referred to in point (9)(a) and (b) of Article 3 of other Member States and to the institutions and bodies of the Community, for the purposes of public tasks that may have an impact on the environment.

5. The arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 shall be open, on a reciprocal and equivalent basis, to bodies established by international agreements to which the Community and Member States are parties, for the purposes of tasks that may have an impact on the environment.

6. Where the arrangements for the sharing of spatial data sets and services provided for in paragraphs 1, 2 and 3 are made available in accordance with paragraphs 4 and 5, these arrangements may be accompanied by requirements under national law conditioning their use.

7. By way of derogation from this Article, Member States may limit sharing when this would compromise the course of justice, public security, national defence or international relations.

8. Member States shall provide the institutions and bodies of the Community with access to spatial data sets and services in accordance with harmonised conditions. Implementing rules governing those conditions, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 22(3). These implementing rules shall fully respect the principles set out in paragraphs 1 to 3.

CHAPTER VI

COORDINATION AND COMPLEMENTARY MEASURES

Article 18

Member States shall ensure that appropriate structures and mechanisms are designated for coordinating, across the different levels of government, the contributions of all those with an interest in their infrastructures for spatial information. These structures shall coordinate the contributions of, inter alia, 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 this Directive.

Article 19

1. The Commission shall be responsible for coordinating Inspire at Community level and shall be assisted for that purpose by relevant organisations and, in particular, by the European Environment Agency.

2. Each Member State shall designate a contact point, usually a public authority, to be responsible for contacts with the Commission in relation to this Directive. This contact point will be supported by a coordination structure, taking account of the distribution of powers and responsibilities within the Member State.

Article 20

The implementing rules referred to in this Directive shall take due account of standards adopted by European standardisation bodies in accordance with the procedure laid down in Directive 98/34/EC, as well as international standards.

CHAPTER VII

FINAL PROVISIONS

Article 21

1. Member States shall monitor the implementation and use of their infrastructures for spatial information. They shall make the

results of this monitoring accessible to the Commission and to the public on a permanent basis.

2. No later than 15 May 2010 Member States shall send to the Commission a report including summary descriptions of:

- (a) how public sector providers and users of spatial data sets and services and intermediary bodies are coordinated, and of the relationship with the third parties and of the organisation of quality assurance;
- (b) the contribution made by public authorities or third parties to the functioning and coordination of the infrastructure for spatial information;
- (c) information on the use of the infrastructure for spatial information;
- (d) data-sharing agreements between public authorities;
- (e) the costs and benefits of implementing this Directive.

3. Every three years, and starting no later than 15 May 2013, Member States shall send to the Commission a report providing updated information in relation to the items referred to in paragraph 2.

4. Detailed rules for the implementation of this Article shall be adopted in accordance with the regulatory procedure referred to in Article 22(2).

Article 22

1. The Commission shall be assisted by a Committee.

2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a (1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 23

By 15 May 2014 and every six years thereafter the Commission shall present to the European Parliament and to the Council a report on the implementation of this Directive based, inter alia, on reports from Member States in accordance with Article 21(2) and (3).

Where necessary, the report shall be accompanied by proposals for Community action.

Article 24

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 15 May 2009.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 25

This Directive shall enter into force on the 20th day following its publication in the Official Journal of the European Union

Article 26

This Directive is addressed to the Member States.

ANNEX I

SPATIAL DATA THEMES REFERRED TO IN ARTICLES 6(A), 8(1) AND 9(A)

1. Coordinate reference systems

Systems for uniquely referencing spatial information in space as a set of coordinates(x,y,z) and/or latitude

and longitude and height, based on a geodetic horizontal and vertical datum.

2. Geographical grid systems

Harmonised multi-resolution grid with a common point of origin and standardised location and size of grid cells.

3. Geographical names

Names of areas, regions, localities, cities, suburbs, towns or settlements, or any geographical or topographical feature of public or historical interest.

4. Administrative units

Units of administration, dividing areas where Member States have and/or exercise jurisdictional rights, for local, regional and national governance, separated by administrative boundaries.

