



Gordon Lindhurst MSP
Convener of Economy, Energy and Fair Work
Committee
Room CR1
Scottish Parliament
Edinburgh
EH99 1SP

5 November 2018

Dear Gordon,

THE INSPIRE (AMENDMENT) (EU EXIT) REGULATIONS 2018

EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to the exercise of powers by UK Ministers under the European Union (Withdrawal) Act 2018 in relation to proposals within the legislative competence of the Scottish Parliament.

As you know, Mike Russell wrote to the Conveners of the Finance & Constitution and Delegated Powers and Legislative Reform Committees on 11 September setting out the Scottish Government's views on EU withdrawal. That letter also said that we must respond to the UK Government's preparations for a No-Deal scenario as best we can, despite the inevitable widespread damage and disruption that would cause. It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.

I attach a notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SIs and they are not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether the final SI is in keeping with the terms of this notification.

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire
Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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The INSPIRE (Amendment) (EU Exit) Regulations 2018 would amend the INSPIRE Regulations 2009 and some associated retained EU law. The rationale for amending this legislation in a UK wide SI is to maintain the legal operability of the INSPIRE Regulations 2009 and that retained EU law after EU Exit. It is helpful to maintain a common Spatial Data Infrastructure framework across the UK and the provision made by the INSPIRE (Amendment) (EU Exit) Regulations 2018, to address deficiencies in the INSPIRE Regulations 2009 and associated retained EU law that arise as a consequence of EU Exit, will help to ensure the legal operability of the existing framework after EU Exit.

I am copying this letter to Graham Simpson MSP, Convener of the Delegated Powers and Law Reform Committee.

I look forward to hearing from you within 28 days from the date of this letter.



KATE FORBES

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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NOTIFICATION TO THE SCOTTISH PARLIAMENT

THE INSPIRE (AMENDMENT) (EU EXIT) REGULATIONS 2018

A brief explanation of law that the proposals amend

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

Summary of the proposals and how these correct deficiencies

The amendments being made will correct deficiencies arising from EU Exit to ensure the legal operability of the INSPIRE Regulations 2009 and associated retained EU law after EU Exit.

An explanation of why the change is considered necessary

The purpose of the SI is to address deficiencies in the INSPIRE Regulations 2009 and associated retained EU law that arise as a consequence of EU Exit, and to ensure legal operability of the INSPIRE Regulations 2009 and that retained EU law after EU Exit.

The standards and specifications recommended in the INSPIRE Directive are drawn from the ISO 19000 series on spatial data. Continued use of the same standards as the European Spatial Data Infrastructure across the whole of the UK will ensure interoperability is maintained and maximise the benefits of eight years of implementation of INSPIRE in the UK. It will also ensure the UK is aligned with UN reporting for the spatial elements of the UN Sustainable Development Goals.

Scottish Government categorisation of significance of proposals

Category A. The amendments to be made by the INSPIRE (Amendment) (EU Exit) Regulations 2018 will correct deficiencies arising from EU Exit to ensure the legal operability of the INSPIRE Regulations 2009 and the associated retained EU law after EU Exit. The amendments are minor and technical, and do not change the substance of the existing legislation, thereby ensuring continuity, after EU Exit, of the Spatial Data Infrastructure framework established pursuant to that legislation.

Impact on devolved areas

The amendments made by the INSPIRE (Amendment) (EU Exit) Regulations 2018 extend to England and Wales, Scotland and Northern Ireland. These amendments have application (in part) in relation to devolved matters in or as regards Scotland. The amendments are minor and technical, and do not change the substance of the existing legislation, thereby ensuring continuity, after EU Exit, of the Spatial Data Infrastructure framework established pursuant to that legislation. If necessary, provision will be made by SSI to address any related deficiencies in the INSPIRE (Scotland) Regulations 2009 that might arise as a consequence of EU Exit.

Devolved interests are protected. In particular, by virtue of the EU Exit SI, administrative functions currently conferred on the UK by the relevant retained EU law will, in so far as they are exercisable in relation to Scotland on exit day, be conferred directly on the Scottish Ministers.

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Summary of stakeholder engagement/consultation

UK Government has consulted Scottish Government on the proposed amendments, alongside the other Devolved Administrations of Wales and Northern Ireland. UK Government has consulted Ordnance Survey informally.

The amendments being made are to address deficiencies in the INSPIRE Regulations 2009 and associated retained EU law that arise as a consequence of EU Exit. The amendments are minor and technical, and do not change the substance of the existing legislation, thereby ensuring continuity, after EU Exit, of the Spatial Data Infrastructure framework, it was therefore not considered necessary to undertake any additional consultation with Scottish Stakeholders.

A note of other impact assessments, (if available)

The impact on the public sector is nil. This measure will not change the way a public authority or third party collects, presents, reports on and uses data and meta-data about spatial information pursuant to the INSPIRE Regulations 2009 and the associated retained EU law.

An impact assessment has not been prepared for this measure as there are no impacts on business or the public sector.

This legislation does not apply to activities that are undertaken by small businesses.

Summary of reasons for Scottish Ministers' proposing to consent to UK Ministers legislation

It is helpful to maintain a common Spatial Data Infrastructure framework across the UK and the provision made by the INSPIRE (Amendment) (EU Exit) Regulations 2018, to address deficiencies in the INSPIRE Regulations 2009 and associated retained EU law that arise as a consequence of EU Exit, will help to ensure the legal operability of existing regulatory arrangements after EU Exit.

Intended laying date (if known) of instruments likely to arise

The INSPIRE (Amendment) (EU Exit) Regulations 2018 are due to go to the UK Parliament Sifting Committee on the 8 November 2018. This SI will address deficiencies that arise as a consequence of EU Exit in relation to:

- a) the INSPIRE Regulations 2009; and
- b) the following retained EU law:
 - i) Commission Regulation (EC) No 1205/2008 implementing 2007/2/EC of the European Parliament and of the Council as regards metadata;
 - ii) Commission Decision 2009/442/EC implementing Directive 2007/2/EC of the European Parliament and of the Council as regards monitoring and reporting;
 - iii) Commission Regulation (EC) 976/2009 of the European Parliament and of the Council as regards Network Services;
 - iv) Commission Regulation (EU) No 268/2010 implementing Directive 2007/2/EC of the European Parliament and of the Council as regards access to spatial data sets and services of the Member States by Community institutions and bodies under harmonised conditions; and
 - v) Commission Regulation (EU) No 1089/2010 implementing Directive

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2007/2/EC of the European Parliament and of the Council as regards interoperability of spatial data sets and services.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

These Regulations will be sent to the UK Parliament sifting committees on 8 November. The UK Government have indicated that the 28 day period for the Scottish Parliament to consider will be respected before laying.

Information about any time dependency associated with the proposal

n/a.

Are there any broader governance issues in relation to this proposal and how will these be regulated and monitored post-withdrawal?

The UK adopted a federated approach to implementing the directive that allows the four nations of the UK (and Gibraltar) to define its own spatial data infrastructure while retaining the elements of interoperability. The UK INSPIRE Compliance Board will continue to coordinate the implementation of INSPIRE, providing direction and monitor and assure delivery on INSPIRE compliance by the UK public sector.

Any significant financial implications?

n/a.

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