5. Addresses

Location of properties based on address identifiers, usually by road name, house number, postal code.

6. Cadastral parcels

Areas defined by cadastral registers or equivalent.

7. Transport networks

Road, rail, air and water transport networks and related infrastructure. Includes links between different networks. Also includes the trans-European transport network as defined in Decision No 1692/96/EC of the European Parliament and of the Council of 23 July 1996 on Community Guidelines for the development of the trans-European transport network⁶⁸ and future revisions of that Decision.

8. Hydrography

Hydrographic elements, including marine areas and all other water bodies and items related to them, including river basins and sub-basins. Where appropriate, according to the definitions set out in Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy⁶⁹ (2) and in the form of networks.

9. Protected sites

Area designated or managed within a framework of international, Community and Member States' legislation to achieve specific conservation objectives.

ANNEX II

SPATIAL DATA THEMES REFERRED TO IN ARTICLES 6(A), 8(1) AND 9(B)

1. Elevation

Digital elevation models for land, ice and ocean surface. Includes terrestrial elevation, bathymetry and shoreline.

2. Land cover

Physical and biological cover of the earth's surface including artificial surfaces, agricultural areas, forests, (semi-)natural areas, wetlands, water bodies.

3. Orthoimagery

Geo-referenced image data of the Earth's surface, from either satellite or airborne sensors.

4. Geology

Geology characterised according to composition and structure. Includes bedrock, aquifers and geomorphology.

ANNEX III

SPATIAL DATA THEMES REFERRED TO IN ARTICLES 6(B) AND 9(B)

1. Statistical units

Units for dissemination or use of statistical information.

2. Buildings

Geographical location of buildings.

3. Soil

Soils and subsoil characterised according to depth, texture, structure and content of particles and organic material, stoniness, erosion, where appropriate mean slope and anticipated water storage capacity.

4. Land use

Territory characterised according to its current and future planned functional dimension or socio-economic purpose (e.g. residential, industrial, commercial, agricultural, forestry, recreational).

5. Human health and safety

Geographical distribution of dominance of pathologies (allergies, cancers, respiratory diseases, etc.), information indicating the effect on health (biomarkers, decline of fertility, epidemics) or well-being of humans (fatigue, stress, etc.) linked directly (air pollution, chemicals, depletion of the ozone layer, noise, etc.) or indirectly (food, genetically modified organisms, etc.) to the quality of the environment.

6. Utility and governmental services

Includes utility facilities such as sewage, waste management, energy supply and water supply, administrative and social governmental services such as public administrations, civil protection sites, schools and hospitals.

7. Environmental monitoring facilities

Location and operation of environmental monitoring facilities includes observation and measurement of emissions, of the state of environmental media and of other ecosystem parameters (biodiversity, ecological conditions of vegetation, etc) by or on behalf of public authorities.

8. Production and industrial facilities

Industrial production sites, including installations covered by Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control⁷⁰ and water abstraction facilities, mining, storage sites.

9. Agricultural and aquaculture facilities

Farming equipment and production facilities (including irrigation systems, greenhouses and stables).

⁶⁸ OJL228, 9.9.1996, p.1. Decision as last amended by Council Regulation(EC)No 1791/2006 (OJL363, 20.12.2006,p.1

⁶⁹ OJL327, 22.12.2000,p.1. Directive as amended by Decision No 2455/2001/EC (OJL331, 15.12.2001, p.1).

⁷⁰ OJL257, 10.10.1996, p.26. Directive as last amended by Regulation(EC)No 166/2006 of the European Parliament and of the Council (OJL 33, 4.2.2006, p. 1)

10. Population distribution — demography
Geographical distribution of people, including population characteristics and activity levels, aggregated by grid, region, administrative unit or other analytical unit.
11. Area management/restriction/regulation zones and reporting units
Areas managed, regulated or used for reporting at international, European, national, regional and local levels. Includes dumping sites, restricted areas around drinking water sources, nitrate-vulnerable zones, regulated fairways at sea or large inland waters, areas for the dumping of waste, noise restriction zones, prospecting and mining permit areas, river basin districts, relevant reporting units and coastal zone management areas.
12. Natural risk zones
Vulnerable areas characterised according to natural hazards (all atmospheric, hydrologic, seismic, volcanic and wildfire phenomena that, because of their location, severity, and frequency, have the potential to seriously affect society), e.g. floods, landslides and subsidence, avalanches, forest fires, earthquakes, volcanic eruptions.
13. Atmospheric conditions
Physical conditions in the atmosphere. Includes spatial data based on measurements, on models or on a combination thereof and includes measurement locations.
14. Meteorological geographical features
Weather conditions and their measurements; precipitation, temperature, evapotranspiration, wind speed and direction.
15. Oceanographic geographical features
Physical conditions of oceans (currents, salinity, wave heights, etc.).
16. Sea regions
Physical conditions of seas and saline water bodies divided into regions and sub-regions with common characteristics.
17. Bio-geographical regions
Areas of relatively homogeneous ecological conditions with common characteristics.
18. Habitats and biotopes
Geographical areas characterised by specific ecological conditions, processes, structure, and (life support) functions that physically support the organisms that live there. Includes terrestrial and aquatic areas distinguished by geographical, abiotic and biotic features, whether entirely natural or semi-natural.
19. Species distribution
Geographical distribution of occurrence of animal and plant species aggregated by grid, region, administrative unit or other analytical unit.
20. Energy resources
Energy resources including hydrocarbons, hydropower, bio-energy, solar, wind, etc., where relevant including depth/height information on the extent of the resource.
21. Mineral resources

Mineral resources including metal ores, industrial minerals, etc., where relevant including depth/height information on the extent of the resource.

Annex 3: Timeline

INSPIRE Roadmap – forecast UK implementation dates

Note: all future dates below are dependent on a programme of development work, legal steps and translation and are therefore subject to revision. Regular text indicates date adopted, **bold text** date of implementation

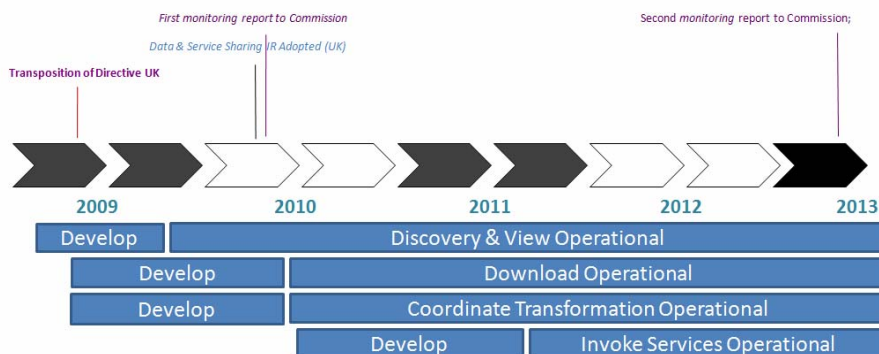
Date [Best Estimate for UK adoption]	Description	Comment
2007-05-15	Entry into force of INSPIRE Directive	
2007-08-15	Establishment of the INSPIRE Committee Art. 22§2	
2009-05-15	UK Transposition Art. 24§1 - with Metadata [Discovery] Implementing rules Art 5§4	This is the target date
2009-10-15	Monitoring and Reporting Implementing Rule Adopted Art.21(4)	
2009-10-15	Discovery and View Implementing Rule Adopted Art. 16	
2010-04-15	Data & Service Sharing Implementing rules Adopted Art. 17(8)	
2010-05-15	Annex I Implementing rules Adopted Art. 9(a)	
2010-05-15	Coordinate Transformation Implementing Rule Adopted Art 16(a).	
2010-05-15	Download Service Implementing Rule Adopted Art.16	
2010-12-24	Metadata [Discovery] Implementing rules compliant for Annex I & II data	2 years from European implementation date
2011-08-15	Invoke Service Implementing Rule Adopted Art. 16	
2011-12-15	Annex I Implementing rules compliant for new data	2 years from European implementation date
2013-05-15	Annex II & III Implementing rules Adopted Art. 9(b)	
2013-12-24	Metadata [Discovery] Implementing rules compliant for Annex III data	5 years from European implementation date
2014-12-15	Annex II & III Implementing rules compliant for new data	2 years from European implementation date
2016-12-15	Annex I Implementing rules compliant for existing data	7 years from European implementation date
2019-12-15	Annex II & III Implementing rules compliant for existing data	7 years from European implementation date

In most cases UK implementation dates are 3-5 months later than OJEC publication dates.

Timelines for UK adoption and compliance 2009 – 2020

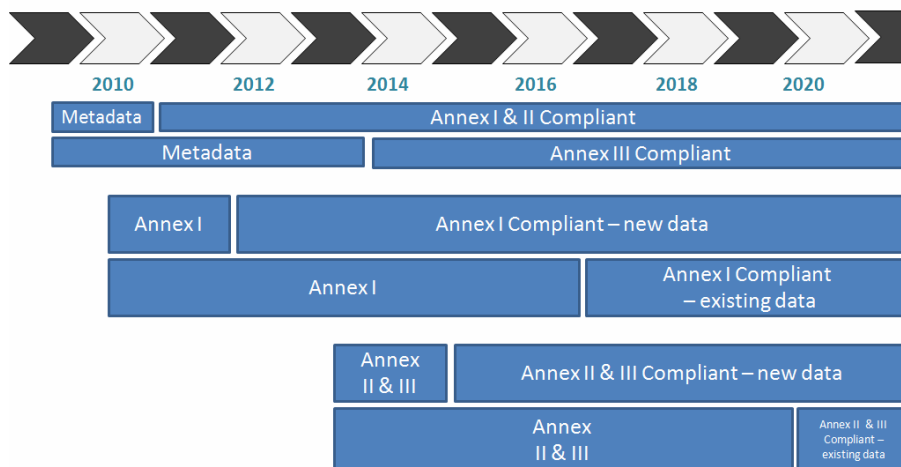
Note all future dates are subject to change

Timeline: Network Services



Note: develop and operational start dates are the earliest possible commencement dates

Timeline: Spatial datasets



Annex 4: Stakeholder Consultees

- Association for Geographic Information;
- British Geological Survey;
- Cabinet Office;
- Central and Local Government Information Partnership;
- Department for Business Enterprise & Regulatory Reform
- Department of Communities and Local Government
- Department for Innovation Universities and Skills
- Department for Transport
- The Devolved Administrations of Northern Ireland, Scotland and Wales
- Environment Agency;
- HM Treasury;
- Improvement and Development Agency;
- Intra-governmental Group on Geographic Information;
- Land Registry
- Local Government Association
- Met Office;
- Ministry of Defence;
- National Archives
- Office of the Deputy Prime Minister;
- Office for National Statistics;
- Ordnance Survey;
- UK Hydrographic Office.

Annex 5 Related UK Legislation relevant to this transposition

Environmental Information Regulations 2004 and Environmental Information (Scotland) Regulations 2004

General

1. The Environmental Information Regulations (EIR) and Environmental Information (Scotland) Regulations 2004 (EIR(Scotland)) govern access to environmental information held by public authorities. Some of the spatial data sets covered by the Directive will be “environmental information” as defined in the EIR/EIR(Scotland).
2. The EIR/EIR(Scotland) already contain a requirement that public authorities make environmental information available electronically and organise the information with a view to its dissemination to the public (footnote: reg. 4 EIR/EIR(Scotland)). The obligation in article 11 of the Directive to operate network services which must be available to the public and accessible electronically exists alongside, and complements, that existing requirement in the EIR/EIR(Scotland).
3. The EIR/EIR(Scotland) provide that environmental information need not be made available if it is in the public interest not to provide the information and one of the exceptions applies, i.e. for reasons related to international relations, defence or national security; the course of justice; intellectual property; confidentiality of proceedings or of commercial or industrial information; the interests of the person who supplied the information; data protection; or the protection of the environment.
4. The Directive allows that, subject to the same public interest test as in the EIR/EIR(Scotland), public access to spatial data sets and services through discovery services may be limited if they adversely affect international relations, public security or national defence; and public access to spatial data sets and services through other network services may be limited for any of the reasons referred to above in the EIR/EIR(Scotland). Hence, the permitted limitations on making environmental information and spatial information available are broadly the same in the Directive and in the EIR/EIR(Scotland), and so the Directive provisions complement those in the EIR/EIR(Scotland).
5. The Information Commissioner has powers to enforce provisions of the EIR, in the same way as for the Freedom of Information Act 2000. In Scotland, the Scottish Information Commissioner has powers to enforce provisions of the EIR(Scotland), in the same way as for the Freedom of Information (Scotland) Act 2000. The Information Commissioner and the Scottish Information Commissioner will also have powers to enforce the provisions of the Directive relating to public access to environmental information through network services, any limitations on such access, and any charges applied to such access.
6. The EIR/EIR(Scotland) also allow a person to make a formal request for particular environmental information; they also allow public authorities to make reasonable charges for disclosing the information, and to refuse to disclose information for particular reasons. Those provisions of the EIR will apply to information held by public authorities and contained in spatial data sets covered by the Directive, and no separate transposition is required in this regard.

Definition of 'public authority'

7. Annex 1, paragraph 2 says we propose to use the existing definition of public authority in these regulations. The definition in the EIR is:

“(2) Subject to paragraph (3), "public authority" means -

- (a) government departments;
- (b) any other public authority as defined in section 3(1) of the Act⁷¹, disregarding for this purpose the exceptions in paragraph 6 of Schedule 1 to the Act, but excluding -
 - (i) any body or office-holder listed in Schedule 1 to the Act only in relation to information of a specified description; or
 - (ii) any person designated by Order under section 5 of the Act;
- (c) any other body or other person, that carries out functions of public administration; or
- (d) any other body or other person, that is under the control of a person falling within sub-paragraphs (a), (b) or (c) and -
 - (i) has public responsibilities relating to the environment;
 - (ii) exercises functions of a public nature relating to the environment; or
 - (iii) provides public services relating to the environment.

(3) Except as provided by regulation 12(10) a Scottish public authority is not a "public authority" for the purpose of these Regulations.”

The definition in the EIR(Scotland) is:

“"Scottish public authority" means-

- (a) any body which, any other person who, or the holder of any office which is-
 - (i) listed in schedule 1 to the Act⁷² (but subject to any qualification in that schedule), or
 - (ii) designated by order under section 5(1) of the Act;
- (b) a publicly-owned company as defined by section 6 of the Act;
- (c) any other Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998^[4]); and
- (d) any other person who is neither a public body nor the holder of a public

⁷¹ The Freedom of Information Act 2000

⁷² The Freedom of Information (Scotland) Act 2002

office and who is under the control of a person or body falling within paragraphs (a), (b) or (c) of this definition and-

(i) has public responsibilities relating to the environment;

(ii) exercises functions of a public nature relating to the environment;
or

(iii) provides public services relating to the environment;”

Re-Use of Public Sector Information Regulations 2005

8. The Re-Use of Public Sector Information Regulations (the “ROPSI”) concern information held by a public sector body and re-used by a person for a purpose other than the purpose for which it was produced. They do not cover the use of information transferred between public sector bodies for the purpose of either body carrying out its public tasks. Hence enforcement of such re-use provisions would be by the Office of Public Sector Information under provisions in the ROPSI. No separate transposition is required in this regard.

9. However the ROPSI Regulations in most cases will not apply to data-sharing arrangements under article 17 of the Directive, as this is concerned with the exchange of spatial data between public authorities for those authorities’ public tasks.